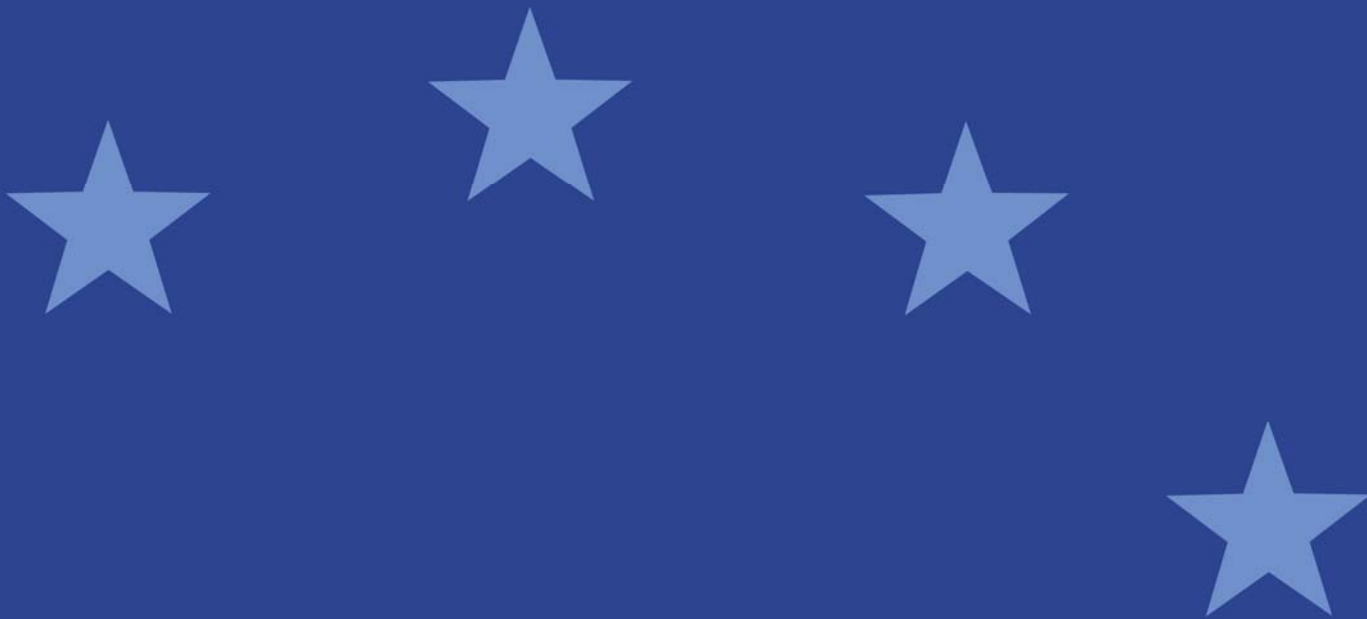




European Securities and
Markets Authority

Consultation Paper

Review of the MiFID II framework on best execution reports



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **Thursday, 23 December 2021**.

Responses to this consultation paper can be sent using the response form available on ESMA's website (www.esma.europa.eu → 'Your input – Open consultations' → 'Consultation on the review of MiFID II reports on best execution')

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

This document is of interest to execution venues, investment firms and their associations, investors, consumer associations, as well as any market participant engaged in the execution of orders under the MiFID II framework.

Table of Contents

1	Executive Summary	4
2	Background	6
2.1	General background	6
2.2	Analysis.....	8
3	Annexes	23
3.1	Annex I.....	23
3.2	Annex II.....	25
3.3	Annex III.....	27

1 Executive Summary

Reasons for publication

MiFID II requires execution venues and investment firms to publish periodic data on the quality of execution and has required ESMA to adopt technical standards in this area. Relevant technical standards are known as RTS 27 (applicable to execution venues) and RTS 28 (applicable to investment firms).

During the application of MiFID II framework, ESMA has become aware, also through contacts with stakeholders, of shortcomings related to these best execution reporting requirements. The issues are primarily related to RTS 27 and to a lesser extent to RTS 28.

Additionally, Directive (EU) No. 2021/338 (“MiFID II Amending Directive”) suspends the application of the RTS 27 reporting requirements for two years and requires the European Commission to comprehensively review the adequacy of the reporting requirements under Articles 27(3) and (6) of Directive (EU) No. 2014/65 (“MiFID II”) and submit a report to the European Parliament and the Council.

In this light, and in the context of ESMA’s mandate in accordance with Article 1(5) of the ESMA founding regulation (Regulation (EU) No. 1095/2010), this paper aims at identifying the reasons for these shortcomings. Moreover, the paper proposes possible improvements to the regime which could be adopted in the future to ensure effective and a consistent level of regulation and supervision and enhance investor protection in this area. Those possible improvements include both potential technical changes to RTS 27 and 28 and potential amendments to the legislative framework (in particular, to Articles 27(3) and (6) of MiFID II) to enable the possible technical changes to RTS 27 and 28 to come into effect at a future time. The possible improvements proposed by ESMA also account for potential future legislation to establish a Consolidated Tape under MiFID II.

This consultation aims at receiving technical input from market participants on how a reviewed best execution reporting regime could look like. Its outcome will not lead to any immediate change of RTS 27 and 28 but it will be taken into account by ESMA in supporting the European Commission in its assessment of the adequacy of the best execution reporting obligations and any subsequent technical work to shape a well-functioning reporting regime, including the future formal review of the technical standards in this area.

Contents

Section 2 sets out the background and the rationale for the technical suggestions related to how RTSs 27 and 28 could potentially change in the future in order to deliver on their objectives. The section also contains suggested changes to MiFID II Level 1 and Level 2 which would be needed to improve the best execution reporting regime.

Section 3 consists of three Annexes. Annex I lists all the questions set out in the consultation paper; Annex II contains the cost-benefit analysis and Annex III contains the proposals related to the potential review of the reporting requirements for execution venues and investment firms.

Next Steps

ESMA will consider the responses it receives to this consultation paper in Q4 2021 and plans to send proposals to the European Commission, if needed, in the first half of 2022.

2 Background

2.1 General background

1. Article 27 of the Directive 2014/65/EU (“MIFID II”) sets out best execution requirements which aim at ensuring that investment firms take all sufficient steps to obtain, when executing client orders, the ‘best possible result’ for their clients.
2. Article 27(10)(a) requires ESMA to develop draft regulatory standards to determine the specific content, the format and the periodicity of data relating to the quality of execution to be published in accordance with Article 27(3), taking into account the type of execution venue and the type of financial instrument concerned. Additionally, Article 27(6) requires ESMA to develop draft regulatory technical standards to determine the content and the format of information to be published by investment firms in accordance with Article 27(6). On the basis of these requirements, ESMA has adopted the relevant technical standards which are commonly known as RTSs 27¹ and 28² and lay down the reporting requirements to foster achieving the aforementioned best execution objectives. In particular:
 - under RTS 27 execution venues³ (“venues”) have to provide quarterly comprehensive sets of relevant data to allow investment firms, professional investors and the public to assess and understand the quality of execution achieved on the venue;
 - under RTS 28 investment firms (“firms”) must publish annual reports to enable the public and investors to evaluate the quality of a firm’s execution practices.
3. However, in the course of the application of MiFID II framework, issues with the best execution reporting requirements have been identified, for example in media reports and in ESMA’s exchange with stakeholders. The issues are primarily related to RTS 27 (e.g. relating to venues’ publication of lengthy reports and market participants’ limited use of this information for execution quality assessments) and to lesser extent also relating to RTS 28 (e.g. limited use of reported information).

¹ Commission Delegated Regulation 2017/575/EU (“RTS 27”): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0575&from=EN>

² Commission Delegated Regulation 2017/576/EU (“RTS 28”): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0576&from=EN>

³ Execution venues include trading venues, systematic internalisers, market makers and other liquidity providers (Article 1 RTS 27, in line with the relevant best execution requirements in the MiFID II delegated regulation).
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

4. On 24 July 2020, the European Commission (“Commission”) adopted the Capital Markets Recovery Package (“Recovery Package”) to support the recovery from the severe economic shock caused by the COVID-19 pandemic. The Recovery Package contains proposals for amendments to several regulatory frameworks in financial services, including the MiFID II rules.⁴ Those suggested amendments focus on changes in specific areas of MiFID II, such as best execution.
5. In accordance with the ordinary legislative procedure, the European Parliament and the Council adopted the Directive 2021/338/EU (“MiFID II Amending Directive”) in February 2021 which includes a set of focused amendments to MiFID II, inter alia, with regards to the best execution rules.
6. The MiFID II Amending Directive was published in the Official Journal on 26 February 2021 and entered into force on the day following that of its publication.⁵
7. Recital 9 of the MiFID II Amending Directive sets out, inter alia that RTS 27 reports contain large amounts of detailed data and do not enable investors and other users to make meaningful comparisons regarding venues’ execution quality. With regards to the MiFID II best execution rules laid out in RTS 27 and RTS 28, the MiFID II Amending Directive encompasses the following changes:
 - (a) The periodic reporting requirement required by Article 27(3) of MiFID II (which is the basis for RTS 27) shall not apply for two years following the entry into force of the Amending Directive (Article 1(6) of the MiFID II Amending Directive), and;
 - (b) the Commission shall comprehensively review the adequacy of the reporting requirements of Articles 27(3) and (6) of MiFID II and submit a report to the European Parliament and the Council by 28 February 2022 (Articles 1(6) and (6a) of the MiFID II Amending Directive).
8. In light of the issues identified, ESMA is launching this consultation in order to analyse the issues emerged in the functioning of the best execution reporting regime and to assess whether and how the regime could be improved in the future. This analysis includes the

⁴ Apart from the proposed changes to MiFID II, the EC’s Capital Market Recovery Package also encompasses proposals of amendments to the Prospectus Regulation and the Securitisation Regulation, see also: https://ec.europa.eu/info/publications/200722-proposal-capital-markets-recovery_en

⁵ Directive 2021/338/EU (“MiFID II Amending Directive”): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021L0338&qid=1615898803540&from=en>
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

need for potential changes to MiFID II itself (Level 1) which would help shaping a more effective detailed technical regime in the future.

9. Due to the technical nature of this topic, it is important to receive specific feedback from stakeholders on the technical details of any best execution reporting regime. For this reason, ESMA has already identified potential amendments to the MiFID II RTSs 27 and 28 which, if adopted in the future, would make the reports more useful and effective. Some of these changes would require changes to Articles 27(3) and (6) of MiFID II. The potential amendments to RTSs 27 and 28 are set out in new potential RTSs (Annex III) to show how the reporting regime for firms and execution venues could look like, if the legal framework were to be changed in accordance with the aforementioned proposals.

2.2 Analysis

Emerged issues related the MiFID II best execution reporting requirements

10. The RTS 27 reporting requirements aim at providing firms and the public with relevant data related to the execution quality achieved on venues, to help them determine the best way to execute client orders. In particular, this information assists firms in assessing the quality of execution of transactions on the different venues which firms may select to execute client orders. Thereby, RTS 27 reporting can contribute to fostering competition between venues for trading volume, which may lead to an improved quality of execution for investors.
11. In order to enhance investor protection, RTS 28 reporting intends to enable the public and investors to evaluate the quality of an investment firm's execution activities, for example, by allowing to compare the firm's execution practices, also in light of its execution policy. RTS 28 allows informing clients on the execution venues frequently selected by investment firms and the reasons for this selection. Accordingly, RTS 28 reports also aim to support investors and the public in choosing the most suitable firm for the execution of their orders and in achieving better investment results.
12. The rationale indicated above continues to apply. However, after the MiFID II framework entered into application, media coverage on the implementation of the best execution reporting requirements provided first observations on problems related to venues'

publication of RTS 27 reports and market participants' limited use of this information for assessing the execution quality obtained by firms.⁶

13. As part of its supervisory convergence work, ESMA sought feedback from the national competent authorities (NCAs) of the Member States on the implementation of the RTS 27/28 reporting requirements, with regards to

- whether the objective of venues' and firms' reporting on the quality of execution had been achieved;
- to what extent this provision of information had promoted achieving the objective of best execution, i.e. for firms to take "all sufficient steps" to obtain the "best possible result" for their clients; and for venues to foster these aims, by increasing their quality of execution; and
- how the RTS 27/28 reporting requirements could be changed to improve the disclosure of meaningful information on execution quality to the public and market participants.

14. The feedback received from NCAs provided the basis for the following analysis.

Issues related to RTS 27 reports

15. NCAs generally observed that RTS 27 reports only provided a limited contribution to the promotion of best execution. This seemed to be mainly due to:

- A lack of consistency in RTS 27 reporting, due to hampering technical factors for analysis and use of this data. This has led to a very heterogeneous disclosure of RTS 27 data. For instance, some venues publish one file of RTS 27 information per each trading day while others publish one single file per month. Since approaches on publication seem to diverge significantly, this hampers the use of RTS 27 information as the divergence complicates analysis and comparison across venues to find out which venue provides the best execution quality.
- The high volume of data included in the RTS 27 reports. This has hampered the use of RTS 27 reports by firms and other market participants. This issue is exemplified by the RTS 27 disclosure on derivatives. In light of the wide variety of derivatives available on

⁶ News reports between Q1 2018 and Q2 2019 indicated, for example that execution venues' RTS 27 reporting seemed to contain substantial shortcomings in terms of data format and a lack of standardisation. As a result, some buy-side firms do not seem to account for RTS 27 information in their transactions.

the market, each with a different ISIN code, the current requirement of reporting by individual financial instrument results in a high number RTS 27 reporting tables.

16. Apart from the previously mentioned shortcomings related to RTS 27 disclosure, some NCAs also identified certain 'good practices' on RTS 27 reporting, which included some venues publishing their reports in a standard data format, accompanied by explanations and in easily accessible parts of their websites, which facilitated access and use of this data.
17. Moreover, some NCAs also observed 'bad practices', i.e., certain venues and firms complicated access to the reports, notably by (i) publishing them in sections of their websites with difficult access, or (ii) by providing access to RTS 27 reports only upon request.
18. In light of the previously identified shortcomings on the reporting and use of RTS 27 data, some NCAs also provided proposals to improve venues' provision of this information, thereby aiming to increase the benefits of the best execution reporting for market participants. Suggestions included:
 - to further harmonise RTS 27 reporting, notably on data format issues, to facilitate the analysis and use of this data;
 - to reduce the quantity of information required under RTS 27 (e.g. on intra-day price information) by introducing proportionate reporting requirements (e.g. focused on key features of order execution, such as direct and indirect costs) and to avoid overlaps with the MiFID II post-trade transparency reporting requirements to reduce the costs of best execution reporting; and
 - to create a centralised storage facility for RTS 27 reports, e.g. on a specific website to promote data access for market participants.

Issues related to RTS 28 reports

19. Certain NCAs identified a limited use of RTS 28 reports, especially among retail investors, which could stem from difficulties in accessing the reports. On the other hand, some NCAs underlined that RTS 28 reporting has increased the transparency on firms' execution practices, which may foster their execution quality.
20. A few NCAs identified some 'bad practices' in firms' provision of RTS 28 reports, especially data quality problems (e.g. incompleteness of data) in the 'execution quality' section, which

complicated assessment and comparison of this information for market participants. Additionally, some NCAs highlighted bad practices hampering access to the reports (similarly to observations related to RTS 27).

21. In contrast, a few NCAs also observed ‘good practices’ of RTS 28 reporting, e.g. some firms provided specifically detailed qualitative information for each asset class, which may facilitate market participants’ understanding of those firms’ efforts to achieve best execution.
22. Moreover, a lack of clarity was observed on how firms providing the services of reception and transmission of orders (“RTO”) and portfolio managers that transmit for execution a decision to deal should report under the current RTS 28.
23. Lastly, some NCAs made proposals to improve firms’ provision of RTS 28 reports to increase the benefits of best execution for market participants. Their suggestions included:
 - to clarify that firms receiving and transmitting orders should also publish RTS 28 reports; and
 - to facilitate the access to RTS 28 information for retail investors, for example, via data formats which are easy to handle.

Proposals

Reporting by execution venues (RTS 27)

A proposed new approach to the reporting requirements for execution venues on execution quality

24. The current RTS 27 requires venues (i.e., trading venues, market makers, systematic internalisers and other liquidity providers) to report a broad range of information to enable the public, firms and other market participants to assess the quality of execution of transactions that take place on venues in the European Union. In order to provide a basis for sophisticated analysis, those original RTS 27 reporting requirements include detailed data on various factors which may contribute to showing the quality of transactions on venues, such as information related to intra-day prices of executed transactions in financial instruments, the likelihood of execution for each trading day per financial instrument and a description of all costs applied by the execution venue.

25. In contrast, a possible new best execution reporting regime for execution venues (“new RTS 27”) would aim at reporting a limited set of indicators to provide the public and market participants with a focused overview of the execution quality achieved on venues. Instead of detailed raw data, the new potential RTS 27 would require venues to report seven metrics which directly disclose information on key features of the venues’ obtained execution quality. Those indicators do not aim to compete with sophisticated analytical tools used by market participants (such as transaction cost analysis). They rather aim to be a complementary source of information providing the public and market participants with relevant first information on execution quality to assist them in choosing the most suitable venue for their transactions.

26. Considering the objective of developing a disclosure of key metrics on venues’ execution quality, ESMA proposes to simplify the reporting requirements for venues along the following lines:

- transforming the detailed, raw data-oriented reporting obligations of the existing RTS 27 (e.g. relating to price the current RTS 27 obliges venues, inter alia, to report the average price of all transactions per individual financial instrument executed at four reference times per trading day), into requirements resulting in the disclosure of seven core metrics to provide information of higher added value on venues’ execution quality (such as the median monetary transaction value in type of financial instruments in the previous quarter and the costs applied by the execution venue to any members or users of the venue for such a median transaction);
- reducing the granularity of reporting of information: whereas the existing RTS 27 obliged venues to report for each market segment they operate and each financial instrument, a future regime could require reporting per type of financial instrument (e.g. shares considered to have a liquid market);
- avoiding overlaps and ensuring consistency with the post-trade transparency reporting requirements under MiFID II/MiFIR; and
- accounting for the envisaged establishment of a consolidated tape (CT) under the MiFID II framework.

27. ESMA also suggests enhancing the user-friendliness of the data on execution quality which venues must report according to RTS 27. Therefore, a new potential regime could require venues to report indicators to enable market participants to gain a swift overview of the

venues' achieved execution quality, whereas the current RTS 27 mostly requires venues to report detailed raw data.

28. Moreover, ESMA suggests updating the requirements related to the publication format for RTS 27 data. In order to facilitate the access of the public and market participants to RTS 27 information, the new regime could require publishing RTS 27 reports in the CSV format and requires venues to disclose those reports via the (future) EU Single Point of Access.

29. On the whole, in contrast to the current reporting regime, the proposals for a new potential RTS 27 would aim at providing venues, firms, other market participants and the public with a few expected benefits:

- Significantly reduced reporting efforts for venues, as the new potential RTS 27 focuses on type of financial instrument over the three-month reporting period. In comparison, the current regime obliges venues, inter alia, to report more detailed data determining execution quality by individual financial instruments (e.g. per individual share) executed at four reference times per trading day.
- A focused overview of the execution quality achieved on venues reflected by seven key indicators, while the current regime obliges venues to disclose a much broader set of raw data (e.g. eight metrics related to the likelihood of execution for each trading day and per financial instrument).
- An improved comparability of the information on execution quality, since the new RTS 27 would apply an increased standardisation (based on specific data symbols) similar to the approach used under post-trade transparency reporting. In comparison, the current RTS 27 complicates comparison of the disclosed data, as any venue may insert the data in its preferred format in the reporting tables.
- A facilitated access to the execution quality information, due to the requirement of the new potential RTS 27 to publish the report in an easily handleable data format (ie, CSV), whereas the current reporting regime does not require the publication in a specific format.

The key elements of the new potential reporting regime

The narrower scope in terms of execution venues

30. The scope of the current RTS 27 requires venues, i.e., trading venues, systematic internalisers (SIs), market makers and other liquidity providers to report information on their obtained execution quality. Since the application of the MiFID II framework, a majority of market makers seem to have turned into SIs (either by opting-in to the regime or by reaching the applicable thresholds) when executing orders OTC. Therefore, market makers' published information on execution quality on those transactions under RTS 27 seems to have become less relevant.
31. Consequently, ESMA proposes that reports under the potential new RTS 27 should focus only on transactions executed on trading venues and on those OTC transactions where an SI or another liquidity provider is a party to the transaction. Nevertheless, given the importance of the activity market makers have on-venue, ESMA also proposes that, for non-anonymous trading systems⁷, such as some RFQ systems, the trading venue should, when publishing its RTS 27 report, also disclose the identity of the market makers and publish a breakdown of information per market maker about its contribution to the execution quality of the trading venue.
32. This change in scope would allow investors to have their best execution information more easily and readily available on trading venues, rather than having to obtain different reports from a number of different market makers with little added value. It would reduce the burden for market makers and it also allows for a closer alignment between RTS 27 and the transparency requirements.
33. In light of those developments, ESMA proposes to exclude market makers from the scope of the new reporting regime.
34. In relation to other liquidity providers, ESMA takes into account their role in the financial market, for example, in the provision of contracts for differences (CFDs). Therefore, ESMA deems it important that other liquidity providers should continue reporting on their achieved execution quality also under a new regime.
35. In order to enable a scope in terms of execution venues excluding market makers, as proposed in a possible future reporting regime, ESMA proposes that the Commission should clarify that the definition of execution venues, for the purpose of the best execution reporting regime for execution venues (RTS 27), should not include "market makers".

⁷ A non-anonymous trading model is an execution arrangement where the investment firm or investor is required to select from identifiable potential counterparties, including but not limited to RFQ systems and hybrid trading systems (see also Article 2(b) of the reviewed potential RTS 27 in Annex II).

Q1: Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?

New granularity of reporting

36. In order to simplify the reporting requirements for venues, the potential RTS 27 suggests a significantly less granular approach as alternative to the reporting of the current RTS 27 for each financial instrument. Moreover, this new approach aims at indicating the execution quality to the public and market participants, by considering not only the type of instrument, but also its liquidity profile, to achieve helpful RTS 27 reports based on a robust dataset.

Proposed aggregation applicable to equity instruments

37. In relation to equity instruments, ESMA proposes exploring the possibility to aggregate the RTS 27 reports on the basis of:

- the MiFIR identifier as defined in Commission Delegated Regulation (EU) 2017/587 (RTS 1) i.e. shares, depository receipts, ETFs, certificates and other equity-like financial instruments; and
- whether the instruments are considered to have a liquid market or not, in accordance with Article 2(1)(17)(b) of MiFIR, as further specified in Article 1 to 4 of Commission Delegated Regulation 2017/567.

38. For example, related to shares, the aggregated information would be disclosed in a maximum of two categories of “shares considered to have a liquid market” and “shares not considered to have a liquid market”, compared to the more detailed reporting per financial instrument under the current RTS 27.

Proposed aggregation applicable to non-equity instruments

39. In relation to non-equity instruments, ESMA proposes exploring the possibility to aggregate the RTS 27 reports on the basis of the MiFIR identifier as defined in Delegated Regulation (EU) 2017/583 (RTS 2)⁸ and further dividing them on the basis of another level of granularity, which needs to be adapted to each type of instruments. In addition, ESMA

⁸ The following 7 MiFID ID are defined in RTS 2: bonds, ETCs, ETNs (collectively referred to as “Bonds including ETCs and ETNs”), securitised derivatives, structured finance products, emission allowances and derivatives.
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

proposes excluding from the publication instruments which are not deemed to have a liquid market, except in the case of derivatives subject to the derivatives trading obligation. The proposals are explained in more details in the following paragraphs.

Bonds

40. In relation to bonds, ESMA proposes to aggregate the RTS 27 reports on the basis of (1) the MiFIR identifier as defined in Delegated Regulation (EU) 2017/583 (RTS 2) i.e. bonds, ETCs and ETN; and (2) for bonds excluding ETCs and ETNs, the bond type as specified in Table 2.2 of Section 2 of Annex III of RTS 2, i.e. sovereign bonds, other public bonds, convertible bonds, covered bonds, corporate bonds and other bonds.
41. In addition, to focus the reporting on the most meaningful instruments in terms of liquidity, ESMA suggests that bonds determined not to have a liquid market⁹ are excluded from the publication.

Derivatives

42. In relation to derivatives (MiFIR ID = 'DERV'), ESMA proposes aggregating the RTS 27 reports on the basis of (1) whether the derivatives are subject to the derivatives trading obligation (DTO) as defined in Article 28 of MiFIR; (2) the asset class of the underlying defined in a way consistent with RTS 2, i.e. interest rate, equity, commodity, credit, currency and emission allowances; and (3) the contract type defined in a way consistent with RTS 2 e.g. options, futures, forward, swaps etc.
43. In addition, to focus the reporting on the most meaningful instruments in terms of liquidity, ESMA suggests that derivatives determined not to have a liquid market¹⁰ and not subject to the DTO are excluded from the publication.

Other non-equity instruments (securitised derivatives, structured finance products and emission allowances)

44. In relation to securitised derivatives (MiFIR ID = 'SDRV'), ESMA proposes aggregating the RTS 27 reports on the basis of the asset class of the underlying defined in a way consistent with RTS 2, i.e. interest rate, equity, commodity, credit, currency and emission allowances. In accordance with RTS 2, all securitised derivatives are deemed to have a liquid market

⁹ In accordance with the methodology set out in Article 13(1) of RTS 2.

¹⁰ In accordance with the methodology set out in Article 13(1) of RTS 2

hence the distinction between liquid and illiquid instruments is not relevant in the case of securitised derivatives.

45. In relation to structured finance products (MiFIR ID = 'SFPS') and emission allowances (MiFIR ID = 'EMAL'), ESMA does not propose any further aggregation, meaning that all emission allowances would be aggregated together and all structured finance products would be aggregated together. In addition, to focus the reporting on the most meaningful instruments in terms of liquidity, ESMA suggests that structured finance products and emission allowances determined not to have a liquid market¹¹ are excluded from the publication.
46. In order to allow the reporting by type of financial instrument, as suggested in the new potential RTS 27, ESMA proposes that the Commission should amend Article 27(3) MiFID II and particularly the requirement that stipulates the reporting per financial instrument for the (current) RTS 27 reports ("Periodic reports shall include details about price, costs (...) for individual financial instruments").

Q2: Do you agree with the proposed level of granularity by types of financial instruments instead of individual financial instruments under a new potential reporting regime? In particular, do you agree with the two proposed categories concerning shares (i.e., shares considered to have a liquid market and shares not considered to have a liquid market)? If not, please state the reasons for your answer and clarify what alternative categorisations you would propose in order to have a meaningful level of granularity for a new reporting regime.

Indicators to disclose execution quality achieved by venues

47. According to the new potential approach and in line with the requirements set out in Article 27(1) MiFID II on the relevant considerations for the execution of an order, the new regime could focus venues' reporting requirements on seven indicators of execution quality to assist the public and market participants in finding the most suitable venue for their transactions. This set of metrics includes:
- The total nominal or monetary value of all transactions per type of financial instruments that were executed by the venue, in the previous quarter of the year (excluding, where applicable, commissions and accrued interests). This indicator

¹¹ In accordance with the methodology set out in Article 13(1) of RTS 2
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

aims at disclosing the general extent of relevant liquidity which was available on the venue.

- The median monetary transaction value per type of financial instrument in the previous quarter of the year (excluding, where applicable, commissions and accrued interest). This metric breaks down the general available liquidity per type of financial instrument to a respective order size of median monetary value in the reporting period. Thereby, this indicator aims at operationalising the information on general liquidity per type of instrument mentioned in the previous paragraph.
- The costs for a median transaction show the fees the execution venue applied to any of its users for a median transaction during the previous reporting period. This encompasses all the venue's predetermined execution costs that do not involve direct exposure to market risk (before any rebates or discounts), such as fees for submission, execution, clearing and settlement. The purpose of this metric is to reveal to the public and market participants the costs the venue charged for the execution of an order of median monetary size per type of financial instrument.
- The bid-offer spread related to the median transaction of the previous quarter of the year. This metric aims at disclosing a price-based key component of implicit and variable costs for executing an order of a relevant size per type of financial instrument by the venue.
- The access to further information on costs: Additionally to the previously mentioned condensed information on cost, venues are also required to make more details on relevant fees and charges for the execution of orders easily available for the public and market participants. This information could be provided via a link to a website or other source containing further details on, for example, a description of the nature and level of any rebates or discounts offered to users of the venue including information on how those rebates or discounts differ according to the user, financial instrument or amount involved.
- The speed of execution: This indicator aims to disclose relevant information on how fast an order of median monetary transaction size per type of financial instrument was executed by the venue in the previous quarter of the year.
- The total number of market makers designated by the venue per type of financial instrument: This metric aims at revealing relevant information for the likelihood of orders being executed by a venue. Particularly in times of market stress, a relatively high number of designated market makers will increase the likelihood of sustained

liquidity on the venue compared to a venue with a relatively low number of designated market makers.

Q3: Do you agree with the proposed metrics to report the execution quality obtained by execution venues?

Elaboration and publication of the RTS 27 reports

48. In order to streamline venues' elaboration of RTS 27 reports, core elements of the reporting methodology proposed in a potential new regime, could be aligned with existing reporting standards under MiFID II/MiFIR. This encompasses inter alia that:

- the content and format of the reporting fields under RTS 27 are aligned, where possible, with the content and format used in RTS 1 (transparency for equity instruments) and RTS 2 (transparency for non-equity instruments); and that
- the typology of trading systems established under RTS 1 and 2 is also applicable to venues under the proposed new RTS 27.

49. It should be noted that ESMA has recently launched a review of RTS 1 and 2¹², the outcome of which may have consequences on the drafting of the new RTS 27. For example, in the above-mentioned consultation paper, ESMA is making proposals to modify the list of trading systems. Such proposals, if and when they lead to amendments to the existing RTS 1 and 2, would need to be reflected in the potential new RTS 27 as appropriate.

50. A new reporting regime also aims to facilitate access to the reports for the public and market participants. For this purpose, ESMA proposes:

- to further specify the structure of the file to be published (e.g. the order and name of the fields) and specifies the level of granularity of each RTS 27 report, to avoid that files are broken down into a series of smaller files;

¹² Consultation Paper ESMA70-156-4236 published on 9 July 2021:
https://www.esma.europa.eu/sites/default/files/library/esma70-156-4236_consultation_paper_on_the_review_of_rts_1_and_2.pdf
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

- to publish RTS 27 reports in the machine-readable CSV format, as this format seems to enable easy access and use of venues' disclosed information on execution quality; and
- to shorten the period for venues' publication of RTS 27 reports to one month after the end of each quarter (whereas the current RTS 27 sets out three months respectively), to make available the information on venues' achieved execution quality more swiftly to the public and market participants.

Q4: Have you observed good or bad practices of reporting by execution venues under the current RTS 27 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

Relevant annex:

Annex III: In order to give maximum clarity on how the regime could look like and facilitate comments by stakeholders, the proposals above are included in a potential new regulatory technical standard under Article 27(10)(a) of MiFID II (Annex III – Letter A).

Reporting by firms (RTS 28)

The amended approach of the reporting requirements for investment firms on execution quality

51. The current RTS 28 obliges firms (e.g. brokers) to publish an annual report on their quality achieved in the execution of client orders on trading venues, systematic internalisers, market makers or other liquidity providers. Those requirements focus on firms' activities of executing client orders, among others, in relation to the publication of top five execution venues in terms of trading volumes for all executed client orders and for the summary of their achieved execution quality (per class of financial instruments respectively).
52. Conversely, in accordance with Article 65(6) of the MiFID II Delegated Regulation, firms which do not execute client orders or decisions to deal but instead transmit them to third parties for execution shall summarise and make public, on an annual basis, for each class of financial instruments, the top five investment firms in terms of trading volumes where they transmitted or placed client orders for execution in the preceding year and information

on the quality of execution obtained. The information shall be consistent with the information published in accordance with the RTS 28. This requirement shares the same objectives as RTS 28, but it is generic and has not allowed a comparable approach by firms.

53. For this reason, under a potential new regime (“new RTS 28”) ESMA would aim at clarifying the reporting requirements for firms which do not execute themselves client orders or decisions to deal, but instead transmit them to third parties for execution. To this end, the new potential RTS 28 could specifically clarify reporting obligations both for (i) firms executing client orders and (ii) for firms providing the services of reception and transmission (“RTO”) services. So, for example, firms would be required to disclose separate top five tables in terms of trading volumes for executed orders or decisions to deal as well as for orders or decisions to deal which those firms transmitted to third party entities for execution.
54. In order to enable the scope of reporting suggested by the new regime, the Commission should amend Article 27(6) MiFID II to clarify that the reporting requirements also apply to firms that provide RTO services and to portfolio managers that transmit decisions to deal for execution.
55. Moreover, ESMA also proposes amending a range of individual reporting requirements of the current RTS 28 to make the content of those reports more meaningful for the public and market participants. Those amendments include, inter alia:
 - The deletion of firms’ obligation to report as part of the top five list, the percentage of the executed orders that were passive and aggressive orders, as this information seemed to have provided only little added value in revealing firms’ execution quality.
 - The new obligation for firms to explicitly confirm in their summaries of execution quality, if they do not report on the required parameters (e.g. the explanation of the relative importance the firm gave to the execution factors of inter alia, price, costs and speed) and to briefly explain why they did not provide this information.
 - The inclusion of information on received payments for order flow in the summary on the firms’ achieved execution quality (e.g. the average amount per financial instrument of payments for order flow which the firm received from each of the top five venues) to assist investors in the choice of a firm for their order execution.
56. Finally, the new RTS 28 could suggest facilitating access to RTS 28 reports for the public and market participants. For this purpose, ESMA

- suggests further specifying firms' requirement to publish those reports in a machine-readable electronic format, and
- proposes to require the publication of RTS 28 reports in the CSV format, to enable easy access for retail investors to firms' disclosed information on execution quality.

Q5: Have you observed good or bad practices of reporting by investment firms under the current RTS 28 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

Q6: Do you agree with the classification for reporting proposed in Annex I of the possible new RTS 28, especially with regard to the suggested methodology for the reporting on equity instruments? If not, what alternative categorisations would you propose?

Q7: Do you agree with the proposals for a possible review of RTS 28?

Relevant annex:

Annex III: In order to give maximum clarity on how the regime could look like and facilitate comments by stakeholders the proposals above are included in a potential new regulatory technical standard under Article 27(10)(b) of MiFID II (Annex III – Letter B)

Q8: Do you agree with the cost benefit analysis as it has been described in Annex II?

Relevant annex:

Annex II: Cost-benefit analysis

Q9: Are there any additional comments that you would like to raise and/or information that you would like to provide?

3 Annexes

3.1 Annex I

Summary of questions

Q1: Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?

Q2: Do you agree with the proposed level of granularity by types of financial instruments instead of individual financial instruments under a new potential reporting regime? In particular, do you agree with the two proposed categories concerning shares (i.e., shares considered to have a liquid market and shares not considered to have a liquid market)? If not, please state the reasons for your answer and clarify what alternative categorisations you would propose in order to have a meaningful level of granularity for a new reporting regime.

Q3: Do you agree with the proposed metrics to report the execution quality obtained by execution venues?

Q4: Have you observed good or bad practices of reporting by execution venues under the current RTS 27 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

Q5: Have you observed good or bad practices of reporting by investment firms under the current RTS 28 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

Q6: Do you agree with the classification for reporting proposed in Annex I of the possible new RTS 28, especially with regard to the suggested methodology for the reporting on equity instruments? If not, what alternative categorisations would you propose?

Q7: Do you agree with the proposals for a possible review of RTS 28?

Q8: Do you agree with the cost benefit analysis as it has been described in Annex II?

Q9: Are there any additional comments that you would like to raise and/or information that you would like to provide?

3.2 Annex II

Cost-benefit analysis

The impact of the proposals to enhance the adequacy of the RTS 27/28 reporting requirements

57. Pursuant to Article 27 of MiFID II investment firms are required to achieve the 'best possible result' for their clients when executing client orders, accounting for factors, such as price, costs and likelihood of execution. Such firms are also obliged to publish annually for each class of financial instruments, the top five execution venues in terms of trading volumes where they executed client orders (in the preceding year) and information on the execution quality obtained.
58. Additionally, to enhance the conditions under which firms comply with this obligation, execution venues are required to disclose data relating to the quality of execution of transactions on the venues.
59. The objectives behind the best execution reporting obligations by firms and execution venues continue to be justified. However, the existing regime has proven burdensome and not entirely able to achieve the intended objectives.
60. While drafting those proposals to enhance the adequacy of the current RTS 27, ESMA focused on achieving simplified reporting requirements which result in disclosing seven key indicators on execution quality, minimises overlaps with the MiFID II trade transparency reporting obligations and accounts for future developments, such as the CT.
61. To this end, ESMA proposes to work in the direction to develop a streamlined, less detailed and more user-friendly RTS 27 reporting framework which aims to ensure that venues publish meaningful information on their achieved execution quality, which assist the public and market participants in choosing the best execution venue for their order executions.
62. With regards to the suggestions to improve the adequacy of the current RTS 28, ESMA has aimed at clarifying certain reporting requirements for firms, has suggested to amend a range of individual reporting requirements of the current RTS 28 to make the content of those reports more meaningful for the public and market participants and has proposed to amend the certain technological features of the RTS 28 reports to facilitating access to this information for the public and market participants.

Benefits

63. The proposals of the potential RTS 27 reports will provide the public and market participants with a focused overview of the execution quality achieved on venues. Thereby, those suggestions aim to make RTS 27 reports a complementary source of information providing the public and market participants with relevant first information on execution quality to assist them, in choosing the most suitable venue for their transactions.
64. The suggestions of the potential RTS 28 can contribute to more user-friendly RTS 28 reports, to support the public and market participants in making informed choices when choosing a firm for the execution of their orders.

Costs

65. Venues are already obliged to provide the reports related to RTS 27¹³ and firms have to provide the respective RTS 28 reports. The proposals in this paper aim at standardising and making reporting obligations, to the extent possible, less burdensome. Therefore, the proposed more focused requirements for RTS 27 and 28 reports should enable venues and firms to provide them at lower costs than under the current reporting framework. Furthermore, the information required to elaborate the RTS 27 and 28 reports should be readily available to venues and firms respectively.

Conclusions

66. Considering what has been illustrated above, ESMA believes that the overall costs that would be associated with the implementation of the potential proposals included in this CP are proportionate to the benefits and fully justified by the objectives described above.

Q7: Do you agree with the cost benefit analysis as it has been described in Annex II?

¹³ As mentioned, the RTS 27 obligations are currently suspended for a period of two years.
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

3.3 Annex III

Proposals for a possible new regime

ESMA emphasises that this Annex does not contain formal proposals for new RTSs. Instead, the following documents **A)** and **B)** are suggestions of possible ways to change the current RTSs 27/28, including on the basis of some necessary amendments of MiFID II Level 1 provisions. Thus, the following proposals should be regarded as potential examples of how the RTS 27/28 reporting regime could look like under a reviewed legal framework.

**A) BEST EXECUTION – POTENTIAL REPORTING REGIME FOR EXECUTION
VENUES**

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

of XXX

**supplementing Directive 2014/65/EU of the European Parliament and of the
Council on markets in financial instruments with regard to regulatory
technical standards concerning the data to be published by execution
venues on the quality of execution of transactions**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of 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⁽¹⁴⁾, and in particular point (a) of the first subparagraph of Article 27(10) thereof,

Whereas:

- (1) Directive 2014/65/EU aims to increase the quality of execution in the European Union's Single Market by increasing transparency and stimulating competition between different execution venues. Transparency means that investors should be provided with the information required to make an informed choice about where best to execute their orders.
- (2) Reports by execution venues are a supplement to the broader transparency requirements and should not duplicate the large datasets provided through the Consolidated Tape envisaged under Directive 2014/65/EU. Execution venues' reports should rather provide investors with a quick reference to the quality of execution obtained by execution venues, an indication of whether they are missing important sources of liquidity and should consider connecting to these venues.

¹⁴ OJ L 173, 12.6.2014, p. 349.
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

- (3) The execution venues that are required to comply with this regulation should include all regulated markets, multilateral trading facilities, organised trading facilities, systematic internalisers and other liquidity providers. In order to avoid inappropriate comparison between execution venues and to ensure the relevance of the collected data, trading venues should submit a separate report for each market maker that provides liquidity to that system, when the trading model is non-anonymous and requires investors to select potential counterparties.
- (4) It is appropriate to consider that other liquidity providers should include firms that hold themselves out as being willing to deal on own account, and which provide liquidity as part of their normal business activity, whether or not they have formal agreements in place or commit to providing liquidity on a continuous basis.
- (5) The level of detail of different instruments should give the market an indication of the execution quality at a less granular level than per individual instrument. The appropriate calibration should take in consideration not only the type of instrument but also its liquidity profile in order to achieve a robust enough dataset to provide users of executions venues' reports with useful information.
- (6) In light of the G20 commitment to bring more derivatives trading to trading venues, a derogation should be made and required for those instruments that are subject to the trading obligation for derivatives in accordance with Article 28 of MiFIR, to require execution venues to provide reports per individual instrument.
- (7) The reports by execution venues should give an indication of the market share of the execution venue. For this purpose, it should include volume and median transaction size of transactions executed over the previous quarter .
- (8) Execution venues' reports should give an indication of the actual cost of execution for investors. For this purpose, it should include both indicative costs and indicative spread.
- (9) The indicative costs should be based on the median transaction. The spread should be based on historical market data.
- (10) Speed of execution may have different meanings for the different types of execution venues as the measurement of speed varies by both trading systems and trading platforms. For continuous auction order books, speed of execution should be expressed in milliseconds while for other trading systems it is appropriate to use larger units of time. It is also appropriate to exclude the latency of a particular participant's connection to the execution venue, as this is outside of the control of the execution venue itself.
- (11) Given current developments in benchmarks, reference methodologies and the emerging consolidated tape, the standards for reporting of the information on the execution quality achieved on execution venues, such as related to median transaction costs and bid-offer spread, may need to be updated in the future, to ensure an appropriate and sufficiently standardised reporting of execution venues under this Regulation

- (12) To ensure regulatory consistency, it is not appropriate to require trading venues to provide information of transactions that remain, at the time of publication, subject to a deferral of publication in compliance with requirements on post trade transparency.
- (13) The reports by execution venues should be complemented by the output of a consolidated tape established by Directive 2014/65/EU thus allowing for the development of enhanced measures of execution quality.
- (14) Execution venues' reports should be published in a format that is compatible with the reporting of the top five venues according to the Regulation [proposed potential new RTS 28] as well as applications that provide for automated comparisons.
- (15) The report should be fit for publication in the (future) EU Single Point of Access system.
- (16) With a view to providing both the public and investment firms with information to guide them in their choice of venue, it is important to set out the specific content, format and the periodicity.
- (17) For reasons of consistency and to foster the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the provisions laid down in Regulation [proposed potential new RTS 28] apply from the same date.
- (18) Since this Delegated Regulation replaces Commission Delegated Regulation (EU) 2017/575, the latter should be repealed
- (19) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (20) 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 opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁵,

¹⁵ 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).

HAS ADOPTED THIS REGULATION/DECISION:

Article 1

Subject matter and scope

1. This Regulation lays down the specific content, the format and the periodicity of the indicators to be published by execution venues relating to execution quality. It shall apply to trading venues and non-anonymous liquidity providers such as systematic internalisers and other liquidity providers.
2. Execution venues shall publish a report for each type of trading system and type of instruments as set out in Annex I.
3. Execution venues operating under non-anonymous trading models that require clients to select potential counterparties, shall publish individual reports for each market maker that provides liquidity to that system.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) Bid-offer spread means the spread of the best bid and offer prices being received by the execution venue, as related to transactions of financial instruments that involve direct exposure to market risk.
- (b) Non-anonymous trading model: execution arrangement where the investment firm or investor is required to select from identifiable potential counterparties, including but not limited to RFQ systems and hybrid trading systems as defined under Table 1 of Annex I of Commission Delegated Regulation 2017/587 and Annex I of Commission Delegated Regulation 2017/583.
- (c) Trading system means the way in which an execution venue executes orders using the types of trading systems set out in Table 1 of Annex I of Commission Delegated Regulation 2017/587 and Annex I of Commission Delegated Regulation 2017/583.

Article 3

Publication of information on execution quality by execution venues

1. Execution venues shall publish according to the type of instruments as set out in Annex I the following information in the format set out in Tables 1 and 2 of Annex II:

(a) With regards to likelihood of execution

- (i) Total nominal or monetary value of all transactions in financial instruments that were executed in the previous quarter, excluding, where applicable, commissions and accrued interests.
- (ii) Median monetary transaction value in the previous quarter, excluding, where applicable, commissions and accrued interest.
- (iii) Number of designated market makers

(b) With regards to costs

- (i) Costs for a median transaction, expressed as costs applied by the execution venue to any members or users of the venue for a median transaction of the previous quarter in accordance with the second subparagraph.

Those costs shall include all execution costs that are predetermined by the execution venue and do not involve direct exposure to market risk, before any rebates or discounts are applied and shall encompass the following components:

- (a) execution fees;
- (b) fees for the submission;
- (c) fees related to market data access and use of terminals;
- (d) any clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

- (ii) Link to a website or other source where further information on costs is available.

(c) With regards to price, the bid-offer spread in relation to the median transaction of the previous quarter.

(d) With regards to speed, the speed of execution: the median time elapsed between an aggressive order or quote acceptance of median monetary transaction value being received by the execution venue and the subsequent total or partial execution.

2. Trading venues executing orders by non-anonymous, trading systems shall also publish for every market maker that provides liquidity to that system:
- (a) name or identifier of the market maker; and
 - (b) a breakdown per market maker of information on the market maker's contribution to the execution quality of the trading venue, in accordance with the first paragraph of this Article.

Article 4

Periodicity of the information to be published

Execution venues shall publish the information quarterly and no later than one month after the end of each quarter, as follows:

- (a) by 30 April, information regarding the time period 1 January to 31 March;
- (b) by 31 July, information regarding the time period 1 April to 30 June;
- (c) by 31 October, information regarding the time period 1 July to 30 September;
- (d) by 31 January, information regarding the time period 1 October to 31 December.

Article 5

Format for publication

1. Execution venues shall publish the information in accordance with the templates set out in Annex II, without any charges, in a machine-readable electronic CSV format, available for downloading by the public without any access limitations.
2. The published file containing the information referred to in the first paragraph shall include one column for each field described in Table 2 of Annex II. The order and the name of the fields in the published file should be identical to the order and the name of the fields in Table 2 of Annex II. Execution venues shall not publish more than one file per quarter.
3. Execution venues shall publish the information according to the (future) EU Single Point of Access system.

Article 6

Repeal

Delegated Regulation (EU) 2017/575 is repealed. References to Delegated Regulation (EU) 2017/575 shall be construed as references to this Regulation.

Article 7

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

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

Done at Brussels,

*For the Commission
The President*

*[For the Commission
On behalf of the President*

[Position]

ANNEX I

Type of instruments

1. The publication referred to in Article 1 shall be disclosed on an aggregated level for the following equity instruments:
 - (a) Shares considered to have a liquid market in accordance with Article 1 of Commission Delegated regulation 2017/567.
 - (b) Shares considered not to have a liquid market in accordance with Article 1 of Commission Delegated regulation 2017/567.
 - (c) Depository receipts considered to have a liquid market in accordance with Article 2 of Commission Delegated regulation 2017/567.
 - (d) Depository receipts considered not to have a liquid market in accordance with Article 2 of Commission Delegated regulation 2017/567.
 - (e) ETFs considered to have a liquid market in accordance with Article 3 of Commission Delegated regulation 2017/567.
 - (f) ETFs considered not to have a liquid market in accordance with Article 3 of Commission Delegated regulation 2017/567.
 - (g) Certificates considered to have a liquid market in accordance with Article 4 of Commission Delegated regulation 2017/567.
 - (h) Certificates considered not to have a liquid market in accordance with Article 4 of Commission Delegated regulation 2017/567.

2. The publication referred to in Article 1 shall be disclosed on an aggregated level for the following non-equity instruments:
- (a) For bonds (including ETCs and ETNs), aggregated by bond type and excluding those considered not to have a liquid market in accordance with the methodology set out in Article 13(1) of Commission Delegated Regulation 2017/583;
 - (b) For securitised derivatives, aggregated by asset class of the underlying;
 - (c) Structured finance products, excluding those considered not to have a liquid market in accordance with the methodology set out in Article 13(1) of Commission Delegated Regulation 2017/583
 - (d) Emission Allowances, excluding those considered not to have a liquid market in accordance with the methodology set out in Article 13(1) of Commission Delegated Regulation 2017/583
 - (e) For derivatives subject to the trading obligation as defined in Article 28 of Regulation 600/2014, aggregated by asset class of the underlying and by contract type
 - (f) For derivatives not subject to the trading obligation as defined in Article 28 of Regulation 600/2014, aggregated by asset class of the underlying and by contract type, excluding those considered not to have a liquid market in accordance with the methodology set out in Article 13(1) of Commission Delegated Regulation 2017/583

Annex II

Table 1

Symbol table for Table 2

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field
{DATEFORMAT}	ISO 8601 date format	Dates shall be formatted in the following format: YYYY-MM-DD.

{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. —decimal separator is ‘.’ (full stop); —negative numbers are prefixed with ‘-’ (minus); Values are rounded and not truncated.
{INTEGER-n}	Integer number of up to n digits	Numerical field for positive integer values
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383
{MIFIR_ID}	4 alphanumerical characters	Identification of financial instruments For shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments: the MiFIR identifier as defined in Delegated Regulation (EU) 2017/587 ⁽¹⁾ For bonds, bonds, structured finance products, emission allowances and derivatives: the MiFIR identifier as defined in Delegated Regulation (EU) 2017/583 ⁽²⁾
{YEAR_QUARTER}	6 alphanumerical characters	Year and quarter of that year in the following format: YYYYQn ‘YYYY’ is the year; ‘Q’ – means that the letter ‘Q’ shall be used; ‘n’ is the quarter of the year and shall be equal to: — ‘1’ for the first quarter of the year (from 1 January to 31 March); — ‘2’ for the second quarter (from 1 April to 30 June); — ‘3’ for the third quarter (from 1 July to 30 September) and

		— ‘4’ for the fourth quarter (from 1 October to 31 December).
{SYSTEM_TYPE}	4 alphanumerical characters	Trading venue: ‘CLOB’ for continuous auction order book trading systems ‘QDTS’ for quote driven trading systems ‘PATS’ for periodic auction trading systems ‘RFQT’ for request for quote trading systems ‘FBAS’ for Frequent Batch Auction trading systems ‘VOIC’ for voice trading systems ‘HYBR’ for hybrid trading systems ‘XXXX’ for any other trading system Systematic internalisers: ‘SINT’

⁽¹⁾ Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser (OJ L 87, 31.3.2017, p. 387).

⁽²⁾ Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 31.3.2017, p. 229).

Table 2

List of details to be published

All fields are mandatory, unless stated otherwise.

Field ID	Field Name	Details to be published	Format for publication
1	Reporting period	Identification of the time period covered by the report	{YEAR_QUARTER}
2	Initial reporting date	Date on which the quarterly report is published for the first time	{DATEFORMAT}
3	Last update	Date on which the quarterly report is re-published following an amendment. When the report is published for the first time, this field shall not be populated.	{DATEFORMAT}
4	Execution venue	Identification of the execution venue. Use the segment MIC or, where the segment MIC does not exist, the operating MIC	{MIC}
5	Type of system	Identification of the type of trading system	{SYSTEM_TYPE}
6	MiFIR identifier	Identification of the type of financial instruments	{MIFIR_ID}
7	Liquidity flag for equity instruments	Indicates whether the transactions refer to instruments deemed to have a liquid market or not, in accordance with letters (a) to (h) of Article 1a. To be populated only when the MiFIR identifier is equal to shares, depositary receipts, exchange-traded funds, certificates or other similar financial instruments	‘TRUE’ – liquid instruments ‘FALSE’ – illiquid instruments
8	Bond type	Bond type as specified in Table 2.2 of Section 2 of Annex III of Delegated Regulation (EU) 2017/583. To be populated only when the MiFIR identifier is equal to bonds.	‘EUSB’ — Sovereign Bond ‘OEPB’ — Other Public Bond ‘CVTB’ — Convertible Bond

			<p>‘CVDB’ — Covered Bond</p> <p>‘CRPB’ — Corporate Bond</p> <p>‘OTHR’ — Other</p>
9	Asset class of the underlying	To be populated when the MiFIR identifier is a securitised derivative or a derivative	<p>‘INTR’ — Interest rate</p> <p>‘EQUI’ — Equity</p> <p>‘COMM’ — Commodity</p> <p>‘CRDT’ — Credit</p> <p>‘CURR’ — Currency</p> <p>‘EMAL’ — Emission Allowances</p> <p>‘OC10’ — Other C10</p>
10	Contract type	To be populated when the MiFIR identifier is a derivative.	<p>‘OPTN’ — Options</p> <p>‘FUTR’ — Futures</p> <p>‘FRAS’ — Forward Rate Agreement (FRA)</p> <p>‘FORW’ — Forwards</p> <p>‘SWAP’ — Swaps</p> <p>‘PSWP’ — Portfolio Swaps</p> <p>‘SWPT’ — Swaptions</p> <p>‘OPTS’ — Option on a swap</p> <p>‘FONS’ — Futures on a swap</p> <p>‘FWOS’ — Forwards on a swap</p> <p>‘FFAS’ — Forward Freight Agreements (FFAs)</p> <p>‘SPDB’ — Spread betting</p> <p>‘CFDS’ — CFD</p> <p>‘OTHR’ — Other</p>
11	DTO flag	Indicates whether the transactions refer to instruments subject to the derivatives trading obligation (DTO) as defined in Article 28 of Regulation 600/2014.	<p>‘TRUE’ – subject to DTO</p> <p>‘FALSE’ – not subject to DTO</p>

		To be populated only when the MiFIR identifier is equal to derivatives.	
12	Nominal or monetary value	Nominal or monetary value of the transactions executed in the reporting period. The value shall be a value greater than zero and shall be expressed in EUR	{DECIMAL-18/5}
13	Median transaction value	Median monetary transaction value excluding, where applicable, commissions and accrued interest, expressed in EUR	{DECIMAL-18/5}
14	Costs for a median transaction	All execution costs applied by the execution venue to any members/users of the venue for a median transaction, not involving direct exposure to market risk and before any rebates or discounts are applied, expressed in EUR	{DECIMAL-18/5}
15	Variable costs for a median transaction	Bid-offer spread related to the median transaction, expressed in EUR	{DECIMAL-18/5}
16	Description of costs	Provision of a link to a website or other source, where descriptive information on nature and level of costs applied by the execution venue is available	{ALPHANUM-50}
17	Speed of execution	Median time elapsed between an aggressive order or quote acceptance being received by the execution venue and the subsequent total or partial execution, expressed in milliseconds for continuous auction order books, while for other trading systems it is	{INTEGER-10}

		appropriate to use larger units of time.	
18	Number of designated market makers	Total number of market markers designated by the execution venue per type of instrument	{INTEGER-3}

B) BEST EXECUTION – POTENTIAL REPORTING REGIME FOR INVESTMENT FIRMS

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

of **XXX**

supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and third-party executing entities on the quality of execution

THE EUROPEAN COMMISSION,

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

Having regard to 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⁽¹⁶⁾, and in particular point (b) of the first subparagraph of Article 27(10) thereof,

Whereas:

- (1) It is essential to enable the public and investors to evaluate and compare the quality of an investment firms' execution practices and to identify the top five execution venues or third-party executing entities in terms of volumes where investment firms executed client orders or decisions to deal, or transmitted them to a third party executing entity in the preceding year. In order to make meaningful comparisons and analyse the choice of top five execution venues or third-party executing entities it is necessary that information is published by investment firms specifically in respect of each class of financial instruments. In order to be able to fully evaluate the order flow of client orders or decisions to deal to execution venues or third-party executing entities, investors and

¹⁶ OJ L 173, 12.6.2014, p. 349.
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

the public should be able to clearly identify if the investment firm itself was one of the top five execution venues for each class of financial instrument.

- (2) In order to include all relevant transactions for the assessment the execution quality obtained by investment firms, it is necessary to distinguish in the reporting under this Regulation between client orders or decisions to deal that are either executed on execution venues or transmitted to third party executing entities.
- (3) In order to fully assess the extent of the quality of execution being obtained on execution venues used by investment firms to execute client orders, including execution venues in third countries, it is appropriate that investment firms publish information required under this Regulation in relation to trading venues, market makers or other liquidity providers or any entity that performs a similar function in a third country to the functions performed by any of the foregoing.
- (4) In order to provide precise and comparable information, it is necessary to set out classes of financial instruments based on their characteristics relevant for publication purposes. A class of financial instruments should be narrow enough to reveal differences in order execution behaviour between classes but at the same time broad enough to ensure that the reporting obligation on investment firms is proportionate. Given the breadth of the equity class of financial instruments, it is appropriate to divide this class into subclasses based on liquidity. As liquidity is an essential factor governing execution and transmission behaviours and as execution venues or third party executing entities are often competing to attract flows of the most frequently traded stocks, it is appropriate that equity instruments are classified according to their liquidity as determined under the tick size regime as set out in Directive 2014/65/EU.
- (5) When publishing the identity of the top five execution venues or third-party executing entities it is appropriate for investment firms to publish information on the volume and number of orders or decisions to deal executed on each execution venue, or transmitted to each third-party execution entity respectively. This may enable investors to form an opinion as to the flow of client orders or decisions to deal from the firm to execution venue or third-party execution entity. Where, for one or several classes of financial instruments, an investment firm only executes or transmits a very small number of orders or decisions to deal, information on the top five execution venues or third-party execution entities would not be very meaningful nor representative of order or decisions to deal execution or transmission arrangements. It is therefore appropriate to require investment firms to clearly indicate the classes of financial instruments for which they execute or transmit a very small number of orders or decisions to deal.
- (6) To prevent potentially market sensitive disclosures on the volume of business being conducted by the investment firm, the volume of execution or transmission and the number of executed or transmitted orders or decisions to deal should be expressed as a percentage of the investment firm's total execution or transmission volumes and total

number of executed or transmitted orders or decisions to deal in that class of financial instrument, respectively, rather than as absolute values.

- (7) It is appropriate to require investment firms to publish information which is relevant to their order or decision to deal execution or transmission behaviour. To ensure that investment firms are not held accountable for order or decision to deal execution or transmission decisions for which they are not responsible, it is appropriate for investment firms to disclose the percentage of orders or decisions to deal executed on each of the top five execution venues, or transmitted to each the top five third-party execution entities where the choice of execution venue or execution entity has been specified by clients.
- (8) There are several factors which may potentially influence the order or decision to deal execution or transmission behaviour of investment firms such as close links between investment firms and execution venues or third-party execution entities. Given the potential materiality of these factors it is appropriate to require analysis of such factors in assessing the quality of execution or transmission obtained on all execution venues or third-party execution entities.
- (9) In order to properly analyse information it is important that users are in a position to differentiate between execution venues and third-party executing entities used for professional client orders and execution venues and third-party executing entities used for retail client orders or decisions to deal, given the notable differences in how investment firms obtain the best possible result for retail clients as compared to professional clients, namely that investment firms must predominantly assess the factors of price and cost when executing orders from retail clients. Therefore it is appropriate that information on the top five execution venues or third-party executing entities be provided separately for retail clients and for professional clients respectively, permitting a qualitative assessment to be made of the order flow to such venues or entities.
- (10) In order to comply with the legal obligation of best execution, investment firms, when applying the criteria for best execution for professional clients, will typically not use the same execution venues or third-party executing entities for securities financing transactions (SFTs) and other transactions. This is because the SFTs are used as a source of funding subject to a commitment that the borrower will return equivalent securities on a future date and the terms of SFTs are typically defined bilaterally between the counterparties ahead of the execution. Therefore, the choice of execution venues or third-party executing entities for SFTs is more limited than in the case of other transactions, given that it depends on the particular terms defined in advance between the counterparties and on whether there is a specific demand on those execution venues or third-party executing entities for the financial instruments involved. It is therefore appropriate that investment firms summarise and make public the top five execution venues in terms of trading volumes where they executed SFTs, or the third-party

executing entities where they transmitted SFTs in a separate report so that that a qualitative assessment can be made of the order flow to such venues or entities. Due to the specific nature of SFTs, and given that their large size would likely distort the more representative set of client transactions (namely, those not involving SFTs), it is also necessary to exclude them from the tables concerning the top five execution venues or top five third-party executing entities on which investment firms execute or transmit for execution other client orders or decisions to deal.

- (11) It is appropriate that investment firms should publish an assessment of quality of execution obtained on all execution venues used by the firm or third-party executing entities to which the firm transmitted orders or decisions to deal. This information will provide a clear picture of the execution strategies and tools used to assess the quality of execution obtained on those venues or entities. This information will also allow investors to assess the effectiveness of the monitoring carried out by investment firms in relation to those execution venues or transmissions to third-party executing entities.
- (12) In specifically assessing the quality of execution obtained on all execution venues or through the transmission to a third-party entity for execution in relation to cost, it is appropriate that an investment firm also performs an analysis of the arrangements it has with these venues or third-party executing entities in relation to payments made or received and to discounts, rebates or non-monetary benefits received. Such an assessment should also allow the public to consider how such arrangements impact the costs faced by the investor and how they comply with Article 27(2) of Directive 2014/65/EU.
- (13) It is also appropriate to determine the scope of such publication and its essential features, including the use that investment firms make of the data on execution quality available from execution venues under [proposed potential new RTS 27].
- (14) Information on identity of execution venues or third party executing entities and on the quality of execution should be published or alternatively provided to clients, potential clients and upon request to any other person in a durable medium annually and should refer to behaviour related to order execution or transmission to a third party entity for execution for each class of financial instruments in order to capture relevant changes within the preceding calendar year.
- (15) Investment firms should not be prevented from adopting an additional level of reporting which is more granular, provided that in such case the additional report complements and does not replace what is required under this Regulation.
- (16) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

- (17) Since this Delegated Regulation replaces Commission Delegated Regulation (EU) 2017/576, the latter should be repealed.
- (18) 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 opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽¹⁷⁾,

HAS ADOPTED THIS REGULATION/DECISION:

Article 1

Subject matter

This Regulation lays down rules on the content and the format of information to be published by investment firms on an annual basis in relation to client orders or decisions to deal that are either (i) executed on trading venues, systematic internalisers, market makers or other liquidity providers or entities that perform a similar function to those performed by any of the foregoing in a third country or (ii) transmitted to or placed with a third-party entity for execution.

Article 2

Definition

For the purposes of this Regulation ‘directed order’ means an order where a specific execution venue was specified by the client prior to the execution of the order.

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).
ESMA • 201-203 rue de Bercy • CS 80910 • 75589 Paris Cedex 12 • France • Tel. +33 (0) 1 58 36 43 21 • www.esma.europa.eu

Article 3

Information on the top five execution venues and quality of execution obtained

1. Investment firms that execute client orders and/or decisions to deal shall publish the top five execution venues in terms of trading volumes for all executed client orders per class of financial instruments referred to in Annex I during the reporting period. The information shall be published in the format set out in Table 1 of Annex II and shall differentiate between retail and professional clients. The publication shall exclude orders and/or decisions to deal in Securities Financing Transactions (SFTs) and shall contain the below mentioned information.

Where any of the information listed under items (a) to (f) in the following paragraph is not relevant, “N/A” shall be indicated in the relevant field.

- (a) class of financial instruments;
 - (b) execution venue name and identifier (MIC);
 - (c) volume of client orders and/or decisions to deal executed on that execution venue expressed as a percentage of total executed volume;
 - (d) number of client orders and/or decisions to deal executed on that execution venue expressed as a percentage of total executed orders;
 - (e) percentage of orders referred to in point (d) that were directed orders;
 - (f) confirmation of whether it has executed an average of less than one trade per business day in the previous year in that class of financial instruments.
2. Investment firms shall publish the top five execution venues in terms of trading volumes for all executed client orders or decisions to deal in SFTs for each class of financial instruments referred to in Annex I in the format set out in Table 3 of Annex II. The publication shall contain the following information:
 - (a) volume of client orders executed on that execution venue expressed as a percentage of total executed volume;
 - (b) number of client orders executed on that execution venue expressed as a percentage of total executed orders;
 - (c) confirmation of whether the investment firm has executed an average of less than one trade per business day in the previous year in that class of financial instruments.
3. Investment firms shall also publish for each class of financial instruments referred to in Annex I, a summary of the analysis and conclusions they draw from their detailed monitoring of the quality of execution obtained on the execution venues where they

executed all client orders in the previous year. The information shall be provided in relation to each class of financial instrument, unless it is common to several or all classes of financial instruments, in which case it can be provided on a consolidated basis and shall include the below mentioned information.

Where any of the information listed under items (a) to (i) in the following paragraph is not relevant, with regard to the firm's activities, the firm shall expressly confirm that the information referred in the relevant item is not relevant and briefly explain why.

- (a) an explanation of the relative importance the firm gave to the execution factors of price, costs, speed, likelihood of execution or any other consideration including qualitative factors when assessing the quality of execution;
- (b) the identity of the top five counterparties the firm most commonly executed against where the trade was agreed via a Request for quote (RFQ) system of a trading venue that allows the firm to identify the counterparty they are dealing with. In that case, the information shall also include the proportion of volume traded with each of these counterparties as a percentage of the total in that class of financial instruments;
- (c) a description of any close links (also taking into account the group structure), conflicts of interests, and common ownerships with respect to any execution venues used to execute orders and/or any counterparty referred under (b) hereabove;
- (d) a description of any specific arrangements with any execution venues regarding payments made or received, discounts rebates or non-monetary benefits received including for each venue identified according to Article 3(1), the aggregate amount of any payment for order flow received, transaction fees paid, transaction rebates received, both as a total amount in Euro and on average per financial instrument.
- (e) an explanation of the factors that led to a change in the best execution policy and/or in the list of execution venues listed in the firm's execution policy, if such a change occurred;
- (f) an explanation of how order execution differs according to client categorisation, where the firm treats categories of clients differently and where it may affect the order execution arrangements;
- (g) an explanation of whether other criteria were given precedence over immediate price and cost when executing retail client orders and how these other criteria were instrumental in delivering the best possible result in terms of the total consideration to the client;
- (h) an explanation of how the investment firm has used any data or tools relating to the quality of execution, including any data published under Delegated Regulation (EU) 2017/575;

- (i) where applicable, an explanation of how the investment firm has used output of a consolidated tape provider established under Article 65 of Directive 2014/65/EU.
4. If all or part of the information required in this article is materially different depending on whether the firm executes a client order or a decision to deal, the information shall be provided with respect to each situation separately.

Article 4

Information on the top five third party executing entities and quality of execution obtained

1. Investment firms that transmit client orders or place decisions to deal for execution to a third party entity shall publish the top five third party executing entities in terms of trading volumes for all executed client orders or decisions to deal per class of financial instruments referred to in Annex I during the reporting period. The information shall be published in the format set out in Table 2 of Annex II and shall differentiate between retail and professional clients. The publication shall exclude orders and/or decisions to deal in Securities Financing Transactions (SFTs) and shall contain the following information:
- (a) class of financial instruments (excluding the information about the tick size liquidity bands under (a) of Annex I);
 - (b) third party executing entity to which client orders and/or decisions to deal are transmitted to or placed with for execution and identifier (LEI);
 - (c) volume of client orders and/or decisions to deal transmitted to or placed with that third party entity expressed as a percentage of total executed volume;
 - (d) number of client orders and/or decisions to deal transmitted to or placed with that third party entity expressed as a percentage of total executed orders;
 - (e) percentage of orders referred to in point (d) that were directed orders and/or of decisions to deal with respect to which the firm has prior specified a specific execution venue (directed decisions to deal);
 - (f) confirmation of whether the investment firm has transmitted or placed for execution an average of less than one trade per business day in the previous year in that class of financial instruments.

Where any of the information listed under items (a)-(f) is not relevant, “N/A” shall be indicated in the relevant field.

2. Investment firms shall publish the top five third party executing entities in terms of trading volumes for all client orders or decisions to deal in SFTs transmitted to or placed for execution with a third party executing entity, for class of financial instruments referred to in Annex I in the format set out in Table 4 of Annex II. The publication shall contain the following information:
 - (a) volume of client orders and/or decisions to deal transmitted to or placed with that third party entity expressed as a percentage of total executed volume;
 - (b) number of client orders and/or decisions to deal transmitted to that third party entity expressed as a percentage of total executed orders;
 - (c) confirmation of whether the investment firm has transmitted or placed for execution an average of less than one trade per business day in the previous year in that class of financial instruments.

3. Investment firms shall publish for each class of financial instruments (see Annex I), a summary of the analysis and conclusions they draw from their detailed monitoring of the quality of execution obtained in the previous year when transmitting or placing client orders or decisions to deal for execution to or with third party entities. The information shall be provided in relation to each class of financial instrument, unless it is common to several or all classes of financial instruments, in which case it can be provided on a consolidated basis and shall include the below mentioned information.

Where any of the information listed under items (a) to (h) in the following paragraph is not relevant, with regard to the firm's activities, the firm shall expressly confirm that the information referred in the relevant item is not relevant and briefly explain why.

 - (a) an explanation of the relative importance the firm gave to the execution factors of price, costs, speed, likelihood of execution or any other consideration including qualitative factors when assessing the quality of execution;
 - (b) a description of any close links (also taking into account the group structure), conflicts of interests, and common ownerships with respect to any third party entity to which client orders are transmitted to or with which decisions to deal are placed for execution;
 - (c) a description of any specific arrangements with any third party entity to which client orders are transmitted to or with which decisions to deal are placed for execution regarding payments made or received, discounts (for example depending on the volume of orders), rebates or non-monetary benefits received; including for each third party executing entity identified according to Article 4(1), the aggregate amount of any payment for order flow received, transaction fees paid, transaction rebates received,

- both as a total amount in Euro and on average per financial instrument according to the classification set out in Annex I.
- (d) an explanation of the factors that led to a change in the policy referred to in article 65(5) of Delegated Regulation (UE) 2017/565 and/or in the list of third party entities with which the orders are placed or to which the investment firm transmits orders for execution listed in the firm's policy, if such a change occurred;
 - (e) an explanation of how the transmission of client orders or the placing of decisions to deal for execution differs according to client categorisation, where the firm treats categories of clients differently and where it may affect the order execution arrangements;
 - (f) an explanation of whether other criteria were given precedence over immediate price and cost when transmitting a retail client orders for execution or placing a decision to deal for execution and how these other criteria were instrumental in delivering the best possible result in terms of the total consideration to the client;
 - (g) an explanation of how the investment firm has used any data or tools relating to the quality of execution when selecting a third party executing entity, including any data published under Delegated Regulation (EU) 2017/575;
 - (h) where applicable, an explanation of how the investment firm has used output of a consolidated tape provider established under Article 65 of Directive 2014/65/EU.
4. If all or part of the information required in this article is materially different depending on whether the firm transmits a client order or places a decision to deal for execution to a third party entity, the information shall be provided with respect to each situation separately.

Article 5

Format and publication period

1. Investment firms shall publish the information required in accordance with Articles 3(1), 3(2), 3(4), 4(1), 4(2) and 4(4) by filling in the templates set out in Annex II and the information required in accordance with Articles 3(3), 3(4), 4(3) and 4(4) as follows:
 - (a) in an electronic format that is clear and easily readable; and
 - (b) in a machine-readable electronic CSV format.

2. Investment firms shall publish this information on their website or, where investment firms do not have a website, provided in a durable medium to clients and potential clients and upon request to any other person on or before the 30th of April following the end of the period to which the report relates.
3. Where the information referred in the first paragraph is published on a website, it shall be freely accessible, available for downloading by the public and be published in an easily identifiable location on a webpage without any access limitations or other restriction. It shall be published on a standalone basis and shall remain freely accessible for a minimum period of two years from the initial date of publication. Where investments firms do not have a website, the information shall remain accessible on request for a minimum period of two years from the initial date of issuance.

Article 6

Repeal

Delegated Regulation (EU) 2017/576 is repealed. References to Delegated Regulation (EU) 2017/576 shall be construed as references to this Regulation.

Article 7

Entry into force and application

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

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

Done at Brussels,

For the Commission
The President
[Position]

ANNEX I

Classes of financial instruments

- (a) Equities — Shares & Depositary Receipts
 - (i) Tick size liquidity bands 5 and 6 (from 2000 trades per day)
 - (ii) Tick size liquidity bands 3 and 4 (from 80 to 1 999 trades per day)
 - (iii) Tick size liquidity band 1 and 2 (from 0 to 79 trades per day)
- (b) Debt instruments
 - (i) Bonds
 - (ii) Money markets instruments
- (c) Interest rates derivatives
 - (i) Futures and options admitted to trading on a trading venue
 - (ii) Swaps, forwards, and other interest rates derivatives
- (d) Credit derivatives
 - (i) Futures and options admitted to trading on a trading venue
 - (ii) Other credit derivatives
- (e) Currency derivatives
 - (i) Futures and options admitted to trading on a trading venue
 - (ii) Swaps, forwards, and other currency derivatives
- (f) Structured finance instruments
- (g) Equity Derivatives
 - (i) Options and Futures admitted to trading on a trading venue
 - (ii) Swaps and other equity derivatives
- (h) Securitized Derivatives
 - (i) Warrants and Certificate Derivatives
 - (ii) Other securitized derivatives
- (i) Commodities derivatives and emission allowances Derivatives
 - (i) Options and Futures admitted to trading on a trading venue
 - (ii) Other commodities derivatives and emission allowances derivatives
- (j) Contracts for difference
- (k) Exchange traded products (Exchange traded funds, exchange traded notes and exchange traded commodities)
- (l) Emission allowances
- (m) Other financial instruments (each different type of financial instrument in this category shall be identified separately)

ANNEX II

Table 1

Category of clients	[retail clients]/ [professional clients]		
Class of Instrument			
Notification if < 1 average trade per business day in the previous year	Y/N		
Top five execution venues ranked in terms of trading volumes (descending order)	Proportion of volume traded as a percentage of total in that class	Proportion of orders and/or decisions to deal executed as percentage of total in that class	Percentage of directed orders
Name and Venue Identifier (MIC)			
Name and Venue Identifier (MIC)			
Name and Venue Identifier (MIC)			
Name and Venue Identifier (MIC)			
Name and Venue Identifier (MIC)			



Table 2

Category of clients	[retail clients]/ [professional clients]		
Class of Instrument			
Notification if < 1 average trade per business day in the previous year	Y/N		
Top five third party executing entities ranked in terms of volumes (descending order)	Proportion of volume transmitted to and/or placed with for execution as a percentage of total in that class	Proportion of orders transmitted for execution and/or decisions to deal placed for execution as percentage of total in that class	Percentage of directed orders or direct decisions to deal
Name and Entity Identifier (LEI)			
Name and Entity Identifier (LEI)			
Name and Entity Identifier (LEI)			
Name and Entity Identifier (LEI)			
Name and Entity Identifier (LEI)			

Table 3

Class of Instrument		
Notification if < 1 average trade per business day in the previous year	Y/N	
Top 5 Venues ranked in terms of volume (descending order)	Proportion of volume executed as a percentage of total in that class	Proportion of orders/decisions to deal executed as percentage of total in that class
Name and Venue Identifier (MIC)		
Name and Venue identifier (MIC)		
Name and venue identifier (MIC)		
Name and venue identifier (MIC)		
Name and venue identifier (MIC)		

Table 4

Class of Instrument		
Notification if < 1 average trade per business day in the previous year	Y/N	
Top five third party executing entities ranked in terms of volume (descending order)	Proportion of volume transmitted to and/or placed with for execution as a percentage of total in that class	Proportion of orders transmitted for execution and/or decisions to deal placed for execution as percentage of total in that class
Name and Entity Identifier (LEI)		
Name and Entity Identifier (LEI)		
Name and Entity Identifier (LEI)		
Name and Entity Identifier (LEI)		
Name and Entity Identifier (LEI)		