European Securities and Markets Authority

Final Report

Draft RTS specifying the scope of the consolidated tape for non-equity financial instruments

31 March 2017 | ESMA/2017/70-8792942901-40

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List of acronyms

APA	Approved Publication Arrangement
CA	Competent Authority
CP	Consultation Paper
CT	Consolidated Tape
CTP	Consolidated Tape Provider
ESMA	European Securities and Markets Authority
ETC	Exchange Traded Commodity
ETN	Exchange Traded Note
MIFID II	Markets in Financial Instruments Directive II – Directive 2014/65/EU of the European Parliament and the Council
RTS	Regulatory Technical Standard
RTS 2	Commission Delegated Regulation (EU) …/... of 14.7.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives
RTS 13	Commission Delegated Regulation (EU) …/... of 2.6.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorization, organisational requirements and the publication of transactions for data reporting services providers
RTS 14	Commission Delegated Regulation (EU) …/... of 2.6.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of the offering of pre-and post-trade data and the level of disaggregation of data

1 Executive Summary

Reasons for publication

The final report presents the revised draft RTS specifying the scope of the consolidated tape (CT) for non-equity financial instruments following feedback received from stakeholders to the consultation paper (CP) published on 3 October 2016. The report explains the final approach and discusses feedback received from stakeholders.

Contents

Section 2 introduces the topic. Section 3 covers the issue of specialisation of the CT, and section 4 discusses the APAs and trading venues that have to be included in the CT. Finally, the CT closes with section 5, which discusses the inclusion of new APAs and trading venues to the CT.

Next Steps

ESMA submitted the final report to the European Commission on 31 March 2017. The Commission has three months to decide whether to endorse the draft RTS.

2 Background

Article 65(8)(c) of MiFID II

ESMA shall develop draft regulatory technical standards specifying:

(c) the financial instruments data of which must be provided in the data stream and for non-equity instruments the trading venues and APAs which need to be included.

1. Directive 2014/65/EU[1] (MiFID II) provides for the possibility of establishment of a consolidated tape (CT) both for equity as well as for non-equity financial instruments. ESMA already submitted in September 2015 draft regulatory technical standards (RTS 13) specifying the scope of the equity tape that have been endorsed by the Commission on 2 June 2016[2]. Given the higher complexity for establishing and operating a non-equity tape and bearing in mind that the provisions on the non-equity tape of Article 65(2) of MiFID II will only apply from September 2019, ESMA decided to deliver the draft RTS specifying the scope of the non-equity tape at a later stage.

2. Recital 118 of MiFID II acknowledges that the establishment of a non-equity CT is more difficult to implement than the equity CT. This is also reflected in the empowerment for the draft RTS which requires ESMA to not only specify the financial instruments data of which must be provided by the CT but also the APAs and trading venues which have to be included in the tape. Compared to the very limited flexibility provided for specifying the scope of the equity CT, a more pragmatic approach appears therefore feasible for the non-equity CT.

3. ESMA considers it important to provide for a balanced draft RTS, which strikes the right balance between being sufficiently attractive for potential consolidated tape providers (CTPs) and at the same time providing market participants with an accurate picture of the markets they are interested in. While having an all-encompassing CT in the non-equity space would have the advantage of offering a one-stop shop for users, one should bear in mind that too stringent requirements on the non-equity CT may render the business case for potential CTPs unattractive, thereby making it unlikely for a non-equity CT to be established in the first place.

4. ESMA consulted on the draft RTS from 3 October to 5 December 2016 and received 17 responses, two of which were confidential. Based on these responses ESMA revised the draft RTS. Given the broad support of the proposed draft RTS the main approach was maintained. ESMA made some changes to the draft RTS to simplify the identification of the APAs and trading venues that have to be included in the CT by replacing the approach

[1] Directive 2014/65 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, OJ L 173, 12.6.2014, p. 349.
[2] Commission Delegated Regulation (EU) …./…. of 2.6.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorization, organisational requirements and the publication of transactions for data reporting services providers.

based on market share of APAs and trading venues with a minimum coverage ratio that the CTP has to meet.

3 Specialisation of the non-equity CTP

5. In the CP, ESMA proposed to allow for the specialisation of the non-equity CT in order to increase the probability of a viable business case. ESMA considered that rather than requiring CTPs to provide services in the entire universe of non-equity instruments, CTPs would be free to specialise in one asset class, the entire spectrum or any combination of asset classes according to those set out in RTS 2[3].

6. The vast majority of respondents to the CP agreed with ESMA proposal to allow for specialisation of the non-equity tape but some proposed different levels of granularity. ESMA notes that only one respondent did not agree with the proposal to allow for specialisation noting that the CT should provide for the largest possible scope.

7. While some respondents advocated for a more granular approach (for example by allowing for specialisation on a sub-asset class level) other supported a less granular one noting that the proposed categorisation could create difficulties. In addition, some respondents suggested that the asset classes should be aligned with those in RTS 14[4], therefore allowing for specialisation per currency area.

8. Given that the scope of the MiFID II empowerment would make it challenging to advocate for a more granular approach and in the interest of aligning the scope of post trade reporting and consolidated tape, ESMA maintains its proposal to allow for specialisation according to the asset classes outlined in RTS 2.

4 APAs and trading venues to be included

9. In the CP ESMA proposed that CTPs should not be required to collect and publish information from all APAs and trading venues. ESMA therefore proposed that CTPs should include into its data stream APAs and/or trading venues that publish transactions exceeding 2.5% of the total transactions reported in the Union – either in terms of the number or the volume of transactions. Under this approach, CTPs would be free to also include APAs and trading venues that are below these thresholds into its data stream.

[3] Commission Delegated Regulation (EU) …/... of 14.7.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives.

[4] Commission Delegated Regulation (EU) …/... of 2.6.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of the offering of pre-and post-trade data and the level of disaggregation of data.

10. Furthermore, ESMA proposed that the data sources, i.e. APAs and trading venues should bi-annually assess whether they reach the thresholds and publish the results on their website in order to allow CTPs to identify easily APAs and trading venues they have to include in their tape.

11. Overall, respondents were concerned that the proposed threshold-based approach was too complex and should be simplified. About half of the respondents largely supported ESMA's proposal with some indicating some reservations (e.g. applying the test at a more granular level or using only one threshold). The other respondents did not support the test and argued in favour of a more extensive coverage of up to 100%. Most respondents, including respondents supporting the proposal as well as respondents not in favour of ESMA's proposal, were in favour of reducing the thresholds and some respondents suggested the introduction of a coverage ratio that the CT must reach.

12. Most respondents agreed that ESMA should publish the denominators for determining the overall number of transactions published in the Union. Moreover, while some respondents agreed that APAs and trading venues have to carry out the assessment, most of the respondents considered that ESMA should perform the assessment. Concerning the appropriate assessment frequency, respondents were split between a shorter assessment frequency (e.g. quarterly assessment) and a longer one (e.g. yearly assessment).

13. In view of the overall support for allowing CTPs not to include all APAs and trading venues in their data stream, and in order to not impose further requirements on CTPs that may render the business case unattractive, ESMA remains in favour of some form of inclusion test to determine the APAs and/or trading venues to be included in the CT. Furthermore, ESMA considers that the test should be performed twice per year and be based on an assessment period of 6 months.

14. With respect to the thresholds and methodology to be used for identifying the APAs and trading venues to be included in the tape, ESMA acknowledges that the approach proposed in the CP might have been overly complex and that a similar outcome may be delivered based on a simpler solution. ESMA therefore revised its approach and suggests the introduction of a coverage ratio that the CTP has to meet.

15. Under this approach, a CTP would have to ensure that it covers both:

- 80% of the cumulated volume of transactions as defined in table 4 of Annex II of RTS 2 reported by all APAs and/or trading venues in the Union over the previous 6-month for the relevant non-equity asset class; and

- 80% of the cumulated number of transactions reported by APAs and/or trading venues in the Union over the previous 6-month period for the relevant non-equity asset class.

16. ESMA considers that both coverage ratios would have to be met to ensure that also information from APAs and/or trading venues reporting a large number of transactions that represent only a small volume of transactions is included in the tape. Furthermore, the same coverage ratio should apply across asset classes. The reference period for

determining the coverage ratio should be based on 6 calendar months, starting on 1 January and on 1 July.

17. ESMA proposed in the CP that it may publish the overall number/volume of trades reported by APAs and trading venues in the Union in the relevant non-equity class. ESMA confirms that it will publish this information twice a year by 1 February and 1 August.

18. However, ESMA will not publish the respective market shares of APAs and/or trading venues of the total number/volume of transactions reported. ESMA considers that market participants should be able to determine this information based on the information published by ESMA.

5 Inclusion of new APAs and/or trading venues

19. In the CP ESMA proposed that CTPs should include data from new APAs or new trading venues as soon as possible and in any case no later than 6 months after the start of the APAs' or the trading venues' operations. The majority of respondents supported the introduction of a grace period, but views on the appropriate length of such a grace period diverged. Some respondents supported the proposed approach (6 months), while others recommended a shorter period (e.g. 3 months) or a longer period (e.g. up to 18 months).

20. Overall, ESMA continues to believe that a period of 6 months for including data from APAs and trading venues remains appropriate. Moreover, the arguments provided by proponents of a longer grace period did mention issues linked to contractual arrangements and technical connectivity, but did not cover issues specific to non-equity instruments only. ESMA therefore does not see the need to deviate from the approach chosen for the equity CT.

21. Since the introduction of the coverage ratio to be met by the CTP changes the approach for identifying the APAs and trading venues to be included in the tape, ESMA has slightly adjusted the approach for the inclusion of a new source into the CT. The revised RTS clarifies that the CT has up to 7 months for reaching the required coverage ratios after the end of the assessment period. Since ESMA will publish the relevant data one month after the end of the assessment period, this implies that CTPs have de facto up to 6 months for including APAs and trading venues into their data stream, regardless of whether the APA or trading venue is newly established or not.

<u>Removal of a source</u>

22. In the draft RTS in the CP, ESMA proposed that a CT may remove sources from the tape where the thresholds are not met for at least three consecutive periods. About half of the respondents supported this approach, whereas others considered it more appropriate to allow the CTP to remove a source whenever the threshold is not reached. Furthermore, some respondents supported the proposal made by ESMA subject to a quarterly assessment instead of a semi-annual assessment.

23. In view of the overall change in approach from a threshold approach to a coverage ratio to be met by the CTP, the provisions on the removal of a source do not appear necessary anymore. Furthermore, ESMA agrees that it should be left to the CTP's discretion as to whether to include or exclude data from additional APAs and/or trading venues once the coverage ratios of 80 percent are reached. The revised draft RTS has been amended accordingly.

24. Finally, some respondents did not consider it appropriate to require the CTP to reinsert APAs and trading venues that have been included in the tape at an earlier stage within only 3 months as compared to the 6-month grace period for including new sources. ESMA agrees with the views expressed and has revised the draft RTS so that any additional APA and/or trading venue would need to be included in the CT within 6 months.

6 Annexes

6.1 Annex I

Legislative mandate to develop technical standards

Article 65(8)(c) of MiFID II

ESMA shall develop draft regulatory technical standards specifying:

(c) the financial instruments data of which must be provided in the data stream and for non-equity instruments the trading venues and APAs which need to be included.

6.2 Annex II

Feedback on the consultation paper

Specialisation of the CTP

1. In the CP ESMA proposed to allow for the specialisation of consolidated tape providers (CTPs) according to the asset classes as set out in RTS 2. ESMA asked:

Q1: Do you agree with ESMA's proposal to allow non-equity CTPs to specialise their offering? Do you agree to the level of specialisation proposed or would you recommend a less granular or more granular approach?

2. Most respondents agreed with ESMA's approach of allowing for specialization of the non-equity tape in an attempt to create a viable business case for a CTP to emerge in this space.

3. Some respondents however disagree with the level of granularity offered on ESMA's proposal favouring a more granular approach, requesting ESMA to allow for a specialization per sub-asset class.

4. On the other hand, despite agreeing on allowing specialization, two respondents were in favour of a less granular approach arguing that ESMA categorization would create difficulties. An alternative approach was to separate Interest Rates and Commodities from FX and other asset classes.

5. Other suggestions include aligning the asset classes for the purpose of the non-equity tape with those of the data disaggregation structures of RTS 14 or instead of allowing specialization on an asset class basis rather focus on currency areas as there is a risk of niche markets in some areas to not reach the thresholds proposed.

6. Only one respondent disagrees with ESMA approach of allowing for specialization as it expects a CTP to have the largest scope a possible.

7. **ESMA's response:** ESMA maintains its proposal.

The trading venues and APAs to be included

8. In the CP ESMA suggested that only those trading venues and APAs that report more than 2.5% of the total number of transactions reported in the Union, either in terms of the total volume or in terms of the total number of traded reported. ESMA proposed that trading venues and APAs perform this assessment since those entities are best placed to assess their level of activity. In order to ensure that all trading venues and APAs use the same reference period when carrying out the assessment and that the results reflect the current activity, ESMA suggested to perform the assessment biannually covering a reference

period starting on 1 January to 30 June, and from 1 July to 31 December as of 1 September 2019.

9. ESMA asked four questions on this approach:

Q2: Do you agree that the threshold determining whether a trading venue or APA needs to be included in the CT should be based on both the volume and the number of transactions? If not, please explain and present an alternative approach.

10. Responses to the consultation were split. While some respondents supported the proposal overall, others were opposed to introducing any inclusion test as this would otherwise result in solutions similar to those currently offered by data vendor. Among the proponents of a full coverage of the consolidated tape, some stakeholders proposed in turn a more granular specialisation of CTPs while another one suggested that ESMA should be in charge of a single consolidated tape for all classes.

11. Between those two extremes, a few other respondents considered both tests as too complex and burdensome. They suggested limiting the inclusion requirement to one test only, either based on volume or number of transactions, in order to keep the test simple. Most other respondents were in favour of some inclusion tests (either one or both).

12. **ESMA's response:** Like the slight majority of respondents, ESMA remains in favour of some inclusion test as it continues to believe that the requirement of a full coverage / all-encompassing consolidated tape would make the business case unattractive and likely result in no CTP. ESMA also recognises the relative complexity of its initial proposal based on the market share of each individual source.

13. ESMA appreciates that one of the key criteria relevant to assess from a user perspective the potential success of future consolidated tapes will be ultimately their actual coverage on a given class. ESMA agrees that the approach based on thresholds may be overly complex and that, given the uncertainty of the population of trading venues and APAs under MiFID II, the proposed threshold level may not be appropriate.

14. ESMA therefore amended its proposal and suggests a total cumulated coverage ratio that a CTP would have to reach instead of a threshold based on the individual market share of each source (either in terms of volume or number of trades) as initially proposed. Under this new proposal, CTPs would be free to include any APAs and/or trading venues they wish but would have to make sure that their cumulated coverage ratio exceeds a threshold of 80%. This requirement should be satisfied per asset class the CTP will be operating or plans to offer data on.

15. Such a requirement would meet more directly one of the key objectives of the consolidated tape as it would ensure that a minimum coverage is met in any case. The new proposal should be also easier to implement and would increase the economic viability of CTPs as it gives them more leeway to on-board their sources and structure their offer in the most commercially effective way.

Q3: Do you agree with the proposed level for the threshold? In particular, do you agree that the threshold is set at the same level across all asset classes and for both the volume and number of transactions? If not, please explain why and propose an alternative approach.

16. Most respondents advocated for lower thresholds. One in particular suggested having a lower threshold in case the cumulated coverage does not reach 85%. A number of stakeholders agreed with the proposed thresholds. One of the supportive respondents suggested a phase-in approach to reach the level proposed by ESMA.

17. To the question of whether or not levels should be the same across asset classes, only few respondents provided feedback, with most of these respondents recommending using different thresholds for different asset classes (without however providing much insight on the appropriate thresholds for the different asset classes).

18. **ESMA's response:** ESMA considers that a threshold of 80% for the cumulated coverage required from CTPs on each asset class would constitute a reasonable trade-off leaving enough leeway to CTPs to build commercially attractive offers while ensuring a decent level of consolidated flow from market participants' perspective.

19. Given the revised approach based on a cumulated coverage target, having different thresholds across asset classes does not appear necessary. The same coverage ratio should be required for each asset class as it constitutes the final outcome expected from any consolidated tape.

Q4: Which entity should perform the calculations? Should it be the data source, i.e. trading venues and APAs, or the CTP?

20. All respondents agreed that it should be ESMA's responsibility to publish the denominators needed for the calculations as it is the only source with that data available.

21. Most respondents were in favour of ESMA performing the market share of each potential source. However, one stakeholder favoured an approach where the CTP would be responsible to perform the calculation, arguing that it would be possible for CTPs to obtain the numerator from the information publicly available from APAs and TVs.

22. **ESMA's response:** Based on the feedback ESMA amended its proposal and agreed to publish information on the overall number and volume of transaction reported by APAs and trading venues in the Union per asset class. However, ESMA does not intend to publish the individual market shares of APAs and/or trading venue. Contrary to the case of the overall transactions reported in the Union, where ESMA agrees that – pending the emergence of a CTP - it is the only actor having all the necessary information needed for performing these calculations, ESMA does not consider it necessary that a public body

also has to publish the individual market shares of APAs and trading venues. ESMA continues to believe that since CTPs will be profit-making entities, there is no need for a cost-free publication of this information by ESMA. Based on the information made available by ESMA on the overall transactions reported in the Union, market participants should be in a position to easily determine market shares.

Q5: Do you agree with the proposed calculation and publication frequency? Do you agree that only trading venues and APAs that have reported transactions covering the full reference period of 6 months should be required to carry out the assessment? If not, please explain why and propose an alternative solution.

23. ESMA received only limited feedback on this question. Concerning the proposed calculation frequency, stakeholders providing a response were in favour of either a less frequent assessment (yearly) or a more frequent assessment (quarterly).

24. Concerning the question on whether only trading venues and APAs that reported transactions over the whole reference period should be required to carry out the assessment, stakeholders were split on whether they support this approach.

25. **ESMA's response:** ESMA will publish the information in order to determine the coverage ratio at the same time as the data necessary for the SI determination will be published. In order to avoid unnecessary costs for publishing this information, ESMA suggests maintaining the proposed semi-annual calculation and publication frequency. With the change of approach from a threshold approach to a coverage ratio, trading venues and APAs will no longer have to carry out the assessment. Therefore these provisions have been removed from the revised draft RTS.

<u>**Inclusion of a new source and removal of a source**</u>

26. ESMA proposed in the CP that, similar to the approach for the equity tape in Commission Delegated Regulation (EU) …/... of 2.6.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorization, organisational requirements and the publication of transactions for data reporting services providers (RTS 13), CTPs would be required to include a new source no later than 6 months after the start of the trading venue's or the APA's operations. ESMA asked:

Q6: Do you consider it appropriate to provide for a grace period of up to 6 months after the first assessment date for including new sources into the data stream? Do you consider the proposed length appropriate?

27. The majority of respondents supported the introduction of a grace period. However, some respondents indicated the need for a longer period of time, of up to 18 months, mainly due

to concerns about the CTP's ability to integrate multiple new sources into a data feed within a short time period, which could result in a CTP not being able to meet the deadline (negotiate contractual and commercial arrangements, define, plan and implement technical connectivity, feed specifications and test the systems).

28. On the other hand, some respondents stated that the time period should be shorter, suggesting a period of three months which they felt should be long enough to legally document and technically implement a new relationship.

29. **ESMA's response:** ESMA acknowledges that the time for including a new source into the data stream may vary between different types of instruments. In light of the broad diversity of feedback received on the appropriate length of a grace period, ranging from 3 months to 18 months, ESMA concluded that the proposed 6 month period appears to strike the right balance between allowing for a sufficiently fast inclusion of new sources into the data stream, while providing CTPs with appropriate time to make the necessary arrangements for including a new source. Furthermore, this approach would be aligned with the approach for the equity CT, which seems to be appropriate given that mainly contractual and technical issues that are not linked to the nature of the financial instrument were identified as barriers by stakeholders

30. Finally, ESMA considered that CTPs should be allowed to remove trading venues and APAs from the tape should those not pass the thresholds for three consecutive periods. Furthermore, should at a later stage a trading venue or APA that had been previously included in the tape before being removed from the tape for not having reached the thresholds for being included in the tape, pass again the thresholds, ESMA suggested the CTPs should reinsert these reporting sources within three months. ESMA asked:

Q7: Do you agree that a source be only excluded if the thresholds are not met for at least three consecutive periods? If not, what do you consider to be the appropriate length of time?

31. The majority of respondents were in favour of the approach proposed. However, some respondents only supported this approach subject to moving to a shorter assessment period for identifying the trading venues and APAs that are to be included in the CT, i.e. a quarterly assessment instead of a biannual assessment. Some respondents disagreed with the proposal and suggested to allow the CTP to exclude a source whenever the threshold is not reached and to move to a yearly assessment to have more stability.

32. Furthermore, some respondents disagreed with ESMA's proposal to shorten the period for reinserting trading venues and APAs into the CT, and suggested that those trading venues and APAs should be treated on the same basis as trading venues and APAs that are added to the CT for the first time.

33. **ESMA's response:** In view of the revised approach, ESMA considers it not appropriate to maintain this provision in the draft RTS and has consequently removed it. Once CTP reach the coverage ratio, they are free to decide whether to include or exclude additional trading venues and/or APAs into their data stream.

34. Concerning the proposal to reinsert trading venues and APAs that pass the thresholds already within three months into the tape ESMA reconsidered its approach and has decided to grant the same treatment to all trading venues and APAs. Hence, a CTP will have to include all trading venues and APAs required within 6 months that meet the minimum coverage ratio, irrespective of whether the trading venue or APA was already in the CT at an earlier stage.

6.3 Annex III

Draft regulatory technical standards

COMMISSION DELEGATED REGULATION (EU) .../...

of [ ]

amending Commission Delegated Regulation (EU) No …/2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers

(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 15 May 2014 of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU[5], and in particular Articles 65(8)(c) thereof,

Whereas:

(1) Commission Delegated Regulation xxx/2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers sets out details specifying organisational requirements for data reporting services providers, including consolidated tape providers (CTPs). Since the details specifying the scope of the consolidated tape for bonds, structured finance products, derivatives and emission allowances are closely linked to the provisions for data reporting services providers, it is appropriate to include the specification of the scope of the consolidated tape for non-equity instruments in the same Regulation and therefore to amend Commission Delegated Regulation xxx/2016.

(2) In order to establish a framework that provides commercial incentives for operating a consolidated tape for non-equity instruments, CTPs should be allowed to operate a consolidated tape covering only one or more asset classes.

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[5] OJ L 173, 12.6.2014, p. 349

(3) CTPs should ensure that they publish information on transactions covering at least 80 percent of the total volume and number of transactions published by APAs and trading venues per asset class in the previous 6 months. This approach ensures that the CTP publishes information that is of significance from a user perspective while avoiding high costs stemming from including all information published by all APAs and trading venues.

(4) A CTP should be allowed a certain time to meet the coverage ratios set out in this Regulation in case the CTP needs to add new trading venues and APAs to its data stream.

(5) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions relating to non-equity CTPs laid down in this Regulation and the related national provisions transposing Directive 2014/65/EU apply from the same date. In order to ensure a smooth transition into the new regime, it is necessary that the provisions in this Regulation referring to the first assessment period for determining the coverage ratio to be reached by the CTP already apply from 1 January 2019.

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

(7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[3],

HAS ADOPTED THIS REGULATION:

Article 1

Commission Delegated Regulation (EU) No xxx/2016 is amended as follows:

(1) The following Article 15a is inserted

‘Article 15a

Scope of the consolidated tape for bonds, structured finance products, emission allowances and derivatives

1. A CTP shall be allowed to include in its electronic data stream data of one or more of the following asset classes as defined in Commission Delegated Regulation (EU) No xxx/2016 [non-equity transparency]:

(a) Bonds, excluding ETCs and ETNs;

(b) ETC and ETNs bond types;

(c) Structured finance products;

(d) Securitised derivatives;

(e) Interest rate derivatives;

(f) Foreign exchange derivatives;

(g) Equity derivatives;

(h) Commodity derivatives;

(i) Credit derivatives;

(j) Contracts for differences;

(k) C10 derivatives;

(l) Emission allowance derivatives; and

(m) Emission allowances.

2. A CTP shall include in its electronic data stream data made public according to Articles 10 and 21 of Regulation (EU) No 600/2014 from APAs and trading venues that meet both of the following coverage ratios:

(a) The number of transactions published by a CTP in an asset class as specified in paragraph 1 represents at least 80% of the total number of transactions in the relevant asset class published in the Union by all APAs and trading venues during the assessment period;

(b) The volume of transactions published by a CTP in an asset class as specified in paragraph 1 shall represent at least 80% of the total volume of transactions in the relevant asset class published in the Union by all APAs and trading venues during the assessment period.

3. For the purposes of paragraph 2(b), the volume of transactions as defined in Table 4 of Annex II of Commission Delegated Regulation (EU) No xxx/2016 [non-equity transparency] shall be used.

4. The coverage ratios set out in paragraph 2 shall be assessed by the CTP twice per year based on data from the past 6 months. The assessment period shall start on the first day of the months of January and July. The first assessment period shall cover the first 6 months of the year 2019.

5. A CTP shall ensure that it reaches the minimum coverage ratios set out in paragraph 2:

(a) for the assessment period covering 1 January to 30 June as soon as possible and in any case no later than by 31 January of the following calendar year; and

(b) for the assessment period covering 1 July to 31 December as soon as possible and in any case no later than by 31 July of the following calendar year.'

(2) In Article 21, the following subparagraph is added after subparagraph 3:

'However, Article 15a shall apply from the date that appears second in the second subparagraph of Article 93(1) of Directive 2014/65/EU, except for the provisions in paragraph 4 of Article 15a which shall apply as from 1 January 2019.'

Article 2

Entry into force and application

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

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

Done at Brussels,

For the Commission
The President

[For the Commission
On behalf of the President

[Position]