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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 May 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2025) 2691 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... amending Commission Delegated Regulation (EU) 2022/803 as regards rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority with respect to consolidated tape providers

Delegations will find attached document C(2025) 2691 final.

Encl.: C(2025) 2691 final



EUROPEAN
COMMISSION

Brussels, 7.5.2025
C(2025) 2691 final

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

of 7.5.2025

amending Commission Delegated Regulation (EU) 2022/803 as regards rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority with respect to consolidated tape providers

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 38k of Regulation (EU) 600/2014 of the European Parliament and of the Council¹ ('MiFIR'), sets out rules of procedure that apply to the European Securities and Markets Authority ('ESMA') when taking supervisory measures. Article 38k(10) of MiFIR delegates to the Commission the power of adopting a delegated act to further specify the rules of procedure for the exercise of the power to impose fines or periodic penalty payments by ESMA regarding data reporting service providers ('DRSPs'). This includes provisions on the rights of defence, the collection of fines or periodic penalty payments, and the limitation periods for imposing and enforcing fines and periodic penalty payments.

On 16 February 2022, the Commission adopted Commission Delegated Regulation (EU) 2022/803², based on Article 38k(10) of MiFIR. It set out rules of procedure for the exercise of the power to impose fines or periodic penalty payments by ESMA regarding two specific types of DRSPs, namely approved publication arrangements ('APAs') and approved reporting mechanisms ('ARMs'). Consolidated tape providers ('CTPs'), which are also DRSPs, were intentionally left out of scope. This was due to the absence of entities providing consolidated tape services in the EU and because the review of the rules governing CTPs under MiFIR was still ongoing at that time.

On 25 November 2021, the Commission put forward a proposal to amend MiFIR³. Regulation (EU) 2024/791 of the European Parliament and of the Council⁴ (the 'MiFIR reform') entered into force on 28 March 2024. The MiFIR reform removed obstacles to the emergence of CTPs in the Union and set a timeline for ESMA's selection and authorisation of a CTP for bonds, a CTP for equity (shares and exchange-traded funds) and a CTP for over-the-counter ('OTC') derivatives. The launch of the three consolidated tapes ('CTs') is sequenced as follows:

- CT for bonds: selection procedure started on 3 January 2025;
- CT for equity: selection procedure to start in June 2025;
- CT for OTC derivatives: selection procedure to start in Q1 2026.

In light of the upcoming authorisation process, it is necessary to amend Delegated Regulation (EU) 2022/803 to ensure it covers all types of DRSPs subject to ESMA supervision, including CTPs.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 18 June 2020, the Commission asked ESMA for a technical advice. ESMA conducted a public consultation which ran from 23 December 2020 to 23 January 2021. On 23 March

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).

² Commission Delegated Regulation (EU) 2022/803 of 16 February 2022, supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority regarding data reporting service providers (OJ L 145, 24.5.2022, p.1).

³ <https://eur-lex.europa.eu/legal-content/EN/TEXT/?uri=CELEX:52021PC0727>

⁴ 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>

2021, ESMA submitted its technical advice to the Commission⁵. ESMA's technical advice covered all types of DRSPs subject to ESMA supervision, including CTPs.

On 21 September 2023, the Commission consulted the Expert Group of the European Securities Committee (EGESC) on a draft amending Delegated Regulation. No comments were received.

The draft amending Delegated Regulation was published on the Better Regulation portal for a four-week feedback period from 6 February 2025 to 6 March 2025, in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making. Five comments were received. One comment was supportive of the draft Delegated Regulation, while the remaining four were unrelated to this Regulation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 1 amends Commission Delegated Regulation (EU) 2022/803 to ensure that its scope covers all types of DRSPs subject to ESMA supervision, including CTPs.

⁵ [esma43-370-282_final_report_on_mifir_drps_fines.pdf](#)

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amending Commission Delegated Regulation (EU) 2022/803 as regards rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority with respect to consolidated tape providers

(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 648/2012⁶, and in particular Article 38k(10) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/803⁷ specifies the rules of procedure that apply to the European Securities and Markets Authority ('ESMA') for the exercise of the power to impose fines, as referred to in Article 38h of Regulation (EU) 600/2014, or periodic penalty payments, as referred to in Article 38i of that Regulation, regarding data reporting service providers ('DRSPs'). The scope of that Delegated Regulation was limited to approved publication arrangements and approved reporting mechanisms subject to ESMA supervision. The scope of that Delegated Regulation did not cover other DRSPs subject to ESMA supervision, including consolidated tape providers ('CTPs'). That limited scope was due to the absence of DRSPs providing consolidated tape services in the Union and to the pending review of Regulation (EU) 600/2014, which was amended by Regulation (EU) 2024/791 of the European Parliament and of the Council⁸ ('MiFIR reform'). The MiFIR reform entered into force on 28 March 2024.
- (2) The MiFIR reform removed obstacles to the emergence of CTPs in the Union and set a timeline for the selection and authorisation by ESMA of a CTP for bonds, a CTP for shares and exchange-traded funds, and a CTP for over-the-counter derivatives. In light of the upcoming CTP authorisation process, it is necessary to amend the scope of Delegated Regulation (EU) 2022/803, to ensure it covers all DRSPs subject to ESMA supervision, including CTPs.
- (3) Delegated Regulation (EU) 2022/803 should therefore be amended accordingly,

⁶ OJ L 173, 12.6.2014, p. 84.

⁷ Commission Delegated Regulation (EU) 2022/803 of 16 February 2022, supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority regarding data reporting service providers (OJ L 145, 24.5.2022, p.1).

⁸ 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>)

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2022/803

Delegated Regulation (EU) 2022/803 is amended as follows:

- (1) Article 1 is replaced by the following:

‘Article 1

Scope

This Delegated Regulation applies to ‘data reporting services providers’, or ‘DRSPs’, as defined in Article 2(1)(36a) of Regulation (EU) 600/2014, that are subject to ESMA supervision.’;

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, 7.5.2025

For the Commission

The President

Ursula VON DER LEYEN