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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: C(2026) 990 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/577 as regards the volume cap and the provision of information for the purposes of transparency and other calculations

Delegations will find attached document C(2026) 990 final.

Encl.: C(2026) 990 final



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

of 20.2.2026

amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/577 as regards the volume cap and the provision of information for the purposes of transparency and other calculations

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 600/2014 of the European Parliament and of the Council¹ ('MiFIR') governs how trading works in the EU. The latest legislative amendments to MiFIR were introduced by Regulation (EU) 2024/791 of the European Parliament and of the Council² (the 'MiFIR review'). The MiFIR review removed the main obstacles to creating three consolidated tapes (CTs), one for each of the following asset classes: (i) bonds; (ii) shares and exchange-traded funds (ETFs); and (iii) and over-the-counter (OTC) derivatives. The MiFIR review also improved transparency and increased competitiveness of EU markets in the global landscape. Since Directive 2014/65/EU of the European Parliament and of the Council³ ('MiFID II') also contains provisions on the consolidated tapes and transparency, Directive (EU) 2024/790 of the European Parliament and of the Council⁴ amended MiFID II in parallel with the MiFIR review. Both amending acts were published in the Official Journal of the European Union on 8 March 2024 and entered into force on 28 March 2024.

Under Article 5 of MiFIR, the use of transparency waivers for equity instruments should be suspended when the volume of trading in those instruments reaches set thresholds, also known as the 'volume cap'. The MiFIR review introduced amendments to Article 5 of MiFIR to simplify the use of the volume cap, notably by replacing the double volume cap (DVC) with a union-wide single volume cap set at 7% of the total volume of trading on all trading venues across the EU over the previous 12 months. The single volume cap only applies to transactions carried out under the reference price waiver. In addition, with a view to reducing the reporting burden for market participants, the European Securities and Markets Authority (ESMA) decided to discontinue the DVC system and to use transaction data reported under Article 26 of MiFIR to perform volume cap calculations⁵. Considering these changes, it is necessary to update Commission Delegated Regulation (EU) 2017/577⁶ on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations.

¹ 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, ELI: <http://data.europa.eu/eli/reg/2014/600/oj>).

² Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow (OJ L, 2024/791, 8.3.2024, ELI: <http://data.europa.eu/eli/reg/2024/791/oj>).

³ 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, ELI: <http://data.europa.eu/eli/dir/2014/65/2025-01-17>).

⁴ Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments (OJ L, 2024/790, 8.3.2024, ELI: <http://data.europa.eu/eli/dir/2024/790/oj>).

⁵ ESMA carried out a dedicated Proof of Concept to assess whether transaction data reported in accordance with Article 26 of MiFIR could be used to also perform the volume cap calculations. Considering the positive results of this assessment, ESMA took the decision to decommission the DVC system. For more details, see the Final Report on equity transparency published on 16 December 2024 ([ESMA74-2134169708-7636 Final Report on equity transparency](https://www.esma.europa.eu/press-material/press-conferences-and-events/other-activities/2024/12/16/esma-74-2134169708-7636-final-report-on-equity-transparency)).

⁶ Commission Delegated Regulation (EU) 2017/577 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations ((OJ L 087 31.3.2017, p. 174–182, ELI: http://data.europa.eu/eli/reg_del/2017/577/oj).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with Article 10(1) of Regulation (EU) No 1095/2010, ESMA conducted open public stakeholder consultations⁷ before submitting the draft regulatory technical standards (RTSs) to the Commission. It also consulted the Securities and Markets Stakeholders Group (SMSG). ESMA performed a cost-benefit analysis, which was included in the final report together with the outcome of the consultation activities⁸. It sent the final report to the Commission in April 2025. Subsequently, ESMA consulted the public on a comprehensive approach to simplify financial transaction reporting⁹. That consultation affects the content of these RTSs, as ESMA decided to put on hold its earlier decision to discontinue the collection of reference data for the purpose of transparency calculations in the Financial Instruments Transparency System (FITRS). In particular, ESMA requested the Commission to remove the relevant sunset clause from these RTSs.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

- Article 1 introduces the amendments to Delegated Regulation (EU) 2017/577.
- Article 2 states when this Delegated Regulation enters into force.

⁷ The consultation document is available at: https://www.esma.europa.eu/sites/default/files/2024-07/ESMA74-2134169708-7011_MiFIR_Review_CP_3.pdf

⁸ ESMA, Final report on Systematic Internaliser notification (new ITS), on the volume cap and transparency calculations (RTS 3) and circuit breakers (new RTS 7a) is available at: [ESMA74-2134169708-7780 Final Report on SI notification volume cap and circuit breakers.pdf](https://www.esma.europa.eu/sites/default/files/2024-07/ESMA74-2134169708-7780_Final_Report_on_SI_notification_volume_cap_and_circuit_breakers.pdf)

⁹ The Call for evidence is available at: [Streamlining financial transaction reporting: ESMA calls for input](https://www.esma.europa.eu/sites/default/files/2024-07/ESMA74-2134169708-7780_Call_for_evidence_Streamlining_financial_transaction_reporting_ESMA_calls_for_input.pdf)

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

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012¹⁰, and in particular Article 5(9) and Article 22(3) thereof,

Whereas:

- (1) Directive (EU) 2024/790 of the European Parliament and of the Council¹¹ amended the definition of ‘systematic internaliser’ laid down in Article 4(1), point (20), of Directive 2014/65/EU of the European Parliament and the Council¹². That amendment replaced the quantitative criteria to determine what constitutes a frequent, systematic and substantial basis with a qualitative assessment and limited that assessment to equity instruments only, while leaving the possibility for an investment firm to choose to opt in to become a systematic internaliser for non-equity instruments. It is therefore necessary to delete from Commission Delegated Regulation (EU) 2017/577¹³ the obligation for trading venues, approved publication arrangements (APAs) and consolidated tape providers (CTPs) to provide their competent authorities with the data required to perform the calculations set out in Articles 12 to 15 of Commission Delegated Regulation (EU) 2017/565¹⁴ that were used to assess whether the relevant quantitative criteria were met.
- (2) For the purposes of transparency and other calculations, data are currently reported using the XML format. To reflect the current supervisory practice, Delegated

¹⁰ OJ L 173, 12.6.2014, p. 84, ELI: <http://data.europa.eu/eli/reg/2014/600/oj>.

¹¹ Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments (OJ L, 2024/790, 8.3.2024, ELI: <http://data.europa.eu/eli/dir/2024/790/oj>).

¹² 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, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

¹³ Commission Delegated Regulation (EU) 2017/577 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations (OJ L 87, 31.3.2017, ELI: http://data.europa.eu/eli/reg_del/2017/577/oj).

¹⁴ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, ELI: http://data.europa.eu/eli/reg_del/2017/565/oj).

Regulation (EU) 2017/577 should be amended to specify that the XML format should be used for data that are reported for carrying out calculations that occur at pre-set dates or in pre-defined frequencies.

- (3) The European Securities and Markets Authority (ESMA) and competent authorities may need to request data on an *ad-hoc* basis from trading venues, APAs and CTPs as part of their assessment of the pre-trade and post-trade transparency and the trading obligation regimes. To allow for efficient data delivery and for consolidation with similar data from other sources, ESMA and competent authorities should, in the case of *ad-hoc* data requests, be able to specify the format in which the data should be submitted. To minimise burden for market participants, ESMA and competent authorities should rely as much as possible on existing datasets, including transaction data reported in accordance with Article 26 of Regulation (EU) No 600/2014, and resort to *ad-hoc* data requests only where necessary.
- (4) Regulation (EU) 2024/791 of the European Parliament and of the Council¹⁵ amended Regulation (EU) No 600/2014 by extending to five years the obligation for operators of trading venues, APAs and CTPs to maintain records. That amendment should be reflected in Delegated Regulation (EU) 2017/577.
- (5) ESMA has assessed whether transaction data reported in accordance with Article 26 of Regulation (EU) No 600/2014 can be used to calculate the total volume of trading in a financial instrument in the Union and the percentage of trading in a financial instrument in the Union carried out under the reference price waiver as referred to in Article 5 of that Regulation. Considering the positive results of that assessment and the need to reduce reporting burden for market participants, ESMA announced that transaction data reported in accordance with Article 26 of Regulation (EU) No 600/2014 will be used to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading under the reference price waiver across the Union as referred to in Article 5 of that Regulation. Article 6 of Delegated Regulation (EU) 2017/577 on the reporting requirements for trading venues and CTPs for the purpose of the volume cap mechanism, as well as the requirements for competent authorities to report to ESMA for the purposes of the volume cap mechanism set out in Article 7, should therefore be deleted. The Annex to Delegated Regulation (EU) 2017/577, which sets out the formats of the report for the purpose of the volume cap mechanism, should also be deleted.
- (6) Article 7 of Delegated Regulation (EU) 2017/577 requires competent authorities to provide ESMA with the data that they received from a trading venue, APA or CTP for the purpose of the trading obligation for derivatives. To reflect the current supervisory practice, whereby trading venues, APAs and CTPs submit the data directly to ESMA, direct reporting of data to ESMA should be required instead.
- (7) Article 5 of Regulation (EU) No 600/2014 on the volume cap was amended by Regulation (EU) 2024/791 by replacing the double volume cap with a single Union-wide volume cap set at 7 %. Regulation (EU) 2024/791 also removed from the scope of the transactions subject to the volume cap the transactions carried out under the waiver referred to in Article 4(1), point (b)(i), of Regulation No 600/2014 (negotiated trade waiver for liquid instruments), and allowed trading venues to suspend the use of

¹⁵ Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow (OJ L, 2024/791, 8.3.2024, ELI: <http://data.europa.eu/eli/reg/2024/791/oj>)

the waiver referred to in Article 4(1), point (a), of that Regulation (reference price waiver) based on the trading data published by ESMA on a quarterly basis. In addition, Directive (EU) 2019/1024 of the European Parliament and of the Council¹⁶ introduced a harmonised definition of ‘machine-readable format’ applicable to public sector bodies. Article 8 of Delegated Regulation (EU) 2017/577 on the publication requirements for ESMA for the purposes of the volume cap should therefore be amended to reflect those changes.

- (8) Delegated Regulation (EU) 2017/577 should therefore be amended accordingly.
- (9) This Regulation is based on the draft regulatory technical standards submitted to the Commission by ESMA.
- (10) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁷,

HAS ADOPTED THIS REGULATION:

Article 1
Amendments to Delegated Regulation (EU) 2017/577

Delegated Regulation (EU) 2017/577 is amended as follows:

- (1) in Article 1, paragraph 1 is amended as follows:
 - (a) point (e) is deleted;
 - (b) points (f) and (g) are replaced by the following:
 - ‘(f) the standard market size applicable to systematic internalisers dealing in equity and equity-like instruments;
 - (g) for equity and equity-like instruments, the total volume of trading in the Union per financial instrument in the previous 12 months and the percentages of trading in each financial instrument carried out across the Union under the waiver referred to in Article 4(1), point (a), of Regulation (EU) No 600/2014 in the previous 12 months;’;
- (2) Article 2 is replaced by the following:

‘Article 2
Content of the data requests and information to be reported

1. For the calculations that occur at pre-set dates or in pre-defined frequencies, trading venues, APAs, and CTPs shall provide ESMA and their competent authorities with all the data required to perform the calculations set out in the following Regulations:

¹⁶ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56, ELI: <http://data.europa.eu/eli/dir/2019/1024/oj>).

¹⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84. ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

- (a) Delegated Regulation (EU) 2017/587;
- (b) Delegated Regulation (EU) 2017/583;
- (c) Delegated Regulation (EU) 2017/567.

2. Requests by ESMA and competent authorities for ad-hoc information for the purposes of Article 22(1) of Regulation (EU) No 600/2014 shall contain the name of the reporting entity and any details necessary for the purpose of the request.

3. Trading venues, APAs, and CTPs shall upon request provide ESMA and their competent authorities with all the data ESMA is to take into consideration pursuant to Delegated Regulation (EU) 2016/2020 for non-equity financial instruments, including data on the following:

- (a) the average frequency of trades;
- (b) the average size and distribution of trades;
- (c) the number and type of market participants;
- (d) the average size of spreads.’;

(3) in Article 3, paragraph 3 is deleted;

(4) Articles 4 and 5 are replaced by the following:

‘Article 4

Format of the data requests

1. Trading venues, APAs, and CTPs shall submit the data referred to in Article 2(1) in a common XML format.

2. Trading venues, APAs, and CTPs shall submit the data referred to in Article 2, (2) and (3), in the format specified in the request.

Article 5

Type of data that must be stored and the period of time trading venues, APAs, and CTPs shall store data

1. Trading venues, APAs, and CTPs shall store all data required to perform the calculations referred to in Article 2(1) for five years, regardless of whether that information has been made public.

2. Trading venues, APAs, and CTPs shall store all data which ESMA or competent authorities may request in accordance with Article 2, (2) and (3), for five years, regardless of whether that information has been made public.’;

(5) Article 6 is deleted;

(6) Article 7 is amended as follows:

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

‘Article 7

Reporting requirements for trading venues, APAs, and CTPs to ESMA for the trading obligation for derivatives’;

- (b) paragraph 1 is deleted;
- (c) paragraph 2 is replaced by the following:

‘2. Trading venues, APAs, and CTPs shall, without undue delay and no later than three working days following the receipt of the data concerned, submit to ESMA the data for the determination of whether derivatives are sufficiently liquid as referred to in Article 1(1), point (h).’;

(7) Article 8 is replaced by the following:

‘Article 8

Publication requirements for ESMA for the volume cap

1. ESMA shall publish the measurements of the total volume of trading for each financial instrument in the previous 12 months and of the percentages of trading under the reference price waiver across the Union in the previous 12 months, in accordance with Article 5(4) of Regulation (EU) No 600/2014, by no later than 22:00 CET on the seventh working day after the end of March, June, September and December of each calendar year.

2. The information referred to in paragraph 1 shall be published free of charge and in a machine-readable and human-readable format as defined in Article 2, point (4), of Regulation (EU) 2023/2859 of the European Parliament and of the Council* and as specified in Article 13(5) of Delegated Regulation (EU) 2017/567.

3. Where a financial instrument is traded in more than one currency across the Union, ESMA shall convert all volumes into euros using average exchange rates calculated on the basis of the daily euro foreign exchange reference rates published by the European Central Bank on its website in the previous 12 months. ESMA shall use those converted volumes for the calculation and publication of the total volume of trading and of the percentages of trading under the reference price waiver across the Union as referred to in paragraph 1.

* Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (OJ L, 2023/2859, 20.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2859/oj>.’;

(8) the Annex is deleted.

Article 2

Entry into force

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

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

Done at Brussels, 20.2.2026

For the Commission
The President
Ursula VON DER LEYEN