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**NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting  
*- Mandate for negotiations with the European Parliament*

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

- (1) In its 2020 CMU Action Plan<sup>3</sup>, the Commission announced its intention to table a legislative proposal to create a centralized data base which was meant to provide a comprehensive view on prices and volume of equity and equity-like financial instruments traded throughout the Union across a multitude of trading venues ('consolidated tape'). On 2 December 2020, in its conclusion on the Commission's CMU Action Plan<sup>4</sup>, the Council encouraged the Commission to stimulate more investment activity inside the Union by enhancing data availability and transparency by further assessing how to tackle the obstacles to establishing a consolidated tape in the Union.
- (2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021<sup>5</sup>, the Commission confirmed its intention to improve, simplify and further harmonize capital markets' transparency, as part of the review of Directive 2014/65/EU of the European Parliament and of the Council<sup>6</sup> and of Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>7</sup>. As part of efforts to strengthen the international role of the Euro, the Commission also announced that such reform would include the design and implementation of a consolidated tape, in particular for corporate bond issuances to increase the liquidity of secondary trading in euro-denominated debt instruments.

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<sup>3</sup> COM/2020/590 final.

<sup>4</sup> Council Conclusions on the Commission's CMU Action Plan, 12898/1 of /20 REV 1 EF 286 ECOFIN 1023: <https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf>;

<sup>5</sup> COM/2021/32 final.

<sup>6</sup> 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 (OJ L 173, 12.6.2014, p. 349).

<sup>7</sup> 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 648/2012 (OJ L 173, 12.6.2014, p. 84).

- (3) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>8</sup> provides for a legislative framework for ‘consolidated tape providers’ or ‘CTPs’, both for equity and non-equity instruments. Those CTPs are currently responsible for collecting from trading venues and approved publication arrangements (‘APAs’) market data about financial instruments and consolidating those data into a continuous electronic live data stream, which provides market data per financial instrument. The idea behind the introduction of a CTP was that market data from trading venues and APAs would be made available to the public in a consolidated manner, including all of the Union’s trading markets, using identical data tags, formats and user interfaces.
- (4) To date, however, no supervised entity has applied for authorisation to act as a CTP. ESMA has identified three main obstacles that have prevented supervised entities to apply for registration as a CTP<sup>9</sup>. First, a lack of clarity as to how the CTP is to procure market data from the various execution venues or from the data reporting service providers concerned. Second, insufficient quality in terms of harmonisation of the data reported by those execution venues to allow for a cost-efficient consolidation. Third, a lack of commercial incentives to apply for authorisation as a CTP. It is therefore necessary to remove those obstacles. Such removal requires, first, that all trading venues and systematic internalisers (‘SIs’) provide CTPs with market data (provision rule). It secondly requires an improvement of the data quality by harmonising the data reports that trading venues and SIs should submit to the CTP.

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<sup>8</sup> 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 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>9</sup> ESMA MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments.

- (5) Article 1(7) of Directive 2014/65/EU of the European Parliament and of the Council<sup>10</sup> requires operators of systems in which multiple third-party buying and selling trading interests in financial instruments are able to interact ('multilateral systems') to operate in accordance with the requirements concerning regulated markets ('RMs'), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). The placement of that requirement in Directive 2014/65/EU has left room for varying interpretations of that requirement, which has led to an uneven playing field between multilateral systems that are licensed as an RM, MTF or OTF, and multilateral systems that are not licensed as such. In order to ensure a uniform application of that requirement, it should be introduced in Regulation (EU) No 600/2014.

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<sup>10</sup> 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 (OJ L 173, 12.6.2014, p. 349).

(7) Dark trading is trading without pre-trade transparency, using the reference price waiver laid down in Article 4(1), point (a) of Regulation (EU) No 600/2014 and the negotiated trade waiver laid down in Article 4(1), point (a) and point (b)(i) of that Regulation. The use of both waivers is capped by the double volume cap ('DVC'). The DVC is a mechanism that limits the level of dark trading to a certain proportion of total trading in an equity instrument. The amount of dark trading in an equity instrument on an individual venue may not exceed 4 % of total trading in that instrument in the Union. When this threshold is breached, dark trading in that instrument on that venue is suspended. Secondly the amount of dark trading in an equity instrument in the Union may not exceed 8 % of total trading in that instrument in the Union. When this threshold is breached all dark trading under those waivers in that instrument is suspended. The venue specific threshold leaves room for continued use of those waivers on other platforms on which trading in that equity instrument is not yet suspended, until the Union wide threshold is breached. This causes complexity in terms of monitoring the levels of dark trading and of enforcing the suspension. To simplify the double volume cap while keeping its effectiveness, the new single volume cap should rely solely on the EU-wide threshold set at 10 % in respect of the reference price waiver. Thus, the limitation on the dark trading remains yet the complexity and the burden of the system would be lifted.

- (7a) Article 8 of Regulation (EU) No 600/2014 introduced the pre-trade transparency requirement in respect of non-equity instrument imposed on MTFs, OTFs or RMs, regardless of the trading system applied by the trading venue. This provision has provided benefits for trading venues that operate a central limit order book or periodic auction systems, since the bids and offers provided by such trading systems are anonymous, firm and truly multilateral thus independent of the individual qualities of the parties. Other trading systems, notably voice trading and request for quote systems, provide tailor-made quotes to requestors, which have marginal informational value to other market participants. To reduce the regulatory burden imposed on trading venues and to reduce number of waivers, the requirement to publish firm or indicative quotes while operating request for quotes trading protocols should be removed.
- (7b) In addition, the pre-trade transparency requirements set out in Article 18 and 19 of Regulation (EU) No 600/2014 imposed on systematic internalisers operating quote-driven systems in respect of non-equity instruments on bilateral basis when providing firm or indicative quotes to their clients should be removed as well. Those quotes are tailored to individual clients, so they have marginal informational value to other clients. Nevertheless, systematic internalisers may fulfil pre-trade transparency requirements on a voluntary basis, for example to address needs of their retail clients.

(7c) Transparency regime for derivatives is part of the broader non-equities category commingling together securities (bonds) and contracts (derivatives). Many of the principles set out in the derivatives regime thus originated in approaches or assumptions that are only appropriate for securities, not derivatives. One of the main reasons why to single out the transparency for derivatives stems from the concept of "traded on a trading venue" ("TOTV") used in Article 8(1) of Regulation (EU) No 600/2014. It is not clear whether this concept refers to actual derivative contracts that have been concluded on a trading venue, or whether the TOTV concept should be more generally considered akin to the concept of "admitted to trading on a trading venue." In other words, any derivative contract that is capable of being concluded on a trading venue. The TOTV concept makes the scope of transparency enormously broad (and, thus, costly without any real added value) when it includes all types of exotic, bespoke, and bilaterally settled derivatives or "out of tenor" (i.e. broken dated) derivatives just because they are concluded on trading venues or they are capable of being concluded on trading venues. This is why a different concept than "TOTV" should be used to define the scope of transparency of derivatives.



(7d) Pre-trade transparency of derivatives should focus on derivative contracts concluded on trading venues applying a central limit order book or a periodic auction system where the users of transparency information would actually obtain useful information from looking at this data. Therefore the scope of transparency requirements should be limited to the most liquid and standardized derivatives, such as exchange-traded derivatives and a subset of benchmark OTC derivatives where real liquidity is apparent. For this purpose, a new definition of OTC derivatives is introduced. OTC derivatives are defined by reference to Article 2(7) of Regulation (EU) No 648/2012 (in line with the last sentence of the definition of exchange-traded derivatives thus the definition of OTC derivatives covers all derivatives which are not exchange-traded derivatives) to ensure that under the scope of this category of derivatives are all OTC derivatives which may be subject to clearing obligation in accordance with Article 5(2) of Regulation (EU) No 648/2012. The OTC derivatives, which would be in the scope of pre-trade transparency and post-trade transparency, must fulfil cumulatively all conditions set out in the new Article 8a of Regulation (EU) No 600/2014 so they should be denominated in G4 currencies (Dollar, Euro, Sterling, Yen), and subject to the clearing obligation under Regulation (EU) No 648/2012 and be actually centrally cleared, and, where relevant, only to include (actually) liquid benchmark tenors in full year tenors so bespoke broken date tenors (e.g., 9 years, 2 months, 14 days) would not be included. Pre-trade and post-trade transparency requirements should not apply on transactions in derivatives that are part of portfolio compression or post-trade risk reduction services, or which are exempted from or not subject to the clearing obligation, or which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty.

(8) Article 10 of Regulation (EU) No 600/2014 contains requirements for trading venues to publish information related to transactions in non-equity instruments, including the price and the volume. Article 11 of that Regulation contains the grounds for national competent authorities to allow for delayed publication of those details. Deferred publication of those details was allowed where a transaction was above the large in scale ('LIS') size threshold and was in an instrument for which there was no liquid market, or where that transaction was above the size specific to the instrument threshold in case the transaction involves liquidity providers. National competent authorities had discretion in the duration of the deferred period and in the details of the transactions that may have been deferred. That discretion has led to differing practices among the member states and to ineffective post-trade transparency publications. To ensure transparency towards all types of investors, it is necessary to harmonise the deferral regime at the level of the European Union, remove discretion at national level and facilitate market data consolidation. It is therefore appropriate to reinforce post-trade transparency requirements by removing the discretion for national competent authorities and setting out the categories of transactions for which deferrals are allowed, considering the size of the transactions and the liquidity of the financial instruments concerned.

- (9) To ensure an adequate level of transparency, the price and the volume of bond, structured finance product and emission allowance transaction should be published as close to real time as possible otherwise published with appropriate deferral for the size and liquidity profile of transaction. In order not to expose liquidity providers in bonds, structured finance products and emission allowances to undue risk, it should be possible to mask price and volumes of transactions for a period, which should not in any case exceed four weeks for the very large trades. The exact calibration of the various buckets corresponding to different time deferrals should be left to ESMA due to the technical expertise required to specify the calibration as well as due to the need to allow for the flexibility to amend the calibration. Those deferrals should be based on the liquidity of the bond, structured finance product and emission allowance (e.g., proxied by the issuance size for bonds, with exception of covered bonds, or frequency of transactions), the size of transactions (trade sizes) and it should no longer include the size specific to the instrument concerned nor the large in scale size.

(9a) OTC derivatives are contracts and as (non-fungible) contracts (where both counterparties must agree on terms included in the contract), they are traded in a very different way to bonds. Significant differences exist between the characteristics of the bond market and the very heterogeneous OTC derivative markets and even within different derivatives classes regarding liquidity, transaction sizes and the trade out period needed. To address the difference between mainly the bond market and the very heterogeneous OTC derivative markets, the system of deferrals applicable to transactions in derivatives concluded on trading venues should be singled out in the new Article 11a of Regulation (EU) No 600/2014. The duration of deferrals should be calibrated based on the size and liquidity of derivative contracts and on a more flexible basis, because only adequate market data can determine the suitability of the various deferral periods per each category. Nevertheless, the maximum deferral periods should be defined in Regulation (EU) No 600/2014 and ESMA should be given greater flexibility to combine categories based on the size and liquidity of transactions and to develop a properly calibrated deferral regime compared to the regime for bonds, structured finance products and emission allowances.

- (10) Article 13 of Regulation (EU) No 600/2014 requires market operators and investment firms operating a trading venue to make the pre-trade and post-trade information on transactions in financial instruments available to the public on a reasonable commercial basis ('RCB'), and to ensure non-discriminatory access to that information. That Article has, however, not delivered on its objectives. The information provided by trading venues, APAs and systematic internalisers on a reasonable commercial basis does not enable users to understand market data policies and how the price for market data is set. ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the fast-changing data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014.
- (12) In order to create a level playing field, in addition to the obligation to publish firm quotes, systematic internalisers should be allowed to match at midpoint at any size. ESMA should assess every two years the effects of all types of trading protocols and systems on the quality of price formation and advise the Commission on possible measures for specific types of protocols or systems to improve price formation, including the ability for systematic internalisers to match at midpoint.

(12a) To ensure meaningful transparency in connection with OTC transactions in derivatives, without jeopardizing efficient price discovery or a transparency level playing field between means of trading, appropriate post-trade transparency requirements set out in Article 21 of Regulation (EU) No 600/2014 should apply to investment firms in respect of OTC derivatives which are subject to transparency under Article 11a of Regulation (EU) No 600/2014, so those OTC derivatives should cumulatively fulfil conditions that they should be denominated in the currencies of G4 jurisdictions, and subject to the clearing obligation specified in Article 5(2) of Regulation (EU) No 648/2012, and actually centrally cleared, and for interest rate swaps they should be limited to contracts with full year benchmark tenors (i.e., 1, 2, 3, 5, 7, 10, 12, 15, 20, 25 and 30 years). Transparency requirements should not apply to transactions in OTC derivatives that are part of portfolio compression or post-trade risk reduction services, or which are exempted from or not subject to clearing obligation, or which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty.

(12b) Under Commission Delegated Regulation (EU) No 2017/587 and Commission Delegated Regulation (EU) No 2017/583, when one of the two parties to a transaction is a systematic internaliser, the systematic internaliser is required to report a trade to an APA, while its counterparty is not required to do so. This has led many investment firms to opt in for the status of systematic internaliser only for the purpose of reporting the trades for their clients, while the firms were not dealing on own account on a systematic basis, thereby adding disproportionate transparency requirements to these firms. Therefore, it is appropriate to introduce a status of a designated publishing entity that would allow an investment firm to be responsible for making a transaction public through an APA without having the need to take the status of systematic internaliser. Furthermore, the designated publishing entities should notify themselves to the competent authorities and ESMA should maintain a public register of such designated publishing entities by financial instrument or class of financial instruments so that market participants have a capacity to identify them.

(13) Market participants need core market data to be able to make informed investment decisions. Pursuant to the current Article 27h of Regulation (EU) 600/2014, sourcing core market data about certain financial instruments directly from trading venues and APAs requires that consolidated tape providers enter into separate licensing agreements with all those data contributors. That process is burdensome, costly and time consuming. It has been one of the obstacles to consolidated tape providers emerging on a cross market basis. This obstacle should be removed in order to enable consolidated tape providers to obtain the market data and to overcome licensing issues. Trading venues and APAs (‘market data contributors’) should be required to submit their market data to consolidated tape providers, and to use harmonised templates respecting high-quality data standards to do so. The systematic internalisers would provide to CTP only post-trade data and thus the direct link between SI and CTP is not necessary as the data stream should be built on the current structure, where the APAs are the entity responsible for applying deferrals for SIs and publication of post-trade data. Only CTPs selected and authorised by ESMA should be able to collect harmonised market data from the individual data sources in accordance with the mandatory contribution rule. To make the market data useful for investors, market data contributors should be required to provide the CTP with market data as close as technically possible to real time.



- (13a) The definition of core market data should further specify what pre-trade data should be provided by trading venues and APAs with mentioning of best bid and offer spread. The best bid and offer data would be sent only by trading venues operating a central limit order book or a periodic auction system, while trading venues or systematic internaliser using request for quotes protocols or other trading protocols which do not constitute a central limit order book or periodic auction would provide post-trade data only.
- (14) Title II and III of Regulation (EU) No 600/2014 require trading venues, APAs, investment firms and systematic internalisers to publish pre-trade data on financial instruments, including bid and offer prices and post-trade data on transactions, including the price and volume at which a transaction in a specific instrument has been concluded. Market participants are not obliged to use the consolidated core market data provided by the CTP. The requirement to publish those pre-trade and post-trade data should therefore remain applicable to enable market participants to access market data. However, to avoid undue burden on market data contributors, it is appropriate to align the requirement for market data contributors to publish data as much as possible with the requirement to contribute data to the CTP.

- (15) Due to the disparate quality of market data, it is difficult for market participants to compare those data, which devoid data consolidation of much added value. It is of the utmost importance for the proper functioning of the transparency regime set out in Title II and III of Regulation (EU) 600/2014 and for the consolidation of data by consolidated tape providers that market data are of high quality. It is therefore appropriate to require that those market data comply with high quality standards in terms of both substance and format. It should be possible to change the substance and the format of the data within a short time to allow for changing market practices and insights. Therefore, the requirements for the quality of data should be specified by the Commission in a Delegated Act and should consider the advice of a dedicated consultative group, composed of experts from the industry and from public authorities. ESMA will be closely involved in this consultative group.
- (16) To better monitor reportable events, Directive 2014/65/EU harmonised the synchronisation of business clocks for trading venues and their members. To ensure that, in the context of the consolidation of market data, timestamps reported by different entities can be compared meaningfully, it is appropriate to extend the requirements for harmonisation of the synchronisation of business clocks to designated publishing entities which include systematic internalisers, and also extend to APAs and consolidated tape providers. Due to the level of technical expertise required to specify the requirements for application of a synchronized business clock, ESMA should be empowered to develop draft regulatory technical standards to specify the accuracy with which the clocks should be synchronized.

- (17) Article 23 of Regulation (EU) No 600/2014 requires that most of the trading in shares takes place on trading venues or systematic internalisers ('share trading obligation'). This requirement does not apply to trades in shares which are non-systematic, ad hoc, or irregular and infrequent. It is currently not sufficiently clear when this exemption applies. ESMA therefore clarified this by making a distinction between shares on the basis of their International Securities Identification Number (ISIN). Pursuant to that distinction, only shares with an EEA ISIN and which are admitted to trading on a regulated market or traded on a trading venue are subject to the share trading obligation. That approach provides clarity to market participants trading in shares. It is therefore appropriate to incorporate ESMA's current practice in Regulation (EU) No 600/2014, while simultaneously removing the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent.
- (18) Determination of the date by which transactions are reported is important to ensure sufficient preparedness by both supervisors and reporting entities. It is also crucial to align the timing of changes in different reporting frameworks. Setting this date in a delegated act will provide the necessary flexibility and aligns ESMA's empowerments with those laid down in Regulation (EU) 2019/834. To increase overall market reporting consistency, ESMA should also take account of international developments and standards agreed upon at Union or global level when developing relevant draft regulatory technical standards.

(18a) The problem with the concept of "traded on a trading venue" which was applied to derivatives should be addressed not only in case of transparency requirements, but also in transaction reporting so the concept of "concluded on a trading venue" is introduced for derivatives. If a derivative contract is concluded outside the trading venue and does not belong to financial instruments where the underlying is a financial instrument traded on a trading venue, or to financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue, then only the OTC derivative contract which is in the scope of transparency requirements should be reported. Reporting under Regulation (EU) No 600/2014 should cover financial instruments subject to transparency requirements or related to financial instruments which are subject to transparency requirements, thus there is no need to report derivatives concluded outside trading venues which have no impact on financial instruments traded on trading venues. Moreover, it would be desirable to align all types of reporting to avoid inconsistencies so for example, reporting of derivatives under Regulation (EU) No 600/2014 might be fulfilled by means of reporting under Regulation (EU) No 648/2012 to avoid unnecessary double reporting of the same transactions in derivatives.

- (19) Reporting in financial markets – in particular transaction reporting – is already highly automated and data is more standardised. Some inconsistencies between frameworks have already been resolved in the European Market Infrastructure Regulation (EMIR), Refit and Securities Financing Transactions Regulation (SFTR). The empowerments for ESMA should be aligned to adopt technical standards and ensure greater consistency in transaction reporting between the EMIR, SFTR and MiFIR frameworks. This will improve transaction data quality and avoid unnecessary additional costs for the industry. Furthermore, the transaction reporting should allow for a broad exchange of transaction data among national competent authorities, in order to adequately reflect the latter's evolving supervisory needs to monitor the most recent market developments and potential related risks. This should address for instance the need of any national competent authority to gain a comprehensive view of the investments and it should be build up on the current routing practice that is set in delegated act.
- (20) Competition among consolidated tape providers ensures that the consolidated tape is provided in the most efficient way and under the best conditions for users. However, no entity has, up until now, applied to act as a consolidated tape provider. It is therefore considered appropriate to empower ESMA to periodically organize a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class. Initially, ESMA should start the selection procedure concerning the consolidated tape for bonds. Within 6 months of the start of that selection ESMA should start the selection procedure for a CTP for shares and ETFs. ESMA should require the CTP for shares and ETFs to be able to consolidate and display the best bid and offer spread of each trading venue in time of executed trade as well as the European best bid and offer spread that would be derived from those data. ESMA should thirdly start the selection procedure for OTC derivatives CTP once technical issues hampering the setup of the CT, such as those concerning ISINs, are resolved.

- (21) According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool.
- (22) Trading venues facilitating the trading of shares via a pre-trade transparent order book play a key role in the price formation process. This is particularly true for smaller regulated markets and SME Growth Markets (“smaller trading venues”) which are generally the main centre of liquidity for the securities they offer for trading. The core market data that such smaller trading venues contributes to the consolidated tape therefore plays a more determining role in the price formation for the shares these trading venues admit to trading. A preferential treatment in the revenue participation scheme of the post-trade feed is therefore considered appropriate to allow these smaller trading venues to maintain their local admissions and safeguard a rich and vibrant ecosystem in line with the objectives of the Capital Markets Union.

(23) Small regulated markets and SME Growth Markets are trading venues which admit shares of issuers for which trading in the secondary market tends to be less liquid than the trading of shares admitted to trading on larger regulated markets. In order to avoid the negative impact the CT might have on these smaller trading venues, even though inclusion in the CT might have positive effects on the viability of these venues and liquidity of the securities traded on the venues, an opt-in mechanism for the trading venues where trading volume of shares is equal or below 1 % of the annual trading volume of shares traded in the Union would be established. There are two alternative conditions following on the first one, either there is no big (over the 1 % of the annual trading volume of shares) trading venue in the group, or the concentration of the trading is very high (85 % of the shares that have initially been admitted to the trading at that trading venues are traded there). Only a few trading venues fulfil this criterion, therefore, only a small percentage of trading in the Union would not be compulsorily included in the CTP. The trading venues benefiting from the opt-in would have an opportunity to join in, and if they decide to join, they should notify the CTP as well as ESMA about this decision. This decision is irrevocable and all the data – for shares as well as ETF – will be part of the CT afterwards.

- (24) The CTPs should redistribute the revenue based on the data contributed, by allocating revenue according to the preferential treatment of certain trading venues, to their functions and to informational value of the data. Furthermore, the revenue redistribution model should make use of weight models where certain trading venues should have preferential treatment that by three cumulative factors that multiply the assigned revenue based on three criteria: first and foremost, the greatest weight, therefore the most preferred treatment, is to be given to smaller trading venues, than to trading venues that provide the best bid and offer spread as they contribute to price formation and provide pre-trade data to the CTP, and subsequently fulfilling the function of initial admission of shares or ETF. The weight should be the highest for smaller trading venues that have below 1 % of annual trading volume of shares traded in the Union, which is broader than the size condition for the opt-in. The difference between each weights should be at least 7 points.
- (25) It is necessary to ensure that consolidated tape providers remedy information asymmetries in the capital markets in a sustainable manner, and to ensure that consolidated tape providers provide consolidated data that are reliable. Consolidated tape providers should therefore be obliged to adhere to organisational requirements and quality of service standards that must be always met once they have been authorised by ESMA. Quality standards should cover aspects related to the collection of consolidated core market data, accurate timestamping of such data at various stages in the delivery chain, collection and administration of market data subscription fees, and allocation of revenue to market data contributors. The consolidated tape should be accessible for the competent authorities free of charge.



- (26) In order to safeguard market participants' continued trust in the operation of a consolidated tape provider, such entities should periodically make a series of public reports concerning compliance with their obligations under this Regulation, in particular on performance statistics and incident reports relating to data quality and systems. Due to the highly technical nature of the substance of the report, ESMA should be empowered to specify the substance, format and timing.
- (27) The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of commercializing the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer waiting for the consolidated free data rather than subscribing to the consolidated tape. This is in particular the case for bonds and OTC derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its business model.
- (28) The CTP should receive core market data as well as reported data, but it should not report all the data it receives. This is true especially for reported data where the CTP should publish the closing and opening price, but not other information that is needed for the operation of the CTP, but should not be made public. Data originating from systematic internalisers should be published on more anonymous basis so the unique identifier should not be published to protect systematic internalisers from undue risk. Additional data, including pre-trade data and depth of order book data, may be published subject to the specific agreement between market data contributor and CTP.

- (29) The CTP should publish the CT of executed trade together with best bids and offers available at the time of the trade as well as European best bid and offer available at the time of the trade. The European best bid and offer (EBBO) should be derived from the data provided by systems operating a central limit order book or periodic auction systems for all the shares and ETFs traded at those trading venues.
- (30) Article 28 of Regulation (EU) No 600/2014 requires that OTC derivatives that are subject to the clearing obligation are traded on trading venues. Regulation (EU) 2019/834 of the European Parliament and of the Council<sup>11</sup> amended Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>12</sup> to reduce the scope of the entities that are subject to the clearing obligation. In light of the close interconnection between the clearing obligation under Regulation (EU) No 648/2012 and the derivatives trading obligation under Regulation (EU) No 600/2014, and to ensure greater legal coherence and to simplify the legal framework, it is necessary and appropriate to re-align the derivatives trading obligation with the clearing obligation for derivatives. Without that alignment, certain smaller financial counterparties and non-financial counterparties would no longer be captured by the clearing obligation but continue to be captured by the trading obligation.

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<sup>11</sup> Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42).

<sup>12</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

(31) Article 6a of Regulation (EU) No 648/2012 provides for a mechanism to temporarily suspend the clearing obligation where the criteria on the basis of which specific classes of OTC derivatives have been made subject to the clearing obligation are no longer met, or where such suspension is considered necessary to avoid a serious threat to financial stability in the Union. Such suspension may, however, prevent counterparties from being able to comply with their trading obligation, laid down in Regulation (EU) No 600/2014 because the clearing obligation is a pre-requisite to the trading obligation. It is therefore necessary to lay down that, where the suspension of the clearing obligation would lead to a material change in the criteria for the trading obligation, it should be possible to concurrently suspend the trading obligation for the same class or classes of OTC derivatives that are subject to the suspension of the clearing obligation.

(31a) Article 31 of Regulation (EU) No 600/2014 exempts investment firms and market operators from best execution requirements and transparency requirements for as far as they provide portfolio compression services. Transactions resulting from portfolio compression services, but also from other post-trade risk reduction services, provide no meaningful information to the market since they are not based on market conditions. Therefore, not just portfolio compression, but also other post-trade risk reduction services should be exempted from best execution and transparency requirements, as well as from the derivatives trading obligation. The Commission should be empowered to specify the post-trade risk reduction services in scope of the exemption. In addition, although the inclusion of a financial instrument in the scope of the clearing obligation is a pre-requisite to the application of the derivatives trading obligation, it is possible that in a concrete situation the clearing obligation does not apply, because for example the transaction is concluded between two members of the same group, but the derivatives trading does still apply. Therefore, it should be provided that transactions that are out of scope of the clearing obligation are also not in scope of those obligations.

- (32) An ad-hoc suspension mechanism is necessary to ensure that the Commission may swiftly react to significant changes in market conditions that may have a material effect on the trading of derivatives and their counterparties. Where such market conditions are present, and upon the request of the competent authority of a Member State, the Commission should be able to suspend the trading obligation, independently from any suspension of the clearing obligation. Such a suspension of the trading obligation should be possible where the activities of an EU investment firm with a non-EEA counterparty are unduly affected by the scope of the EU trading obligation on derivatives and where that investment firm acts as a market-maker in the category of derivatives subject to the trading obligation. The issue of overlapping DTOs is particularly acute when trading with counterparties domiciled in a third-country jurisdiction that applies its own DTO. This suspension would also help EU counterparties remaining competitive on global markets. When deciding upon the suspension of the trading obligation, the Commission should take into consideration the impact of such suspension on the clearing obligation laid down in Regulation (EU) No 648/2012.
- (33) Open access provisions for exchange-traded derivatives may reduce attractiveness to invest in new products as competitors may be able to get access without the upfront investment. The application of the open access regime for exchange-traded derivatives, laid down in Article 35 and 36 of Regulation (EU) No 600/2014, may thus limit investment in these products, by removing incentives for regulated markets to create new exchange-traded derivatives. It should therefore be laid down that the regime should not apply to the CCP or trading venue concerned in respect of exchange-traded derivatives, thus fostering innovation and the development of exchange-traded derivatives in the Union.

- (33a) Regulation (EU) XX/XXXX should amend Regulation (EU) No 600/2014 and introduce new Article 39a which should introduce a direct ban of the practice of receiving fees or commissions or non-monetary benefits from any third party for forwarding clients orders to any third party for execution to generally enhance harmonization of rules in the Union. Member States may allow investment firms to receive fees, commissions, rebates, discounts or non-monetary benefits from any third party for forwarding clients orders to any third party for execution in respect of clients domiciled or established in their territory. Those Member States may impose, in their national law, additional conditions to those set out in Article 27(1) and (2) of Directive 2014/65/EU, such as to limit the price of financial instrument in the spread of EBBO. Those Member States should inform ESMA that they should make use of this discretion and ESMA should maintain a list of those Member States.
- (34) Investment firms trading on their own account are crucial to the well-functioning of the capital market as they provide liquidity to the market even during market stress conditions when other liquidity providers usually leave the market as it has happened during COVID 19 liquidity shortage on the trading venues. To ensure legal certainty for these liquidity providers, there should be clarity about calculation of the threshold from which they should be required to apply for credit institution license and what assets should be included in the calculation.

- (35) The Commission should adopt the draft regulatory technical standards developed by ESMA regarding the precise characteristics of the deferral regime for non-equity transactions, regarding the provision of information on a reasonable commercial basis, regarding the application of the synchronised business clocks by trading venues, systematic internalisers, APAs and CTPs and regarding characteristics of the public reporting obligation of the CTP. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.
- (35a) The application of certain provisions in the Regulation would be postponed. This applies mostly to the deferral regime for non-equities as this new regime is dependent on the delegated act that would require the proposal on RTS from ESMA. Therefore, the current existing deferral regime should continue to apply until relevant RTS are adopted and the new deferral regime can apply. It applies also to the ban on the client order routing practice as there should be possibility for Member States to assess the application of discretion.

(36) Since the objectives of this Regulation, namely to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, measure should be adopted at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. This Regulation furthermore respects the fundamental rights and observes the principles recognised in the Charter, in particular the freedom to conduct a business and the right to consumer protection,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Regulation (EU) No 600/2014**

(1) Article 1 is amended as follows:

(a) in paragraph 1, the following point (h) is added:

‘(h) the scope of multilateral trading.’;

(b) paragraph 3 is replaced by the following:

‘3. Title V of this Regulation shall also apply to counterparties referred to in Article 4(1)(a) of Regulation (EU) No 648/2012.’;

(ba) paragraph 6 is replaced by the following:

‘6. Articles 8, 10 and 21 shall not apply to regulated markets, market operators and investment firms in respect of a transaction where the counterparty is a member of the European System of Central Banks (ESCB) and where that transaction is entered into in performance of monetary, foreign exchange and financial stability policy which that member of the ESCB is legally empowered to pursue and where that member has given prior notification to its counterparty that the transaction is exempt.’;

(c) the following paragraph 7a is inserted:



‘7a. All multilateral systems shall operate either in accordance with the provisions of Title II of Directive 2014/65/EU concerning MTFs or OTFs, or the provisions of Title III of that Directive concerning regulated markets.

All investment firms which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of this Regulation.

Without prejudice to Articles 23 and 28, all investment firms concluding transactions in financial instruments which are not concluded on multilateral systems or systematic internalisers shall comply with Articles 20, 21, 22, 22a, 22b and 22c, of this Regulation.’;

(2) in Article 2, paragraph 1 is amended as follows:

(a) point (11) is replaced by the following:

‘(11) ‘multilateral system’ means any system or facility in which multiple third-party buying and selling trading interest in financial instruments are able to interact in the system;’;

(aa) the following point (16a) is inserted:

‘(16a) ‘designated publishing entity’ means an investment firm responsible for making transactions public through an APA in accordance with Articles 20(1) and 21(1);’;

(ab) point (17) is replaced by the following:

‘(17) ‘liquid market’ means:

(a) for the purposes of Articles 9, 11 and 11a a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:

(i) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;

(ii) the number and type of market participants, including the ratio of market participants to traded financial instruments in a particular product;

(iii) the average size of spreads, where available;

(iv) the issuance size, which shall be used to define a liquid market for bonds, with the exception of covered bonds, and may be used to define a liquid market for non-equity instruments other than derivatives;

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

(i) traded daily (notwithstanding regulatory suspensions or technical disruptions that may affect a trading venue, such as an outage);

(ii) market capitalisation;

(iii) the average daily number of transactions in those financial instruments;

(iv) the average daily turnover for those financial instruments;’;

(ac) the following point (32a) is inserted:

‘(32a) ‘OTC derivative’ means an OTC derivative as defined in Article 2(7) of Regulation (EU) No 648/2012;’;

(b) the following point (34a) is inserted:

‘(34a) ‘market data contributor’ means a trading venue or an APA;’;

(c) point (35) is replaced by the following:

‘(35) ‘consolidated tape provider’ or ‘CTP’ means a person authorised in accordance with Title IVa, Chapter 1 of this Regulation to provide the service of collecting market data for shares, ETFs, bonds or derivatives, from market data contributors, and of consolidating those data into a continuous electronic live data stream providing core market data per share, ETF, bond or derivatives and of providing them to user of market data;’;

(ca) point (36a) is replaced by the following:

‘(36a) ‘data reporting services provider’ means a person referred to in points (34), (35) and (36) and a person referred to in Article 27b(2);’;

(d) the following points (36b) and (36c) are inserted:

‘(36b) ‘core market data’ means:

(a) all of the following data on equities:

(i) the best bids and offers with corresponding volumes; and timestamps, including for auction systems, the price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price by participants in that system;

(ii) the transaction price and volume executed at the stated price;

(iii) the market identifier code identifying the execution venue;

(iv) the standardised instrument identifier that applies across venues;

(v) the timestamp information on all of the following:

- the time of execution of the trade;
- the time of publication of the trade;
- the receipt of market data by the consolidated tape provider;
- the dissemination of consolidated market data to subscribers;

(vi) the trading protocols and the applicable waivers or deferrals;

(b) all of the following data on non-equities:

(i) the transaction price and quantity/size executed at the stated price;

(ii) the market identifier code identifying the execution venue;

(iii) for bonds the standardised instrument identifier that applies across venues;

(iv) for OTC derivatives, the product identifier used as part of reference data as referred to in Article 27(1);

(v) the timestamp information on all of the following:

- the time of execution of the trade;
- the time of publication of the trade;
- the receipt of market data by the consolidated tape provider;
- the dissemination of consolidated market data to subscribers;

(vi) the trading protocols and the applicable waivers or deferrals;

(36c) ‘regulatory data’ means data related to the status of systems matching orders in financial instruments, including information about circuit breakers, trading halts, and opening and closing prices of those financial instruments;’;

(3) Article 4 is amended as follows:

(a) in paragraph 1, point (b)(i) is replaced by the following:

‘(i) made within the current volume weighted spread reflected on the order book or the quotes of the market makers of the trading venue operating that system;’;

(b) in paragraph 6, point (f) is deleted;

(4) Article 5 is amended as follows:

-(a) the title is replaced by the following:

*‘Article 5*

**Volume cap’;**

(b) paragraph 1 is replaced by the following:

‘1. Trading venues shall suspend their use of the waiver referred to in Article 4(1), point (a), where the percentage of volume traded in the Union in a financial instrument carried out under the waiver exceeds 10 % of the total volume traded in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of the waiver on the data published by ESMA in accordance with paragraph 4, and shall take such decision within two working days after the publication of those data and for a period of three months.’;

(c) paragraph 2 and 3 are deleted;

(d) paragraph 4 is replaced by the following:

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

(e) paragraphs 5 and 6 are deleted;

(f) paragraph 7 is replaced by the following:

‘7. 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 limits referred to in paragraph 1 have 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 the waiver.’;

(4a) Article 8 is replaced by the following:

*Article 8*

**Pre-trade transparency requirements for trading venues in respect of bonds, structured finance products and emission allowances**

1. Market operators and investment firms operating a trading venue applying a central limit order book or periodic auction systems shall make public current bid and offer prices and the depth of trading interests at those prices that are advertised through their systems for bonds, structured finance products, emission allowances and package orders. Those market operators and investment firms shall make that information available to the public on a continuous basis during normal trading hours.

2. The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems.’;

(4b) the following Article 8a is added:



**Pre-trade transparency requirements in respect of derivatives**

1. Market operators and investment firms operating a trading venue, when applying a central limit order book or a periodic auction system, shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for transactions executed in respect of exchange-traded derivatives.

The transparency requirements shall be applied also to following transactions executed in respect of OTC derivatives that are:

- (a) denominated in euro or the currency of Japan, the United States of America or United Kingdom, and
- (b) subject to the clearing obligation under Article 5(2) of Regulation (EU) No 648/2012 and centrally cleared; and
- (c) in respect of a class of interest rate derivatives, the OTC derivatives with a full year tenor with remaining period of 1, 2, 3, 5, 7, 10, 12, 15, 20, 25 or 30 years to their expiration.

ESMA shall publish a list of the OTC derivatives on which the transparency applies in accordance with this Article.

2. The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems.?’;

(5) Article 9 is amended as follows:

(a) the title is replaced by the following:

**Waivers for bonds, structured finance products, emission allowances and derivatives’;**

(b) paragraph 1 is replaced by the following:

‘1. Competent authorities shall be able to waive the obligation for market operators and investment firms operating a trading venue to make public the information referred to in Article 8(1) and Article 8a(1) for:

(a) orders that are large in scale compared with normal market size and orders held in an order management facility of the trading venue pending disclosure;

(c) OTC derivatives which are not subject to the trading obligation as referred to in Article 28 and for which there is not a liquid market, and other financial instruments for which there is not a liquid market;

(d) orders for the purpose of executing an exchange for physical;

(e) package orders that meet one of the following conditions:

(i) at least one of its components is a financial instrument for which there is not a liquid market, unless there is a liquid market for the package order as a whole;

(ii) at least one of its components is large in scale compared with the normal market size, unless there is a liquid market for the package order as a whole.’;

(c) in paragraph 4, third subparagraph, first sentence is replaced by the following:

‘Before suspending or renewing the temporary suspension under this paragraph of the obligations referred to in Article 8 or Article 8a, the relevant competent authority shall notify ESMA of its intention and provide an explanation.’;

(d) paragraph 5 is replaced by the following:

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

(a) the parameters and methods for calculating the threshold of liquidity referred to in paragraph 4 in relation to the financial instrument. The parameters and methods for Member States to calculate the threshold shall be set in such a way that when the threshold is reached, it represents a significant decline in liquidity across all venues within the Union for the financial instrument concerned based on the criteria used under Article 2(1)(17);

(b) the range of bid and offer prices and the depth of trading interests at those prices to be made public for each class of financial instrument concerned in accordance with Article 8(1) and Article 8a(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2) and Article 8a(2); ESMA shall determine characteristics of central limit order book and periodic auctions systems;

(c) the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;

(d) the financial instruments or the classes of financial instruments for which there is not a liquid market where pre-trade disclosure may be waived under paragraph 1.

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

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

(5a) Article 10 is replaced by the following:

*Article 10*

**Post-trade transparency requirements for trading venues in respect of bonds, structured finance products, emission allowances and derivatives**

1. Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of bonds, structured finance products, emission allowances traded on a trading venue and of the transactions executed in respect of exchange-traded derivatives. The requirements shall also apply to transactions executed in respect of OTC derivatives as referred to in Article 8a(1) second subparagraph. Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real-time as is technically possible.

2. Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 to investment firms which are obliged to publish the details of their transactions in bonds, structured finance products, emission allowances and OTC derivatives pursuant to Article 21.

3. The competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded may, where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5)(a), temporarily suspend the obligations referred to in paragraph 1. That threshold shall be defined based on objective criteria specific to the market for the financial instrument concerned. Such temporary suspension shall be published on the website of the relevant competent authority and notified to ESMA that should publish this suspension on its website as well.

The temporary suspension shall be valid for an initial period not exceeding three months from the date of its publication on the website of the relevant competent authority. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension continue to be applicable. Where the temporary suspension is not renewed after that three-month period, it shall automatically lapse.

Before suspending or renewing the temporary suspension of the obligations referred to in paragraph 1, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and second subparagraphs.’;

(6) Article 11 is replaced by the following:

**Deferred publication for bonds, structured finance products or emission allowances**

1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of bonds, structured finance products or emission allowances traded on a trading venue, including the price and the volume, in accordance with paragraphs 2, 3 and 4.

Market operators and investment firms operating a trading venue shall clearly disclose proposed arrangements for deferred trade-publication to market participants and the public.

The arrangements for deferred trade-publication shall be organised by using five categories of transactions related to a class of bond, structured finance product or emission allowance traded on a trading venue:

- (a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;
- (b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;
- (c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;

(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;

(e) category 5: transactions of a very large size, irrespective of the liquidity status of the financial instrument.

2. The deferrals for categories set in paragraph 1 shall not exceed:

(a) for category 1, for price and volume 15 minutes;

(b) for category 2, for price the end of the trading day and for volume the end of the second trading day;

(c) for category 3, for price the end of the second trading day and for volume one week;

(d) for category 4, for price one week and for volume two weeks; and

(e) for category 5, for price and volume four weeks.

3. In addition to the deferred publication as referred to in paragraphs 1 and 2, competent authorities of the Member State of a sovereign debt instrument may, with regard to transactions in that sovereign debt instruments in the Union:

(a) allow the omission of the publication of the volume of an individual transaction during an extended time period of deferral; or

(b) defer the publication of the details of several transactions for six months.

The set deferred publication by competent authorities of Member State in relation to sovereign debt instrument is applicable in the European Union. ESMA shall publish on its website the list of the deferred publication related to sovereign debt instrument. ESMA shall monitor the application of those arrangements for deferred trade-publication and shall submit an annual report to the Commission indication how they are used in practice.

When the deferral time period lapses, the outstanding details of the transaction and all the details of the transaction on an individual basis shall be published.

4. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article as well as under Article 27g:

(a) the details of transactions that investment firms, market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 10(1), including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;

(b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as technically possible including when trades are executed outside ordinary trading hours; ESMA shall regularly review this time limit and adjust it in line with technological developments;



(c) what constitutes a transaction of a medium, large and very large size in a liquid and illiquid financial instrument as referred to in paragraph 1, third sub-paragraph, based on quantitative and qualitative research taking into account the criteria in Article 2(1)(17)(a) and other relevant criteria where applicable;

(d) the price and volume deferrals applicable to each of the five categories in paragraph 1, sub-paragraph 3 that are shorter than deferrals set up in paragraph 2; the shortening shall be based on quantitative and qualitative research to assess the impact of the decrease.

For each of the above categories ESMA shall regularly, recalibrate the applicable deferral duration, with the aim to gradually decrease them where appropriate. A year after the decreased deferral durations become applicable ESMA shall perform quantitative and qualitative research to assess the impact of the decrease. Where available ESMA shall use the post-trade transparency data published by the consolidated tape for this purpose. If adverse effects to the financial instruments appear, ESMA shall increase the deferral window back to its previous state.

(e) the criteria to be applied when determining the size or type of a transaction for which publication of details of several transactions in an aggregated form, or omission of the publication of the volume of a transaction with particular reference to allowing an extended length of time of deferral for certain financial instruments depending on their liquidity, is allowed under paragraph 3.

ESMA shall submit those draft regulatory technical standards to the Commission by [9 months from publication in Official Journal].

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

(6a) the following Article 11a is added:

*‘Article 11a*

#### **Deferred publication for derivatives**

1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of exchange-traded derivatives and in respect of OTC Derivatives as referred to in Article 8a(1) second subparagraph, including the price and the volume, in accordance with paragraphs 2 and 3. The deferrals shall be based on the liquidity of a class of derivatives in accordance with Article 2(1)(17) point (a), and on the size of the transaction.

Market operators and investment firms operating a trading venue shall clearly disclose those arrangements to market participants and the public.

The duration of deferrals will be determined by ESMA in accordance with paragraph 3, using complete and accurate market data, according to the following categories of transactions in derivatives:

- (a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;
- (b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;
- (c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;
- (d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;
- (e) category 5: transactions of a very large size, irrespective of the liquidity status of the financial instrument.

When the deferral time period lapses, the outstanding details of the transaction and all the details of the transaction on an individual basis shall be published.

2. The duration of deferrals will be based on the categories as referred to in paragraph 1, third subparagraph, and determined by ESMA in accordance with paragraph 3, using complete and accurate market data. The initial time deferral may be combination of any of the following durations: 15 minutes, the end of a trading day, the end of the second trading day, a week, two weeks, four weeks, or two months.

3. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article and Article 27g:

- (a) the details of transactions that investment firms, market operators and investment firms operating a trading venue shall make available to the public for each class of derivatives, published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
- (b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including when trades are executed outside ordinary trading hours;
- (c) the conditions under which investment firms, and market operators and investment firms operating a trading venue, may provide for deferred publication of details of transactions for each class of derivatives concerned in accordance with paragraph 1 and 2 and Article 21 (4);
- (d) what constitutes a transaction of a medium, large and very large size in a liquid and illiquid derivatives as referred to in paragraph 1, third sub-paragraph, based on analysis of the market data taking into account characteristics of the market for a class of derivatives including its liquidity as defined in Article 2 (1)(17)(a);

(e) assigning the appropriate time deferral of price and volume for each of the categories of transactions as referred to in paragraph 1 based on analysis of the market data and the market performance of the derivative or a class of derivatives, liquidity of a class of derivatives in accordance with Article 2(1)(17)(a), and on the size of the transaction.

For each category ESMA shall regularly recalibrate the applicable deferral duration with the aim to gradually decrease them where appropriate based on quantitative and qualitative research to assess the impact of the decrease.

ESMA shall submit those draft regulatory technical standards to the Commission by [9 months from publication in Official Journal].

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

ESMA shall review the regulatory technical standards in conjunction with the expert stakeholder group under article 22(b) and amend the standards to take into account substantial changes in calibration of categories under the first subparagraph point (d) and second subparagraph of this paragraph.’;

(6b) Article 12, paragraph 1 is replaced by the following:

‘1. Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11a available to the public by offering pre-trade and post-trade transparency data separately.’;

(7) Article 13 is replaced by the following:

*‘Article 13*

**Obligation to make pre-trade and post-trade data available on a reasonable commercial basis**

1. Market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers shall make the information published in accordance with Articles 3, 4, 6 to 11a, 14, 20, 21, 27g and 27h, available to the public on a reasonable commercial basis, which means that the price of market data shall be based on the costs of producing and disseminating such data and may include a reasonable margin, and ensure non-discriminatory access to the information. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall make such information available in a machine readable format as well as readable for retail customer and free of charge 15 minutes after publication.

2. ESMA shall develop draft regulatory technical standards to specify what constitutes reasonable commercial basis, as well as the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.?’;

(8) in Article 14, paragraphs 2 and 3 are deleted;

(9) Article 17a is replaced by the following:

*‘Article 17a*

**Tick sizes**

1. Systematic internalisers’ quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.
  2. The application of the tick sizes set in accordance with Article 49 of Directive 2014/65/EU shall not prevent systematic internalisers from matching orders at mid- point within the current bid and offer prices.’;
- (9a) Article 18, paragraphs 1 to 3, and 5 to 11 are deleted;
- (9b) Article 19 is deleted;
- (9c) Article 20 in its title is replaced by the following:

*‘Article 20*

**Post-trade disclosure by investment firms in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments’;**

- (9d) Article 21 is amended as follows:
- (a) the title is replaced by the following:



**Post-trade disclosure by investment firms in respect of bonds, structured finance products, emission allowances and derivatives’;**

(b) paragraph 1 is replaced by the following:

‘1. Investment firms which, either on own account or on behalf of clients, conclude transactions in bonds, structured finance products and emission allowances traded on a trading venue shall make public the volume and price of those transactions and the time at which they were concluded. The requirement shall also apply to transactions concluded in OTC derivatives as referred to in Article 8a(1) second subparagraph.

That information shall be made public through an APA.’;

(c) paragraph 3 is replaced by the following:

‘3. The information which is made public in accordance with paragraph 1 and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 10, including the regulatory technical standards adopted in accordance with Article 11(4)(a) and (b) and Article 11a(3)(a) and (b).’;

(d) paragraph 4 is replaced by the following:

‘4. Investment firms may defer publication of price or volume on the same conditions as laid down in Articles 11 and 11a. Where the measures adopted pursuant to Article 11 (3) by national competent authorities in relation to sovereign debt provide for omission of publication of the volume for an extended period of time or publication of details of several transactions in an aggregated form, those measures shall also apply to those transactions when undertaken outside trading venues.’;

(e) paragraph 5 is replaced by the following:

‘5. ESMA shall develop draft regulatory technical standards in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU to specify the following:

(a) the identifiers for the different types of transactions published in accordance with this Article, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;

(b) the application of the obligation under paragraph 1 to transactions involving the use of those financial instruments for collateral, lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument.

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

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.<sup>2</sup>;

(9e) the following Article 21a is added:

*‘Article 21a*

**Designated publishing entity**

1. Where only one party to a transaction is a designated publishing entity in accordance with paragraph 3, it shall be responsible for making public transactions through an APA in accordance with Article 20(1) or Article 21(1).
2. Where neither of the parties to a transaction, or both of the parties to a transaction are designated publishing entities in accordance with paragraph 3, only the entity that sells the financial instrument concerned shall make the transaction public through an APA.

3. Investment firms shall receive the status of designated publishing entity upon request to their competent authority for specified classes of financial instruments. All systematic internalisers are designated publishing entities for the financial instruments or classes of financial instruments for which they are systematic internaliser. The request shall be notified by the competent authority to ESMA.

4. ESMA shall establish a list of all designated publishing entities, specifying the identity of the designated publishing entities, including the systematic internalisers, as well as the classes of financial instruments for which they are designated publishing entities and keep it updated on its website.’;

(9f) in Article 22, first paragraph, introductory wording is replaced by the following:

‘1. In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, Articles 14 to 21 and Article 32, which are applicable to financial instruments and for determining whether an investment firm is a systematic internaliser, ESMA and competent authorities may require information from:’;

(10) the following Articles 22a, 22b and 22c are added:

**Provision of market data to the CTP**

1. Market data contributors shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC derivatives as referred to in Articles 8a(1) and 21(1), provide the CTP with all the core market data, as well as with regulatory data, as needed for the CTP to be operational. Those core market data shall be provided in a harmonised format, where applicable in accordance with the data quality requirements based on Article 7, 11, 11a, 20 and 21, through a high quality transmission protocol, and as close to real-time as is technically possible.

1a. Regulated markets and MTFs with the annual trading volume of shares traded at the trading venue equal to or below 1 % of the annual trading volume of shares traded in the Union shall not be required to provide core market data and regulatory data in relation to shares and ETFs to the CTP if:

(a) the regulated market or the MTF is not a part of a group comprising or having close links with a regulated market or a MTF that has annual trading volume of shares traded at the trading venue above 1 % of annual trading volume of share traded in the Union; or

(b) on the regulated market or the MTF the 85 % of the annually trading volume of shares or more were traded of the shares that were initially admitted to trading on that regulated market or the MTF.

The regulated market or MTF that meets the conditions set in first subparagraph may contribute the core market data and regulatory data to the CTP. The regulated market or MTF shall notify decision to opt in to CTP and ESMA.

ESMA shall publish and maintain the list of regulated market and MTF that meet the conditions set in first subparagraph and also those who decided to opt in to the CTP on its website and update it annually or every time there is new regulated market of MTF licensed or decides to opt in.

2. Each CTP shall be free to choose, from among the types of connection that the market data contributors offer to other users, which connection it wishes to use for the provision of those data. Market data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing.

3. Market data contributors shall not receive from the CTP any remuneration for the market data provided to the CTP other than the revenue sharing as referred to in Article 27h(5).

4. Market data contributors shall apply the deferrals as laid down in Articles 7, 11, 11a, 20 and 21 to the core market data to be submitted to the CTP. Market data contributors shall apply the deferrals in such a way that the CTP is able to disseminate the consolidated core market data no later than in accordance with Articles 6, 10, 20 and 21.';

*Article 22b*

**Market data quality**

1. The Commission shall set up an expert stakeholder group by [OP add 3 months as of entry into force] to provide advice on the quality and the substance of core market data, the common interpretation of core market data and the quality of the transmission protocol referred to in Article 22a(1). ESMA shall be member of the expert stakeholder group. The expert stakeholder group shall provide advice on an annual basis. That advice shall be made public.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to further specify the quality and the substance of core the market data and the quality of the transmission protocol.

Those delegated acts shall in particular specify all of the following:

- (a) the market data contributors need to provide to the CTP in order to produce the core market data needed for the CTP to be operational, including the substance and the format of those market data;
- (b) additional data fields that might be required to characterise core market data referred to in Article 2(1)(36b) and the regulatory data referred to in Article 2(1)(36c).

For the purposes of the first subparagraph, the Commission shall take into account the advice from ESMA and from the expert stakeholder group established in accordance with paragraph 1 international developments, and standards agreed at Union or international level. The Commission shall ensure that the delegated acts adopted take into account the reporting requirements laid down in Articles 3, 6, 8, 8a, 10, 11, 11a, 14, 20, 21 and 27g.

*Article 22c*

**Synchronisation of business clocks**

1. Trading venues and their members or participants, designated publishing entities, APAs and CTPs shall synchronise their business clocks to record the date and time of any reportable event.
2. ESMA shall, in accordance with international standards, develop draft regulatory technical standards to specify the level of accuracy to which clocks are to be synchronised.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert a date 6 months as of entry into force].

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



(11) in Article 23, paragraph 1 is replaced by the following:

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

- (a) those shares are traded on a third-country venue in the local currency; or
- (b) those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.’;

(11a) Article 25 is amended as follows:

(a) paragraph 2, the first sentence is replaced by the following:

‘2. The operator of a trading venue shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems in an electronic and machine-readable format and using a common template.’;

(b) paragraph 3, the first subparagraph is replaced by the following:

‘3. ESMA shall develop draft regulatory technical standards to specify the details and formats of the relevant order data required to be maintained under paragraph 2 of this Article that is not referred to in Article 26.’;

(12) Article 26 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Investment firms which execute transactions in financial instruments shall report complete and accurate details of such transactions to the competent authority as quickly as possible, and no later than the close of the following working day.

The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the following competent authorities also receive that information:

- (i) the competent authority of the most relevant market in terms of liquidity for those financial instruments, and
- (ii) the competent authorities responsible for the supervision of the transmitting investment firms;

(iii) the competent authorities responsible for the supervision of the branches which have been part of the transaction; and

(iv) the competent authority responsible for the supervision of the trading venues used.

The competent authorities shall without undue delay make available to ESMA any information reported in accordance with this Article.’;

(b) paragraph 2 is replaced by the following:

‘2. The obligation laid down in paragraph 1 shall apply to:

(a) financial instruments which are admitted to trading or traded or concluded on a trading venue or for which a request for admission to trading has been made;

(b) financial instruments where the underlying is a financial instrument traded on a trading venue; and

(c) financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue;

The obligation shall apply to transactions in financial instruments referred to in points (a) to (c) irrespective of whether or not such transactions are carried out on the trading venue with exception of transactions in derivatives that are not concluded on a trading venue and that are not referred to in points (b) or (c) or in Article 21(1).’;

(c) paragraph 3 is replaced by the following:

‘3. The reports shall, in particular, include details of the names and numbers of the financial instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the entity subject to the reporting obligation, a designation to identify the applicable waiver under which the trade has taken place, means of identifying the investment firms concerned.

For transactions carried out on a trading venue, the reports shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue. For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3)(a) and Article 21(5)(a). For commodity derivatives, the reports shall indicate whether the transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.’;

(d) paragraph 5 is replaced by the following:

‘The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user which is not subject to this Regulation in accordance with paragraphs 1 and 3.’;

(e) paragraph 7 is amended as follows:

(i) second subparagraph is replaced by the following:

‘Investment firms shall have responsibility for the completeness, accuracy and timely submission of the reports which are submitted to the competent authority.’;

(ii) last subparagraph is replaced by the following:

‘Where there are errors or omissions in the transaction reports the ARM, investment firm or trading venue reporting the transaction shall correct the information and submit a corrected report to the competent authority.’;

(f) in paragraph 8 following new first subparagraph is inserted:

‘An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm. The branch of a third country firm shall submit its transaction reports to the competent authority which authorised the branch. Where a third country firm has set up branches in more than one Member State within the Union, those branches shall define the competent authority that will receive all the transaction reports.’;

(g) paragraph 9 is amended as follows:

(i) point (d) is deleted;

(ii) point (e) is replaced by the following:

‘(e) the relevant categories of indices to be reported in accordance with paragraph 2;’

(iii) the following point (j) is added:

‘(j) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction.’;

(iv) the following point (k) is added:

‘(k) the date by which transactions are to be reported.’;

(v) the following subparagraph is inserted after the first subparagraph:

‘When drafting those regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and their consistency with the reporting requirements laid down in Regulation (EU) No 648/2012 and Regulation (EU) No 2015/2365.’;

(13) in Article 26, the following paragraph 11 is added:

‘11. By [OP insert date 2 years as of date of publication], ESMA shall submit to the Commission a report assessing the feasibility of more integration in transaction reporting and streamlining of data flows under Article 26 of this Regulation to:

- (a) reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation, Regulation (EU) No 648/2012 and Regulation (EU) No 2015/2365;
- (b) improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant competent authority, both Union and national.

When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank.’;

(14) Article 27 is amended as follows:

- (a) in paragraph 1, first and second subparagraphs are replaced by the following:

‘With regard to financial instruments admitted to trading or traded on a trading venue or concluded on a trading venue or where the issuer has approved trading of the issued instrument or where a request for admission to trading has been made, trading venues shall provide ESMA with identifying reference data for the purpose of transaction reporting under Article 26 and the transparency requirements under Articles 3, 6, 8, 8a, 10, 11, 11a, 14, 20 and 21.

With regard to derivatives, identifying reference data shall be based and further developed on globally agreed international standard used for identifying reference data as derivative identifiers.’;

(b) in paragraph 3, the following point (c) is added:

‘(c) the date by which reference data are to be reported.’;

(c) in paragraph 3, the following new subparagraph is added at the end:

‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) No 648/2012 and Regulation (EU) No 2015/2365.’;

(15) the following Article 27da is added:



**Selection process for the authorisation of a single consolidated tape provider for each asset class**

1. ESMA shall organise a selection procedure for the appointment of the CTP for a five year term. ESMA shall organise a separate selection procedure for a single CTP for each of the following asset classes:

- (a) bonds;
- (b) shares and exchange traded funds; and
- (c) OTC derivatives or relevant subclasses of OTC derivatives.

ESMA shall organise a the first selection procedure under point (a) by *[OP insert date 9 months as of entry into force]*, or if it is later, directly after publication of the delegated acts based on Article 11(4) and 22b(2) in the Official Journal of the European Union.

ESMA shall organise the first selection procedure under point (b) within 6 months after the selection procedure under point (a) or, if this is later, directly after publication of all relevant delegated acts in the Official Journal of the European Union.

ESMA shall organise the first selection procedure under point (c) within six months after the selection procedure under point (b), and directly after an identifier under article 27 para 1 is developed and applied.

ESMA shall organise subsequent selection procedures under points (a), (b) and (c), in time to allow for a continuation of provision of the consolidated tape without disruption.

2. For each of the asset classes referred to in paragraph 1, ESMA shall assess the applications on the basis of the following criteria:

- (a) the technical ability of the applicants to provide a resilient consolidated tape throughout the Union;
- (b) the capacity of the applicants to comply with the organisational requirements laid down in Article 27h;
- (c) the ability to receive, consolidate and disseminate core market data for shares, ETFs, bonds and OTC derivatives; for shares and ETF disseminate also the European best bid and offer spread, defined as the best bid and offer spread for a share or ETF among all the venues that offer trading in that instrument;
- (d) the governance structure of the applicants;
- (e) the speed at which the applicants can disseminate core market data;
- (f) the capacity of the applicants to disseminate good quality data;
- (g) the total expenditure needed by the applicants to develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis;

- (h) the level of the fees that the applicant intends to charge to the different types of users of the core market data;
- (i) the possibility of the applicants to use modern interface technologies for the provision of the core market data and for connectivity;
- (j) the storage medium the applicants will use for the storage of historic data;
- (k) the protocols the applicants will use to prevent and address outages;
- (l) the revenue participation scheme in accordance with Article 27h(1) point (c) and (d) and Article 27h(5).

3. The first selection procedure organised for shares and ETFs shall invite bids for the provision of a consolidated tape containing post trade data as well as the best bids and offers available at the time of the transaction on the venue where the share or ETF is traded and the European best bid and offer spread, defined as the best bid and offer spread for a share or ETF among all the venues that offer trading in that instrument.

5. ESMA shall adopt a fully reasoned decision selecting the entities operating the consolidated tapes within 3 months as of initiation of the selection procedure referred to in paragraph 1. Such reasoned decision shall specify the conditions under which the CTPs shall operate, and in particular the level of fees referred to in paragraph 2, point (g) and for shares the level of the participation referred to in paragraph 2, point (h), in particular for smaller pre-trade transparent trading venues. The selected CTP shall without undue delay submit an application for authorisation referred to in Article 27d. In case no entity has been selected, ESMA shall organise a new selection procedure after 6 months from the end of the unsuccessful selection procedure.

6. The selected CTPs shall comply at all times with the organisational requirements set out in Article 27h and with the conditions set out in the decision of ESMA authorising the CTP referred to in paragraph 3. A CTP that is no longer able to comply with those requirements and conditions, including the requirements and conditions on system disruptions and intrusions, shall inform ESMA thereof without undue delay.

7. The withdrawal of the authorisation referred to in Article 27e shall only take effect as of the moment that a new CTP has been selected and authorised in accordance with paragraphs 1 to 4.

8. Three years after the selection procedure under paragraph 1 point (a) and (b) is completed, ESMA shall assess the market demand and impact of the consolidated tape on the functioning of the market, and based on that assessment, report to the Commission on the opportunity of improving the consolidated tape by requiring additional data to be published by the consolidated tape provider while maintaining the opt-in mechanism referred to in Article 22a paragraph 1a.’;

(16) Article 27h is replaced by the following:

**Organisational requirements for consolidated tape providers**

1. CTPs shall, in accordance with the conditions for authorisation referred to in Article 27da:
  - (a) collect all market data provided through contributions in relation to the asset class for which they are authorised;
  - (b) collect monthly or annually subscription fees from users;
  - (c) in the case of market data concerning shares, redistribute part of their revenues for the purposes of covering the cost related to mandatory contribution and of ensuring a fair level of participation for trading venues, and in particular smaller regulated markets, SME Growth Markets and others trading venues providing initial admission to trading of shares and trading venues providing the best bid and offers available, in the revenue generated by the consolidated tape in accordance with paragraph 5.
  - (d) in case of market data concerning asset classes other than shares, redistribute part of their revenue fairly for the purpose of covering the costs, including loss of revenue, related to mandatory contribution, and of ensuring a fair level of participation for trading venues in the revenue generated by the consolidated tape;

(e) produce consolidated core market data,

(i) for the provision of which the CTP is selected in accordance with Article 27da, while publishing the market identifier code identifying the execution venue only in relation to trading venue and only the necessary regulatory data;

(ii) for the determination of the best bid and offer spread for shares or ETFs on trading venues that offer trading in those instruments available at the time of the transaction on the trading venue where the share or ETF is traded and of the corresponding volume;

(iii) for the determination of the European best bid and offer spread, defined as the best bid and offer spread for shares or ETFs traded on the central limit order book or periodic auction systems of the trading venues that offer trading in those instruments, at the time a transaction takes place on one of the venues where the shares or ETFs are traded and of the corresponding volume;

in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible.

(f) ensure that the consolidated core market data is easily accessible, machine readable and utilisable for all users, including retail investors.

2. CTPs shall adopt and publish on their website service level standards covering all of the following:

- (a) an inventory of market data contributors from whom market data are received;
- (b) modes and speed of delivery of consolidated market data to users;
- (c) measures taken to ensure operational continuity in the provision of consolidated market data.

3. CTPs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of market data between the market data contributors and the CTP and between the CTP and the users and to minimise the risk of data corruption and unauthorised access. CTPs shall maintain adequate resources and have back-up facilities in place to offer and maintain its services at all times.

4. After 12 months of full operation of the CTP for shares, ESMA shall provide the Commission with a motivated opinion on the effectiveness and fairness of the level of participation of smaller trading venues as referred in paragraph 5 point (a) in the revenues generated by the CTP as set out in accordance with the second subparagraph of paragraph 1. The Commission may request ESMA to provide further opinions, where necessary or appropriate. The Commission shall be empowered to adopt a delegated act in accordance with Article 50 to revise the allocation key for the revenue redistribution, where appropriate. In the context of the allocation key revision, the position of the smaller trading venues compared to the situation before they became market data contributors shall not be deteriorated.

5. The revenue shall be distributed to trading venues. The redistribution of revenue shall be based on total annual turnover. The total annual turnover of the trading venue under the preferential treatment shall be multiplied by weight that is assigned to the conditions justifying the preferential treatment of the trading venue specified in second subparagraph. The weights shall be added cumulatively.

The conditions justifying the preferential treatment of the trading venue are:

1. data are provided from regulated markets and SME growth markets, with the annual trading volume of shares traded at the trading venue equals to or is below 1 % of the annual trading volume of shares traded in the Union;
2. best bids and offers from trading venues are provided to consolidated tape; and
3. data are provided from regulated markets, SME growth markets and multilateral trading facilities who offer and provide initial admission on regular basis for the share or ETF.

Conditions in point 1 shall have higher weight than conditions in point 2, and conditions in point 2 shall have higher weight than conditions in point 3.



6. ESMA shall develop draft regulatory technical standards to specify the preferential weights assigned to the conditions justifying the preferential treatment referred to in paragraph 5 and the mechanism of calculating the revenue sharing based on the weight system.

For the purposes of determining the preferential weights, ESMA shall assess characteristics of the trading venues, the data submitted and also potential loss of revenue of smaller trading venues as referred to in paragraph 5 point 1.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert a date 9 months as of entry into force].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in subparagraph (c) of paragraph 1 in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;

(17) the following Article 27ha is added:

*‘Article 27ha*

**Reporting obligations for consolidated tape providers**

1. CTPs shall, at the end of each quarter, publish on their website, which shall be accessible for free, performance statistics and incident reports relating to data quality and systems.
2. ESMA shall develop draft regulatory technical standards to specify the content, timing, format and terminology of the reporting obligation under paragraph 1.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].

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

3. CTPs shall keep and preserve records relating to their business for a period of no less than five years. Information concerning the first two years shall be kept in an easily accessible place, and the CTP shall promptly provide ESMA or competent authority with such records upon request.’;

(18) Article 28 is amended as follows:

- (a) in paragraph 1, the introductory wording is replaced by the following:

‘1. Transactions in OTC derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 of this Regulation and listed in the register referred to in Article 34 of this Regulation between counterparties as referred to in Article 4(1)(a) of Regulation (EU) No 648/2012 shall be concluded only on:’;

(b) paragraph 2 is deleted;

(c) paragraph 4 is replaced by the following:

‘4. Derivatives declared subject to the trading obligation pursuant to paragraph 1 shall be eligible to trading on a trading venue as referred to in paragraph 1 on a non-exclusive and non-discriminatory basis.’;

(d) paragraph 5 is amended as follows:

(i) point (b) is replaced by the following:

‘(b) trading venues have clear and transparent rules so that derivatives are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable;’;

(ii) point (c) is deleted;

(18a) Article 31 is replaced by the following:

**Post-trade risk reduction services and intragroup transactions**

1. Transparency obligation under Articles 8a, 10, and 21 of this Regulation, the trading obligation under Article 28, the best execution obligation in Article 27 of Directive 2014/65/EU and the obligation in Article 1(6) of Directive 2014/65/EU shall not apply to the following transactions in OTC derivatives that are:

- (a) concluded during portfolio compression;
- (b) part of post-trade risk reduction services;
- (c) exempted from or otherwise not subject to the clearing obligation under Article 4 of Regulation (EU) No 648/2012; or
- (d) objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty as referred to in Article 10(3) of Regulation (EU) No 648/2012;

2. Investment firms and market operators that meet one of the conditions in paragraph 1 shall keep complete and accurate records of the transactions referred to in paragraph 1 that are not already recorded or reported in accordance with Regulation (EU) No 648/2012. Those records shall be made available promptly to the relevant competent authority or ESMA upon request.

3. The Commission shall adopt by means of delegated acts in accordance with Article 50, measures specifying the following:

(a) the elements of transactions concluded during portfolio compression in the scope of this Article;

(b) the post-trade risk reduction services in scope of this Article;

(c) elements of transactions to be recorded pursuant to paragraph 2.’;

(19) Article 32 is amended as follows:

(a) paragraph 2, point (a) is replaced by the following:

‘(a) the class of derivatives pursuant to paragraph 1(a) or a relevant subset thereof must be traded on at least one trading venue as referred to in Article 28(1), and’;

(b) paragraph 4, first subparagraph is replaced by the following:

‘4. ESMA shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation, identify and notify to the Commission the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1), but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012 or which is not traded on a trading venue referred to in Article 28(1) point (4). ESMA shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation, identify and notify to the Commission the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1), but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012 or which is not traded on a trading venue referred to in Article 28(1).’;

(c) the following paragraphs 7, 8 and 9 are added:

‘7. Where ESMA considers that the suspension of the clearing obligation as referred to in Article 6a of Regulation (EU) No 648/2012 is a material change in the criteria for the trading obligation to take effect, as referred to in paragraph 5 of this Article, ESMA may request the Commission to suspend the trading obligation laid down in Article 28(1) and (2) of this Regulation for the same classes of OTC derivatives that are subject to the request to suspend the clearing obligation.

8. The request referred to in paragraph 7 shall not be made public.

9. After having received the request referred to in paragraph 7, the Commission shall, without undue delay and, on the basis of the reasons and evidence provided by ESMA, do either of the following:

(a) in an implementing act suspend the trading obligation for the classes of OTC derivatives that are subject to the request to suspend the clearing obligation;

(b) reject the requested suspension.

For the purposes of point (b), the Commission shall inform ESMA of the reasons why it rejected the requested suspension. The Commission shall immediately inform the European Parliament and the Council of that rejection and forward them the reasons provided to ESMA. The information provided to the European Parliament and the Council regarding the rejection and the reasons for that rejection shall not be made public.';

(20) the following Article 32a is added:

**Stand-alone suspension of the trading obligation**

1. At the request of the competent authority of a Member State, the Commission may adopt an implementing act in accordance with the procedure referred to in Article 51 and, after having consulted ESMA, suspend the derivatives trading obligation with respect to the investment firms specified by the competent authority. The competent authority shall indicate why it considers that the conditions for a suspension are met. In particular, the competent authority shall demonstrate that an investment firm within its jurisdiction:

(a) regularly acts as a market maker in an OTC derivative subject to the derivatives trading obligation and regularly receives requests for a quote for the OTC from a non-EEA counterparty which has no active membership on an EU trading venue that offers trading in the OTC derivative; or

(b) regularly trades an OTC derivative subject to the derivatives trading obligation, with non-EEA counterparty which would be qualified as a financial counterparty if it were established in the EU which have no active membership on an EU trading venue that offers trading in the OTC derivative, and clears the OTC derivative on a central counterparty authorised in accordance with Regulation (EU) 648/2012.



2. When assessing whether to suspend the trading obligation in accordance with paragraph 1, the Commission shall take into account whether such suspension of the trading obligation would have a distortive effect on the clearing obligation laid down in Article 4(1) of Regulation (EU) No 648/2012. The Commission shall also contact other competent authorities from other Member States to assess whether investment firms in Member States other than that making the request in accordance with paragraph 1 are in a situation similar to those in the requesting Member State(s). Member States that did not file a request pursuant to paragraph 1 may, after adoption of the implementing act mentioned in paragraph 1, request that investment firms that are in a situation similar to those in the requesting Member State(s) are added to the implementing act. The competent authority of the Member State(s) making this request shall indicate and demonstrate why it considers that the conditions for a suspension are also met.

If the derivatives trading obligation with respect to the investment firm specified by the competent authority is suspended then the derivatives trading obligation shall not apply in respect to its counterparty referred to in paragraph 1, points (a) or (b).

3. The implementing act referred to in paragraph 1 shall be accompanied by the evidence presented by the competent authority requesting the suspension.

4. The implementing act referred to in paragraph 1 shall be communicated to ESMA and shall be published in the ESMA register referred to in Article 34 of this Regulation.

5. The Commission shall regularly review whether the grounds for the suspension of the trading obligation continue to apply.’;

(20a) the wording of Article 34 is replaced by the following:

‘ESMA shall publish and maintain on its website a register specifying, in an exhaustive and unequivocal manner, the derivatives that are subject to the obligation to trade on the venues referred to in Article 28(1), the venues where they are traded, and the dates from which the obligation takes effect.’;

(21) Article 35 is amended as follows:

(a) in paragraph 1, first subparagraph, the introductory wording is replaced by the following:

‘1. Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed.

The requirement in the first subparagraph shall not apply to exchange-traded derivatives.

The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:’;

(b) paragraph 3 is replaced by the following:

‘3. The CCP shall provide a written response to the trading venue either within three months of permitting access, on condition that a relevant competent authority has granted access pursuant to paragraph 4, or within three months of denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6(a). Where a CCP denies access, it shall provide full reasons in its response and inform its competent authority in writing of the decision. Where the trading venue is established in a Member State other than the one of the CCP, the CCP shall also provide such notification and reasoning to the competent authority of that trading venue. The CCP shall provide access within three months of providing a positive response to the access request.’;

(22) Article 36 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, to any CCP authorised or recognised by that Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement shall not apply to:

(a) any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012;

(b) exchange-traded derivatives.’;

(b) paragraph 3 is replaced by the following:

‘3. The trading venue shall provide a written response to the CCP within three months either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified pursuant to paragraph 6, point (a). When access is denied, the trading venue shall provide full reasons in its written response and forward that written response to its competent authority. Where the CCP is established in a different Member State than the trading venue, the trading venue shall also forward that written response to the competent authority of the CCP. The trading venue shall provide access within three months of providing a positive response to the access request.’;

(c) paragraph 5 is deleted;

(23) in Article 38, paragraph 1 is replaced by the following:

‘1. A trading venue established in a third country may request access to a CCP established in the Union only if the Commission has adopted a decision in accordance with Article 28(4) relating to that third country.

A CCP established in a third country may request access to a trading venue in the Union subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012.

CCPs and trading venues established in third countries shall only be permitted to make use of the access rights referred to in Articles 35 and 36 with regard to financial instruments covered by those Articles and provided that the Commission has adopted a decision in accordance with paragraph 3 of this Article, determining that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country.’;

(24) in Article 38g(1), the introductory wording is replaced by the following:

‘Where ESMA finds that a person listed in Article 38b(1), point (a), has not complied with any of the requirements laid down in Article 22a, Article 22b, Article 22c, or Title IVa, it shall take one or more of the following actions:’;

(25) in Article 38h(1), the first subparagraph is replaced by the following:

‘Where ESMA, in accordance with Article 38k(5), finds that a person listed in Article 38b(1), point (a), has intentionally or negligently not complied with any of the requirements provided for in Article 22a, Article 22b, Article 22c, or in Title IVa, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article.’;

(26) The following Article 39a is inserted:

*Article 39a*

**Ban on payment for forwarding client orders for execution**

1. Investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to any third party for their execution.

The first subparagraph shall not apply to rebates or discounts on the transaction fees of execution venues that do not result in negative fees that are settled with a payment or a non-monetary benefit.

2. A Member State may allow an investment firm acting on behalf of clients to receive any fee or commission, rebates, discounts or non-monetary benefits from any third party for forwarding client orders to any third party for their execution only in respect of a client domiciled or established in that Member State.

The Member State may impose on the investment firm executing retail client orders as referred to in first subparagraph additional conditions to the conditions set out in Article 27(1) and (2) of Directive 2014/65/EU in its national law.

The Member State shall notify ESMA about its decision to use the discretion as referred to in first subparagraph. ESMA shall maintain a list of Member States using this discretion. The list shall be made available to public and updated regularly.’;

(27) Article 50 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts as referred to in the following provisions shall be conferred for an indeterminate period from 2 July 2014: Article 1(9), Article 2(2) and (3), 13(2), 15(5), 17(3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).’;

(b) in paragraph 3, the first sentence is replaced by the following:

‘The delegation of power referred to in the following provisions may be revoked at any time by the European Parliament or by the Council: Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).’;

(c) in paragraph 5, the first sentence is replaced by the following:

‘A delegated act adopted pursuant to Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.’;

(28) Article 52 is amended as follows:

(a) paragraphs 11 is replaced by the following:

‘11. Three years after the first authorisation of a consolidated tape, the Commission shall, after having consulted ESMA, submit a report to the European Parliament and to the Council on the following:

(a) the asset classes covered by a consolidated tape;

(b) the timeliness and delivery quality of market data consolidation;

(c) the role of market data consolidation in reducing implementation shortfall;

(d) the number of subscribers to consolidated market data per asset class;

(e) the effect of market data consolidation on remedying information asymmetries between various capital market participants;

(f) the appropriateness and functioning of the participation scheme for market data contributions;

(g) the effects of the consolidated market data on investments in SMEs;

(h) the possibility that the tape facilitates the identification of financial instruments which display features aligned with Regulation [OP please insert reference to the Regulation on European green bonds].’;



- (b) paragraph 12 is deleted;
- (c) paragraph 14 is deleted;
- (29) in Article 54, paragraph 2 is deleted;
- (30) in Article 55, the third paragraph is replaced by the following:

‘Notwithstanding the second paragraph, Article 1(8) and (9), Article 2(2), Article 4(6), Article 5(6) and (9), Article 7(2), Article 9(5), Article 11(4), Article 12(2), Article 13(2), Article 14(7), Article 15(5), Article 17(3), Article 20(3), Article 21(5), Article 22(4), Article 23(3), Article 25(3), Article 26(9), Article 27(3), Article 28(4), Article 28(5), Article 29(3), Article 30(2), Article 31(4), Article 32(1), (5) and(6), Article 33(2), Article 35(6), Article 36(6), Article 37(4), Article 38(3), Article 40(8), Article 41(8), Article 42(7), Article 45(10), Article 46(7), Article 47(1) and (4), Article 52(10) and (12) and Article 54(1) shall apply immediately following the entry into force of this Regulation.’

*Article 2*

**Amendments to Regulation (EU) No 575/2013**

In Article 4 of the Regulation (EU) 575/2013, paragraph 1, point (b), points (i), (ii) and (iii) are replaced by the following:

‘(i) the total value of the consolidated assets of the undertaking is equal to or exceeds EUR 30 billion, excluding the assets, calculated on individual basis, of any subsidiary established in third country;

(ii) the total value of the assets of the undertaking is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in that group that are established in the EU and that individually have total assets of less than EUR 30 billion and that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU is equal to or exceeds EUR 30 billion; or

(iii) the total value of the assets of the undertaking is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in the group that are established in the EU and that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU, is equal to or exceeds EUR 30 billion, where the consolidating supervisor, in consultation with the supervisory college, so decides in order to address potential risks of circumvention and potential risks for the financial stability of the Union;

for the purposes of points (b)(ii) and (b)(iii), where the undertaking is part of a third-country group, the total assets of each branch of the third-country group authorised in the Union that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU shall be included in the combined total value of the assets of all undertakings that are considered for the calculation of the threshold as referred to in points b(ii) and b(iii).

The consolidating supervisor shall inform the EBA of any decision made pursuant to point (b)(iii). The EBA shall monitor the range of supervisory practices in connection with this point and shall report to the Commission on its findings every three years.’

### *Article 3*

#### **Entry into force and application**

This Regulation shall enter into force and apply on the twentieth day following that of its publication in the Official Journal of the European Union, with the exception of Articles 1(1)(a), 1(1)(c) and 1(2)(a) and Article 1(10), for as far as it concerns the insertion of Article 22c in Regulation (EU) No 600/2014, which shall enter into force on the [MiFID implementation date].

Articles 2(1)(11) of Regulation (EU) No 600/2014 as applicable before entry into force of this Regulation will continue to apply to investment firms and market operators until the date of application of the delegated regulation based on Article 11(4) as amended by Article 1(6) of this Regulation.

Article 11a of Regulation (EU) No 600/2014 will not apply to investment firms and market operators until the date of application of the delegated regulation based on Article 11a(4) as inserted by Article 1(6a) of this Regulation.

Article 13 of Regulation (EU) No 600/2014 as applicable before entry into force of this Regulation will continue to apply to investment firms and market operators until the date of application of the delegated regulation based on Article 11(7) as amended by Article 1(6) of this Regulation.

However, Article 1, point (26), shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation].

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

Done at Brussels,

(...)

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