16 December 2024
ESMA74-2134169708-7775

MiFIR review Final Report

Review of RTS 2 on transparency for bonds, structured finance products and emission allowances and RTS on reasonable commercial basis

Acronyms

ADV	Average Daily Volume
AMF	Autorité des Marchés Financiers
APA	Approved Publication Arrangement
ARM	Approved Reporting Mechanism
CBA	Cost-benefit Analysis
CFI	Classification of Financial Instruments
CLOB	Central Limit Order Book
CP	Consultation Paper
CSV	Comma-separated Values
CTP	Consolidated Tape Provider
DEG	European Commission's Expert Stakeholder Group on Equity and Non-equity Market Data Quality and Transmission Protocols
DPE	Designated Publishing Entities
EC	European Commission
EEA	European Economic Area
EOD	End of Day
ESA 2010	European System of National and Regional Accounts
ESCB	European System of Central Banks
ESMA	European Securities and Markets Authority
ETC	Exchange Traded Commodities
ETF	Exchange Traded Funds

ETN	Exchange Traded Notes
ETS 2	European Trading System
EU	European Union
EUA	Emission allowances
EUR	Euro
FCA	Financial Conduct Authority
FITRS	Financial Instruments Transparency System
HY	High Yield
IG	Investment Grade
ISIN	International Securities Identification Numbering
LIS	Large in Scale
MIC	Market Identifier Code
MiFIR Review	Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow
MiFIR	Regulation (EU) No 600/2014 of the European Parliament and of Council 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/20123
MTF	Multilateral Trading Facility
NCAs	National Competent Authorities
OMF	Order Management Facility
OTC	Over-the-counter

OTF	Organised Trading Facility
Q&A	Question and Answer
RCB	Reasonable Commercial Basis
RFQ	Request for Quote
RM	Regulated Market
RTS	Regulatory Technical Standard
RTS 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
SFP	Structured Finance Products
SI	Systematic Internaliser
SMSG	Securities and Markets Stakeholder Group
SSTI	Size Specific to the Instrument
tCO2	Tons of CO2
TOT	Trade Out Time
UK	United Kingdom
US	United States

Table of Contents

1 Executive Summary

Reasons for publication

The revised MIFIR and MiFID II were published in the Official Journal of the EU on 8 March 2024. In this context, ESMA has been empowered to develop various technical standards further specifying certain provisions.

This final report (FR) includes proposals for the amendment of the Level 2 provisions specifying the transparency requirements for bonds, structured finance products and emission allowances, and the Regulatory Technical Standards (RTS) on reasonable commercial basis (RCB).

Contents

This FR contains ESMA's assessment and feedback received to the MiFIR Review Consultation Package[1] published in May covering the review of RTS 2, the draft RTS on RCB and the review of RTS 23 on supply of reference data. The final report covers two different sections each covering one draft technical standard: (1) the amendment of RTS 2 in relation to non-equity transparency; and (2) the draft RTS on RCB. ESMA continues working on the review of RTS 23 on supply of reference data and will publish its final report separately at a later stage next year.

The RTS 2 amendment section includes an introduction covering the mandate and scope of the proposed amendments to RTS 2. It also covers the amended provisions for pre-trade transparency, in particular in relation to the definition and characteristics of central limit order books (CLOB) and periodic auctions, and to the limited amendments to the pre-trade waiver regime. In addition, it covers the mandate under Article 11 of MiFIR in relation to the deferral regime for bonds, structured finance products and emission allowances. Finally, the RTS 2 amendment also covers changes to specific transparency fields and flags.

Following the introduction containing mandate and scope, the RTS on RCB amendment part covers the sections in the RTS. These cover fees for market data containing provisions on the transparency of cost and determination of a reasonable margin. In addition, it covers the information to be provided to the competent authorities and non-discriminatory access to market data. The RTS prescribes provision on unbiased and fair contractual terms and market data policies. The RTS concludes with provisions on delayed data.

Next Steps

[1] ESMA74-2134169708-7241_CP_Package_on_the_MiFIR_Review_-_RTS_2__RCB_and_Reference_Data.pdf

ESMA submitted the final report to the European Commission on 16 December 2024. In accordance with Article 10 of ESMA Regulation[2], the Commission has three months to decide whether to endorse the proposed amendments to the RTS.

[2] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing the European Securities and Markets Authority (OJ L 331, 15.12.2010, p. 84–119), here

Final Report on the amendment of RTS 2

2 Introduction

1. One of the main priorities of the MiFIR Review (Regulation (EU) 2024/791[3]) is to improve the pre- and post-trade transparency regime. To achieve this objective, it introduces two new articles, Article 8a for pre-trade transparency and Article 11a for post-trade deferrals, that effectively separates the non-equity transparency regime into two – one for bonds, structured finance products (SFPs) and emission allowances (EUAs) under the amended Articles 8 and 11; and another one for derivatives, with the new Articles 8a and 11a.

2. To further specify the obligations under the pre- and post-trade transparency regimes, the European Commission (EC) empowered ESMA to develop draft regulatory technical standards (RTS). Those RTSs relate to pre-trade transparency, in particular the definition of trading systems and pre-trade transparency waivers under Article 9 of MiFIR (Regulation (EU) 600/2014[4]), and post-trade transparency, in particular deferrals under Articles 11 and 11a of MiFIR, for bonds, SFPs and EUAs, and derivatives, respectively. These empowerments are nonetheless under different legislative timelines:

   a) For the post-trade transparency for bonds, SFPs and EUAs under Article 11(4) of MiFIR the deadline is nine months after entry into force of the revised MiFIR.

   b) For pre-trade transparency (covering all non-equity instruments) under Article 9(5) of MiFIR the deadline is 12 months after entry into force of the revised MiFIR.

   c) For post trade transparency for derivatives under Article 11a(3) of MiFIR the deadline is 18 months after entry into force of the revised MiFIR.

3. In order to ensure a consistent approach of the transparency regimes in each asset-class, ESMA published on 21 May 2024 a consultation paper (CP) on the review of Commission Delegated Regulation (EU) 201/583[5] (RTS 2) which mainly addresses the transparency mandate for bonds, SFPs and EUAs. ESMA received 56 responses to the consultation. This final report covers the feedback received from stakeholders on the proposals put forward in the CP and includes a revised draft RTS 2 amendment based on these responses. In addition, ESMA also received advice from its Securities and Markets Stakeholder Group (SMSG) and from the European Commission's expert stakeholder group on equity and non-equity market data quality and transmission protocols (DEG)[6] which were taken into account in the draft of this final report. ESMA also received some feedback for the purpose of the cost-benefit analysis (CBA). However, most respondents did not provide detailed input and ESMA received only very limited quantitative data. The

[3] OJ L, 2024/791, *8.3.*2024
[4] OJ L 173, 12.6.2014, p. 84–148
[5] OJ L 87, 31.3.2017, p. 229–349
[6] The Commission's DEG was established in accordance with Article 22b(2) of MiFIR in order to provide advice to the Commission and to ESMA on the bonds, structured finance products, emission allowances and derivatives post-trade publication deferrals.

CBA presented in the Annex therefore focuses on qualitative aspects given the lack of data to assess the impact of the draft RTS in quantitative terms.

4. ESMA will publish another CP addressing the transparency mandate for derivatives, notably the deferral regime, in Q1 2025. Nevertheless, it should be noted that, in accordance with the interpretative notice from the European Commission[7] and the ESMA statement[8], market participants are expected to apply the new scope of the transparency regime for derivatives since the date of application of the revised MiFIR. As stated in the past, the CP will also cover the mandates under Article 1(8) of MiFIR in relation to the European System of Central Banks (ESCB) exemption and on package orders for which there is a liquid market.

3 Pre-trade transparency

3.1 Definition of central limit order books and periodic auctions trading systems

3.1.1 Background and ESMA's initial proposal

Article 9(5) of MIFIR

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

[…] :

(b) the range of bid and offer prices and the depth of trading interests at those prices to be made public for each class of financial instrument concerned in accordance with Article 8(1), Article 8a(1) and (2) and Article 8b(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2), Article 8a(3) and Article 8b(2);

[…]

f) the characteristics of central limit order books and periodic auctions trading systems;

[…]".

5. One of the main changes introduced by the MiFIR review is the removal of some trading systems, in particular request-for-quote (RFQ) and voice trading systems, from the pre-

[7] Commission publishes draft interpretative notice on the transitional provision of the MiFIR review - European Commission (europa.eu)
[8] ESMA clarifies application of certain MIFIR provisions, including volume cap (europa.eu)

trade transparency obligations. It also separated the pre-trade transparency requirements for bonds, SFPs and EUAs (Article 8), from exchange-traded and over-the-counter (OTC) derivatives and package orders (under the new Articles 8a and 8b, respectively).

6. Under the new non-equity transparency regime, real-time pre-trade transparency is limited to trading venues operating a central limit order book (CLOB) or a periodic auction trading system. Article 9(5)(f) of MiFIR introduces an empowerment for ESMA to further specify the characteristics of CLOB and periodic auctions trading systems.

Central limit order book trading systems

7. In the CP, ESMA suggested defining CLOB trading systems as continuous auction trading systems under Annex I of RTS 2. Trading systems operated by means of an order book that only includes market maker quotes and a trading algorithm operated without human intervention matching incoming buy and sell orders with resting market maker quotes on the basis of the best available price on a continuous basis would also qualify as continuous auction trading systems.

8. ESMA further suggested including in the definition of CLOB trading systems combining elements of a continuous auction trading system and elements of a periodic auction trading system. The continuous auction part and the periodic auction part of the CLOB trading system would be subject to the pre-trade transparency requirements respectively set out in Annex I of RTS 2.

9. In the CP, ESMA asked stakeholders whether they agreed with the proposed definition of a CLOB trading system and whether other trading systems should be included in the definition.

Periodic auction trading systems

10. In the CP, ESMA considered that the characteristics of periodic auction trading systems currently provided for in Annex I of RTS 2 i.e., "*a system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention*" remains relevant for specifying the characteristics of those types of trading systems. ESMA therefore proposed to keep the definition of periodic auction systems unchanged in Annex I and to add it to Article 1 of RTS 2.

3.1.2 Feedback to the consultation

Central limit order book trading systems

11. Most respondents agreed with the proposed definition of CLOB trading systems.

12. Two respondents however recommended deleting the reference to “auction” in “continuous auction orderbook trading system”. They noted that it might mislead readers to refer to auction systems, which are limited in time (such as periodic auction trading systems), whereas continuous auction order book trading systems operate more like a continuous trading platform where the matching is immediate and ongoing. The reference to “auction” may also question whether a multilateral trading facility (MTF) operating without an opening and closing auction qualifies as a continuous auction order book trading system.

13. One respondent asked if a trading system where the matching is not automatic but requires confirmation by the liquidity provider of the quote resting in the order book (“last look” system) would fall under the definition of CLOB trading systems.

14. Most respondents considered that there was no need to add other trading systems to the definition of CLOB trading systems. One respondent suggested adding quote driven systems to the definition to ensure a comprehensive representation of trading mechanisms, stressing the role that quote driven systems play in financial market infrastructure.

15. Two respondents however noted that many of the trading systems operated by trading venues, including regulated markets trading derivatives, were hybrid and combined elements of various systems such as CLOB and block trading or trade registration systems. Those respondents considered that pre-trade transparency requirements should also apply to the non-CLOB-like parts of the hybrid system if parts of the system fulfil the requirement of a CLOB system, noting that any other approach would be a step back from the MiFIR original objective to increase transparency in non-equity markets. In much the same vein, one respondent suggested expanding the proposed definition of CLOB to encompass trading systems that accept pre-arranged trades or cross orders under the rules of a trading venue operating a CLOB.

Periodic auction trading systems

16. ESMA’s proposal was almost unanimously supported. One respondent stressed that almost all the volume match auctions operated by MiFIR venues only generate the price at the end of the volume matching session which operates as price-blind until finalisation and recommended that the definition adds the following clarification: “…*regardless of whether price components are set at the commencement or at the finalisation of the methodology process”.*

3.1.3 ESMA’s assessment and proposal

Central limit order book trading systems

17. ESMA notes that the concept of “continuous auction order book trading system” is widely used across market participants. ESMA however sees merit in the suggestion made to delete “auction” from “continuous auction order book trading system” to avoid ambiguity and provide more clarity on the differences between “continuous order book trading systems” and “periodic auction trading systems”. The suggested amendment will also help clarify that where a CLOB combines elements of a continuous order book trading system and of a periodic auction, the relevant pre-trade transparency requirements apply to the respective continuous order book and periodic auction components of the CLOB. ESMA did not identify any drawbacks to changing the name of “continuous auction order book trading system to “continuous order book trading system”. For consistency purposes, “auction” should also be deleted in the first type of trading system mentioned in Annex I of RTS 1.

18. ESMA understands that in ‘last look’ systems, once the quote is confirmed by the liquidity providers, the execution takes place automatically in accordance with the trading system algorithm, without human intervention. ESMA considers that those systems are a variation of continuous order book trading systems and should be subject to the same pre-trade transparency requirements.

19. ESMA appreciates the role that quote driven systems play in financial market infrastructure but as explained in the CP, does not consider that such trading systems should be added to the definition of CLOB trading systems. Although the display of market maker quotes may resemble an order book, a significant difference between a central limit order book and a quote driven system is that, in the latter, the market participant can typically select the quote he/she wants to trade on which may not be the one displaying the best price when volume would be given priority. ESMA however considers that a trading system with an order book which only includes market maker quotes and where a trading algorithm matches incoming buy and sell orders with the resting quotes based on the best available price on a continuous basis qualifies as a continuous order book trading system.

20. ESMA also gave thought to the suggestions made to include in the definition of CLOB trading systems subject to pre-trade transparency requirements hybrid trading systems that combine CLOB-like and non CLOB-like components. Based on the revised MiFIR pre-trade transparency requirements for non-equity instruments, ESMA considers that there would be no legal basis to qualify as a CLOB trading system subject to pre-trade transparency requirements a trading system that does not meet the definition of a continuous order book or a periodic auction system, even if the trading venue separately operates a CLOB trading system. Where a trading venue would be operating both a continuous order book trading system and a block trading facility with no multilateral feature to register transactions concluded off-book, only the former would be subject to pre-trade transparency. In contrast, where cross-trades would be finalised and reported in the continuous order book trading system of a trading venue, they would fall under the CLOB pre-trade transparency requirements. ESMA notes that the approach described is

a direct consequence of the reduced scope of pre-trade transparency in non-equity instruments agreed by the co-legislators.

21. As a conclusion, ESMA proposes to only amend the definition of CLOB suggested in the CP by deleting “auction” in “continuous auction orderbook trading system” and to include the following definition of a CLOB trading system in Article 1 of RTS 2:

22. A Central Limit Order Book Trading system means either of the following:

    a) a continuous order book trading system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis;

    (b) a trading system combining elements of a continuous order book trading as referred to in point (a) and of periodic auction trading system defined in paragraph (2).

Periodic auction trading system

23. ESMA considered the suggestion to complement the definition of periodic auction trading system but does not consider such addition necessary as the current definition is neutral as to when the price components are set.

24. As explained in the ESMA Opinion on frequent batch auctions[9], periodic auction systems, are expected to be price forming systems where the price component is set at the end of the auction process. ESMA however considers that systems that lock in the price at the beginning of an auction where the price is determined based on unadjusted limit orders are price-forming systems. On the other hand, systems that lock in prices based on other conditions are non-price forming and should, in principle, operate under a waiver from pre-trade transparency. ESMA also stresses that under Annex I of RTS 2, periodic auction trading systems are required to publish, for each financial instrument, the indicative price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price by participants in that system throughout the auction process.

25. As a conclusion, ESMA proposes to keep the current definition of periodic auction trading systems and add it to Article 1 of RTS 2.

[9] esma70-156-1355_opinion_frequent_batch_auctions.pdf

3.2 Definition of package transactions, request for quotes and voice trading systems

3.2.1 Background and ESMA's initial proposal

26. The definition of package transactions is now set out in Article 2(50) of MiFIR. In addition, as pre-transparency requirements for non-equity instruments only apply to trading venues operating a CLOB or a periodic auction trading system, ESMA's previous empowerment under Article 9(5)(b) of MiFIR to define RFQ and voice trading systems has been removed.

27. In the CP, ESMA proposed to remove the definition of package transactions from Article 1 of RTS 2. In addition, Article 1(2) and (3) of RTS 2 will also be deleted given that the empowerment under Article 9(5)(b) of MiFIR to define request for quote and voice trading systems has been removed. ESMA also suggested deleting the reference to trading systems other than continuous auction and periodic auction systems in Annex I of RTS 2. The definition of each type of trading system would however be added to Table II of Annex II since the identification of quote trading systems, request for quote, voice and hybrid trading systems is needed in the context of the Consolidated Tape.

3.2.2 Feedback to the consultation

28. The proposal described above did not attract comments during the consultation.

3.2.3 ESMA's assessment and proposal

29. ESMA confirms its initial proposal to remove the definition of package transactions, request for quote and voice trading systems from Article 1 of RTS 2 and trading systems other than continuous auction order book and periodic auction trading systems from Annex I or RTS 2. The definition of each type of trading system is however added to Table II of Annex II since the identification of quote trading systems, request for quote, voice and hybrid trading systems is needed in the context of the consolidated tape provider (CTP).

3.3 Definition of bonds

Background

30. In order to address uncertainties and divergent classifications between "other public" and corporate bonds, ESMA gathered views on the possibility to use the European System of National and Regional Accounts (ESA 2010) to classify bond issuers. Precisely, the proposal included a decision-making tree and a set of indicators to support the identification of entities under public sector control and hence, qualifying as "other public" issuers.

Feedback to the consultation

31. While some support for the proposal was expressed, the respondents highlighted the difficulty of obtaining the relevant information in order to be able to categorize the issuer as per the suggested methodology. They have also indicated that further clarifications are needed before going forward.

ESMA's assessment and proposal

32. ESMA recognises the difficulty of getting the relevant information to be able to categorise the bonds and will not amend RTS 2 as per the proposed ESA 2010 methodology. Thus, ESMA will not proceed with the suggested alignment.

33. However, ESMA proposes to align the RTS 2 definition of sovereign bonds with the definition on sovereign issuer in Article 4(60) of Directive 2014/65/EU[10] (MiFID II). The respective definition indicates that a 'sovereign issuer' refers to any of the following that issues debt instruments: (i) the Union; (ii) a Member State, including a government department, an agency, or a special purpose vehicle of the Member State; (iii) in the case of a federal Member State, a member of the federation; (iv) a special purpose vehicle for several Member States; (v) an international financial institution established by two or more Member States which has the purpose of mobilising funding and provide financial assistance to the benefit of its members that are experiencing or threatened by severe financing problems; or (vi) the European Investment Bank. In addition, the revised definition also captures a sovereign entity of a third country. Moreover, the definition of 'other public bonds' has been amended to reflect this change. ESMA acknowledges though that this alignment will not sort out all issues of misclassification but it should clarify some uncertainties as regards the cases described in Article 4 (60) of MiFID II. In parallel, ESMA will continue engaging with the industry to try to find a viable approach to sort out remaining reporting inconsistencies.

3.4 Pre-trade transparency waivers

Background

Article 9(5) of MIFIR

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

[…] :

[10] OJ L 173, 12.6.2014, p. 349–496

(c) the size specific to the financial instrument referred to in paragraph 1(b) and the definition of request-for-quote and voice trading systems for which pre-trade disclosure may be waived under paragraph 1;

[…]

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

[…]".

34. The MiFIR review also includes some amendments to the pre-trade waiver regime. Despite not including any changes to certain waivers (the large-in-scale (LIS) and order management facility (OMF) of the trading venue pending disclosure) the new MiFIR regime removed the size specific to the financial instrument (SSTI) waiver. In addition, despite keeping the illiquid waiver, the definition of a liquid market changed with the introduction of the MiFIR review.

35. ESMA therefore proposed in the CP to remove all references to the SSTI waiver from RTS 2, in particular by deleting Article 5 and amending Article 15 of RTS 2. In addition, ESMA proposed to remove all references to the pre-trade SSTI thresholds from Annex III. With regard to the OMF waiver, ESMA did not suggest any changes.

36. Considering the changes introduced by the MiFIR review, in particular with an emphasis on static thresholds rather than periodic assessments, ESMA suggested a new approach to the LiS waiver for non-equity instruments. Currently, RTS 2 sets out a methodology, under Article 13(2), whereby a periodic quantitative assessment must be provided on a yearly basis, which is based on transactions executed in the preceding calendar year. Considering the move to static thresholds for the liquidity determination and the deferral regime included in the MiFIR Review, ESMA sees merit in reviewing the pre-trade LIS threshold with the aim of also setting a static threshold.

37. For this purpose, ESMA proposed to set static thresholds for bonds, SFPs, EUA and ETCs and ETNs as per the below table:

Asset class — Bonds (all bond types except ETCs and ETNs)	
Bond type	**LIS pre-trade**
Sovereign and other public bonds	EUR 5 000 000
Covered bonds	EUR 5 000 000
Corporate, convertible and other bonds	EUR 1 000 000

Asset class — Bonds (all bond types except ETCs and ETNs)	
Bond type	**LIS pre-trade**
ETCs	EUR 900 000
ETNs	EUR 900 000

Asset class	LIS pre-trade
Structured Finance Products (SFPs)	EUR 250,000
Emission Allowances (EUAs)	5 lots

Table 1: Large in scale thresholds as proposed in the CP

38. In relation to the illiquid waiver under Article 9(c) of MiFIR, ESMA proposed in the CP that the revised definition of liquid market for bonds, SFPs and EUA should be reflected in the implementation of the waiver regime. This is supported by Recital 10 of the revised MiFIR, which states that "*it is appropriate for ESMA to also apply the determination of liquid and illiquid markets in bonds, emission allowances and structured finance products to the pre-trade transparency waiver".*

39. Therefore, ESMA proposed that the liquidity determination provided in the section dedicated to the deferral regime for bonds, SFPs and EUAs, should be applied also in a pre-trade transparency context, particularly the illiquid waiver under Article 9(1)(c) of MiFIR.

Feedback to the consultation

40. Generally, respondents agreed with the proposed thresholds and approach to the illiquid waiver proposed in the CP for bonds, SFPs and EUAs. Nevertheless, respondents made a couple of remarks aiming at improving the proposal.

41. For bonds, some respondents expressed some concerns about relying solely on issuance size as the criterion for the liquidity determination. Amongst the suggestions, respondents recommended ESMA to consider additional factors such as market depth, bid-ask spreads, turnover volumes, duration/maturity, and credit rating. In addition, respondents note that thresholds should be carefully calibrated to avoid being set too high.

42. In addition, specifically for EUAs, some respondents noted that it should be measured in tons of CO2 (tCO2) and not lots.

ESMA's assessment and proposal

43. ESMA welcomes the support received on its proposals to the pre-trade transparency waiver regime.

44. In relation to respondent's concerns about the liquidity determination and threshold sizes for bonds, ESMA considered taking a different approach to that in the CP and included other factors in relation to how bonds are grouped. The approach is explained in Section 5 and should also apply in the context of the liquidity determination for the purposes of the illiquid waiver under Article 9(c) of MiFIR. In addition, the new approach for bond groupings had also an effect on the suggested thresholds and therefore ESMA leveraged on that analysis to set different LIS thresholds than those suggested in the CP.

45. Finally, ESMA agrees with the suggestion to measure EUAs in tCO2 instead of lots – under the current framework, liquidity thresholds are set in tCO2 and ESMA agrees there is no need to change the current approach.

46. Taken the above into consideration, ESMA sets out the following thresholds:

Asset class — Bonds (all bond types except ETCs and ETNs)	
Bond type	**LIS pre-trade**
Sovereign and other public bonds	EUR 5 000 000
Covered bonds	EUR 5 000 000
Corporate, convertible and other bonds	EUR 1 000 000
Asset class — Bonds (all bond types except ETCs and ETNs)	
Bond type	**LIS pre-trade**
ETCs	EUR 900 000
ETNs	EUR 900 000

Asset class	**LIS pre-trade**
Structured Finance Products (SFPs)	EUR 250,000
Emission Allowances (EUAs)	5000 tCO2

Table 2: Final proposal for LiS waiver thresholds

47. To operationalise the regime, the draft RTS 2 keeps the proposal to add a new Article 6a but amends Annex III as proposed in the CP in line with the above tables.

4 Publication of post-trade transparency information

Article 11(4) of MIFIR:

"4. ESMA shall, after consulting the expert stakeholder group established pursuant to Article 22b(2), develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required pursuant to this Article and Article 27g:

(a) the details of transactions that investment firms and market operators are to make available to the public for each class of financial instrument as referred to in paragraph 1 of this Article, including identifiers for the different types of transactions published pursuant to Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;

(b) the time limit that is considered to comply with the obligation to publish as close to real time as technically possible including when trades are executed outside normal trading hours;

[…]

Article 21(5):

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

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

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

4.1 Post-trade transparency fields

Background

48. In the CP, ESMA proposed six changes to the post-trade transparency fields defined in Table 2 of Annex II or RTS 2. Those changes are summarised in the table below.

No	Field	Proposal	Explanation
1	**All fields**	Introduce a column-naming convention	To harmonise the way in which reporting entities identify the fields in their publication. **Change not linked to the MiFIR review**

2	**Column "Type of execution or publication venue"**	Delete references to the CTP in the column "Type of execution or publication venue".	The data to be published by the CTP is defined in another RTS. Therefore, Annex II of RTS 2 does not apply directly to CTP. **Change linked to the MiFIR review**
3	**Field 12 Type (for emission allowances and derivatives thereof)**	Delete the field ~~the value 'EUAA', 'CERE' and 'ERUE' and add the value "UKAA' in the column "Format"~~ The text in Table 5 of the CP was inconsistent with the proposal made in para. 50 and 51 of that CP and is updated in this final report in red.	This field pertains to reference data and is not linked to the trading conditions of the specific transaction. The same information can be derived from the identifier of the traded instrument provided in field 2 "Instrument identifier code" (ISIN). ~~EUAA are fully fungible with EUA. Transactions on EUA and EUAA should be reported with the same code (EUAE).~~ ~~International units (such as CER and ERU) are no longer accepted for compliance with the EU ETS.~~ ~~UK allowances are expected to be identified under UK MiFIR.~~ **Change not linked to the MiFIR review**
4	**Field 16 Venue of publication**	Add the values RM, MTF, OTF and APA in the column "Type of execution or publication venue". This means the field becomes applicable to RM, MTF, OTF and APA, who shall report their own MIC.	The publication of this self-identification field by venues and APA would facilitate the aggregation of post-trade data from various sources. **Change not linked to MiFIR review**
5	***New Field*** **Flag**	Add a field "Flag" in Table 2 and specify that where a combination of flags is possible, the flags should be reported in the same field separated by commas	To increase consistency and facilitate aggregation of post-trade reports. Currently, flags are defined in Table 3 but there is no dedicated field for flags in Table 2. **Change not linked to MiFIR review**
6	***New Field*** **Trading system**	Add a field "Trading system" in Table 2, to be populated only for transactions executed on regulated markets, MTF or OTFs.	To align with the CTP output data **Change linked to the MiFIR review**

Table 3: post-trade transparency fields

Feedback to the consultation and ESMA assessment and proposal

49. Most stakeholders supported those proposals. Some did not support all the proposals and provided feedback and suggestions in relation to certain proposals, which are summarised below.

Proposal 1: introduce a column-naming convention

50. A few market participants disagreed with ESMA's proposal to establish a column-naming convention, stating that this was not practical for market data disseminated via technical protocols.

51. ESMA recalls that the proposal to harmonise the names of columns in post-trade transparency reports published by trading venues and approved publication arrangements (APAs) was already made in the previous revision of RTS 2 and broadly supported by stakeholders. It was also included in the Manual on post-trade transparency in October 2024.

52. Against this background, the proposal is maintained without changes.

Proposal 2: delete references to the CTP in the column "Type of execution or publication venue"

53. The proposal merely reflects the new framework mandated by the Level 1, under which the data to be published by the CTP is defined in a separate RTS. The proposal was supported by stakeholders and no specific comment made.

54. Against this background, the proposal is maintained without changes.

Proposal 3: delete the field "Type" for emission allowance and derivatives thereof

55. ESMA intended to propose the deletion of the field "type" for emission allowance and derivatives thereof, as explained in Paragraph 50 and 51 of the CP. However, this proposal was incorrectly reflected in the table summarising the proposals (Table 5 p.30 of the CP). Therefore, stakeholders asked ESMA to clarify its intention.

56. ESMA confirms that the intention was to delete the field and is proceeding with this change.

Proposal 4: Require the publication of a self-identifying field "Venue of Publication" by RM, MTF, OTF and APA

57. Some stakeholders understood that ESMA's proposal was to require the publication of the "type" of publication venue (i.e. whether the publication venue is an APA, RM, MTF or OTF). They disagreed with this proposal, given that the information on the type of venue is already available in the ESMA register.

58. However, this was not ESMA's proposal. Publishing the "type" of publication venue (i.e. whether the publication venue is an APA, RM, MTF or OTF) would indeed be redundant with the information provided in ESMA register. Instead, ESMA suggested that the venue of publication (i.e. the venue or the approved reporting mechanism (ARM) publishing the transaction) should be identified with its MIC in the report. To achieve this goal, it was proposed to keep the existing field "Venue of Publication" but expanding its application to

APA, RM, MTF, or OTF. Indeed, in the current version of RTS 2, the field “Venue of publication” was only applicable to CTP.

59. To implement this change, the column containing the information on the scope of application (called “type of execution or publication venue”) is updated with the deletion of the value “CTP” (corresponding to Proposal 1) and the addition of the values “RM”, “MTF”, “OTF” and “APA”, as shown in yellow below:

#	Field Identifier	Description and details to be published	Type of execution or publication venue	Format
16	Venue of publication	Code used to identify the trading venue and APA publishing the transaction	~~CTP~~ RM, MTF, OTF, APA	~~Trading venue:~~ {MIC} ~~APA: {MIC} where available. Otherwise, 4 character code as published in the list of data reporting services providers on ESMA's website.~~

Table 4: post-trade transparency fields – venue of publication

60. With this clarification, ESMA maintains the proposal of the CP.

Proposal 5: Add a field “Flag” and specify that where a combination of flags is possible, the flags should be reported in the same field, separated by commas

61. A few stakeholders noted that the format and logic of the new field was not aligned with that of the MMT which venues already implement and encouraged ESMA to ensure consistency with MMT.

62. Regarding the format of the field, one stakeholder pointed out that with a comma delimiter, any data representation in comma-separated values (CSV) format will result in the flags being split up at the point of encoding. Hence, they suggested using an alternative delimiter such as space or semicolon, instead of the proposed comma.

63. Taking the above into consideration, ESMA proposes that the new field “Flag” should be reported either as a single column, with all the applicable flags separated by a comma, or in accordance with the FIX MMT structure.

Proposal 6: Add a field “Trading system”, to be populated only for transactions executed on regulated markets, MTF or OTFs.

64. Several stakeholders sought confirmation about the classification of trade registration systems (also referred to as block trading systems or off-order book on-exchange). Some expected a classification as ‘OTHR’ or ‘HYBR’.

65. One stakeholder suggested renaming the field ‘Type of trading’ instead of ‘Type of trading system’ because pre-trade data transparency requirements are a factor of the type of trading activity taking place on a system. According to this stakeholder, this is particularly relevant in the context of CLOBs which cover two different types of trading activity with different pre-trade transparency requirements.

66. In a similar vein, one stakeholder suggested that the field should provide a list for the types of trading protocols within the system, because non-equity systems tend to be a collection of different protocols adhering to the same liquidity pool under the same market identifier code (MIC).

67. One stakeholder suggested that the field was not necessary for CTP purposes. To this point, ESMA recalls that the type of trading system is part of the legally mandated market data to be published by the CTP, in accordance with Article 2(36b)(b)(vi) of MiFIR.

68. ESMA understands that, up until the MiFIR review, MiFIR required pre-trade transparency for all trading systems operated by trading venues, including for block trading systems. As block trading systems are used for the purpose of registering privately negotiated trades, their operation so far required a pre-trade transparency waiver.

69. The reduced scope of pre-trade transparency limited to CLOB and periodic auction trading systems allows trading venues to operate block trading systems for non-equity instruments outside the scope of pre-transparency, hence without requiring a waiver, even if the trading venue separately operates a CLOB (or a periodic auction trading system).

70. Considering the change in the status quo, ESMA is of the view that it should monitor market evolutions, especially with respect to (i) a possible shift of trading towards systems outside the scope of pre-trade transparency and (ii) a possible increase in the use of negotiated trades since those would no longer be required to have a waiver when executed outside of CLOB. As such, ESMA proposes to introduce a flag to Table 3 of RTS 2 for negotiated transactions in non-equity instruments, defined as ‘transactions which are negotiated privately but reported under the rules of a trading venue’. The aim of this flag is to allow market participants to be able to identify such trades and enable ESMA and national competent authorities (NCAs) to monitor broader market development.

<u>Field “Number of transactions”</u>

71. Finally, a field “Number of transactions” should also be included in the table of fields. This field should be populated with the number of transactions executed when deferred publication of details of several transactions in an aggregated form is required under Article 11(3)(b) of MiFIR. After the MiFIR review, supplementary deferrals are only possible for sovereign debt instruments hence the scope of the field is limited to those instruments.

This field was already included in the manual on post-trade transparency[11] and was unintentionally omitted in RTS 2. ESMA has therefore added the field in Table 2 of Annex II of RTS 2 as follows:

#	Field Identifier	Financial instruments	Description and details to be published	Type of execution or publication venue	Format
19	Number of transactions	For sovereign debt instruments	This field should be populated with the number of transactions executed when deferred publication of details of several transactions in an aggregated form is required under Article 11(3)(b) of MiFIR.	RM, MTF, OTF, APA	{DECIMAL-18/17}

Table 5: post-trade transparency fields – number of transactions

4.2 Flags

72. In the CP ESMA consulted on the proposed changes to the table of post-trade transparency fields to be published by trading venues and APAs. The feedback to the consultation and the suggested way forward are presented in the previous section. However, the corresponding revision of the table of flags (Table 3 of Annex II of RTS 2) was unintentionally omitted in the CP but later consulted on in the third consultation package (CP 3)[12].

73. In CP 3, ESMA consulted on four proposals:

- Post trade deferral flags: ESMA suggested defining one new post-trade deferral flags for each of the five categories of transactions for bonds; for exchange traded commodities (ETCs), exchange traded notes (ETNs), SFPs and EUAs suggested to adopt a unique flag for those deferrals, with the code 'DEFR'. The CP 3 further confirmed that existing post-trade flags will not be deleted as they should continue to be used for derivatives, until the next RTS 2 revision.

- Supplementary deferrals flags: ESMA suggested creating new flags for supplementary deferral flags under the new regime for sovereign bonds. Regarding

[11] ESMA74-2134169708-6870 Manual on post-trade transparency
[12] ESMA74-2134169708-7011 MiFIR Review - Consultation Package 3 (equity transparency, volume cap, circuit breakers, SI, the equity CTP, flags under RTS 2)

the existing post-trade supplementary deferrals, ESMA suggested to delete those only applicable to bonds (IDAF, VOLW, COAF) and to keep those flags that apply to derivatives.

- Agency-cross (ACTX) flag: ESMA requested feedback from stakeholders as to whether the flag should be maintained or deleted.

- Matched principal trading (MHPT) flag: in order to clearly identify matched principal trading, it was suggested to introduce a new flag ('MHPT') for all matched principal transactions.

Feedback to the consultation

74. Stakeholders were generally supportive of the proposals regarding flags. They requested sufficient implementation time, ranging from between 9 to 18 months. They also urged ESMA to ensure an alignment between the flags in RTS 2 and Commission Delegated Regulation (EU) 2017/590[13] on the reporting of transactions (RTS 22), both in terms of content and timing.

75. Stakeholders sought confirmation that the changes to post-trade fields and the changes to post-trade flags would be implemented at the same time even if the consultation on both topics was not performed at the same time.

76. In relation to each proposal, they made the following comments:

    - Post-Trade deferral flags: should ESMA take on board certain stakeholders' proposals to amend the post-trade deferral regime (e.g. to have two distinct categories for very large liquid and very large illiquid), the flags should be amended accordingly. Stakeholders spotted an inconsistent name for the very large flag, where ESMA used different names in the main text and in the annex (LLF1 versus LLF3).

    - Supplementary deferral flags: no specific comments were made on this proposal.

    - Agency-cross flag: while a few respondents preferred to keep the existing flag, most of them rather supported the deletion of the flag, indicating it does not add significant value and is rarely used.

    - Matched principal trading flag: there was no clear consensus on the proposal to add a new flag for matched principal trading. Some were unconvinced that it would solve the data quality issue it is intended to address. Others agreed with the addition of the new flag but suggested its application should be broader and clarified, especially regarding

[13] OJ L 87, 31.3.2017, p. 449–478

price differences between buy and sell legs. They urged ESMA to clarify whether to report MHPTs as a single transaction with a clean price or as two separate transactions considering the clean and dirty price. Additionally, they suggested that the MHPT flag should be applied more widely, including to MTFs and XOFF trades.

ESMA's assessment and proposal

77. Regarding the changes to post-trade fields and flags, ESMA confirms its intention to implement those changes at the same time even if the proposals were not included in the same consultation paper. The final proposals on post-trade fields and flags for RTS 2 are included in this final report.

78. Regarding post-trade deferral flags, ESMA has amended the post-trade deferral regime and therefore, the corresponding flags are amended as follows:

POST-TRADE DEFERRAL FLAGS FOR BONDS (EXCEPT ETCS AND ETNS)			
Flag	**Name**	**Type of execution or publication venue**	**Description**
'MLF1'	Medium Liquid flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(a) of this regulation.
'MIF2'	Medium Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(b) of this regulation.
'LLF3'	Large Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(c) of this regulation.
'LIF4'	Large Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(d) of this regulation.

'VLF5'	Very Large Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a very large size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(e) of this regulation.
'VIF5'	Very Large Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a very large size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(e) of this regulation.

Table 6: Post-trade flags

79. Regarding the agency-cross flag, ESMA confirms the deletion of the flag which was supported by most stakeholders.

80. Regarding the matched principal trading flag, ESMA considers that improved data will be available with this new flag. Therefore, considering the mixed views, ESMA proposes to maintain the new flag in the flagging system. The code has been updated to MTCH.

81. Finally, as explained above, ESMA is adding the field negotiated transactions in non-equity instruments, defined as 'transactions which are negotiated privately but reported under the rules of a trading venue' with the code NEGO.

82. The changes to the table "Other flags" compared to the version of the consultation paper are summarised in red below:

Other Flags			
'BENC'	Benchmark transaction flag	RM, MTF, OTF, APA~~,~~ ~~CTP~~	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.
~~'ACTX'~~	~~Agency cross transaction flag~~	~~APA, CTP~~	~~Transactions where an investment firm has brought together two clients' orders with the purchase and the sale conducted as one transaction and involving the same volume and price.~~
'NPFT'	Non-price forming transaction flag	RM, MTF, OTF, APA	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
'TPAC'	Package transaction flag	RM, MTF, OTF, APA	Package transactions which are not exchange for physicals as defined in Article 1.

‘XFPH’	Exchange for physicals transaction flag	RM, MTF, OTF, APA	Exchange for physicals as defined in Article 1.
‘CANC’	Cancellation flag	RM, MTF, OTF, APA	When a previously published transaction is cancelled.
‘AMND’	Amendment flag	RM, MTF, OTF, APA	When a previously published transaction is amended.
‘PORT’	Portfolio trade flag	RM, MTF, OTF, APA	Transaction in five or more different financial instruments where those transactions are traded at the same time by the same client and against a single lot price and that is not a ‘package transaction’ as referred to in Article 1(1).
‘MTCH’	Matched principal trading flag	OTF	Matched principal transactions as set out in Article 4(1)(38) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments
NEGO	Negotiated transaction flag	RM, MTF, OTF	Transactions which are negotiated privately but reported under the rules of a trading venue

Table 7: Post-trade other flags

4.3 Concept of what constitutes real-time

Background

83. In the CP ESMA proposed to maintain the maximum delay of five minutes for the publication of post-trade transparency information. In this context, ESMA also reiterated that the maximum permissible delay should only be used by market participants that, for technical reasons, are not able to achieve real-time publication in a fully automated process.

Feedback to the consultation

84. Almost all respondents agreed with maintaining the current definition and maximum delay of “close to real-time as technically possible” with one respondent claiming that a further reduction from five to one minute would be possible in the future.

85. Only few respondents disagreed to a certain extent with the definition. More specifically, the following remarks were made:

- a couple of respondents called for changing the delay back to 15 minutes especially in relation to transactions involving derivatives.
- one respondent called for a reduction over time of the supplementary deferral for a better use of the CTP.
- a couple of respondents did not agree with the use of the word “technically”.
- one respondent suggested to restrict the concept of “as close to real-time as technically possible” to trades identified in Table 5 under the Formats ‘CLOB’ & 'QDTS' only. For other trading systems the period should be 30 minutes.

ESMA’s assessment and proposal

86. Considering the general agreement to maintain the definition of “close to real-time as technically possible” to five minutes, ESMA does not propose changes. Furthermore, ESMA highlights that this requirement applies to bonds and a separate consultation will cover derivatives.

4.3.1 Reporting of OTC transactions

Background

87. The MiFIR review removed the empowerment under Article 21(5)(c) of MiFIR to define the party that has to make the transaction public and replaced it with the concept of designated publishing entities (DPE) under Article 21a.

88. As a result, MiFIR now clarifies that where one party to a transaction is a DPE, that party will be responsible for making transactions public via an APA. For the cases where neither party, nor both parties, are DPEs, only the entity that sells the financial instrument concerned will be responsible for making the transaction public though an APA.

89. Consequently, ESMA suggested removing the provisions under Article 7(5) and 7(6) of RTS 2. However, it was considered that the requirement to publish two matching trades entered at the same time and for the same price with a single party interposed should be considered a single transaction is still relevant in the context of the new framework. Therefore, ESMA proposed to keep paragraph 7 of Article 7 of RTS 2.

Feedback to the consultation

90. Most of the respondents agree with the changes suggested. However, a few respondents requested further clarifications in the form of questions and answers (Q&As) and asked for a decision tree in the form of a Q&A, outlining the responsible entity for reporting in various scenarios. More specifically, clarification was asked for the scenario where the

party interposing is a DPE and the seller is not a DPE, notably on whether the interposing DPE should make the transaction public taking all reasonable steps to ensure that the transaction is made public as a single transaction. Furthermore, respondents called for a clarification of the definitions and granularity of "classes of financial instruments" and treatment of branches.

91. Last but not least, one respondent made the point that whilst the RTS on package orders will be addressed during the review for derivatives, the current drafting of Article 7(8) in the CP removes the ability to apply the "package deferral" where components of a package transaction may all be reported under a deferral, subject to at least one component of the package meeting a requirement stated in Article 8. They agree with ESMA's recognition that package transactions extend beyond derivatives and therefore believed that it is important to include the "package deferral" for package transactions containing components eligible for a deferral within Article 8a.

ESMA's assessment and proposal

92. Considering that most of the respondents agreed with the changes suggested, ESMA does not change the proposal made to delete paragraphs (5) and (6) from Article 7 of RTS 2.

93. Furthermore, the clarifications requested on the classes of financial instruments should be addressed by the statement published by ESMA in July 2024. ESMA is looking into providing clarifications on the treatment of branches.

94. Moreover, all relevant sections in the Manual of post-trade transparency will be updated as soon as the new rules are applicable.

95. Finally, the amended RTS will ensure the applicability of the package deferral.

5 Post-trade deferrals for bonds, structure finance products and emission allowances

Article 11(4) of MIFIR

"ESMA shall, after consulting the expert stakeholder group established pursuant to Article 22b(2), develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required pursuant to this Article and Article 27g:

[…]

(c) for which structured finance products or emission allowances traded on a trading venue, or classes thereof, a liquid market exists;

(d) what constitutes a liquid and illiquid market for bonds, or classes thereof, expressed as thresholds determined according to the issuance size of those bonds;

(e) for a liquid or illiquid bond, or for a class thereof, what constitutes a transaction of a medium size, of a large size and of a very large size, as referred to in paragraph 1a of this Article, on the basis of a quantitative and qualitative analysis and taking into account the criteria in Article 2(1), point (17)(a), and other relevant criteria where applicable;

(f) in respect of bonds, or classes thereof, the price and volume deferrals applicable to each of the five categories set out in paragraph 1a, applying the following maximum durations:

(i) for transactions in category 1: a price deferral and a volume deferral not exceeding 15 minutes;

(ii) for transactions in category 2: a price deferral and a volume deferral not exceeding the end of the trading day;

(iii) for transactions in category 3: a price deferral not exceeding the end of the first trading day after the transaction date and a volume deferral not exceeding one week after the transaction date;

(iv) for transactions in category 4: a price deferral not exceeding the end of the second trading day after the transaction date and a volume deferral not exceeding two weeks after the transaction date;

(v) for transactions in category 5: a price deferral and a volume deferral not exceeding four weeks after the transaction date;

g) the arrangements for deferred publication in respect of structured finance products and emission allowances, or classes thereof, on the basis of a quantitative and qualitative analysis and taking into account the criteria in Article 2(1), point (17)(a), and other relevant criteria where applicable;

[…]".

96. Article 10 of MiFIR requires market operators and investment firms operating a trading venue to make public the price, volume and time of transactions executed in respect of bonds, SFPs and EUAs traded on a trading venue. This publication should be done as close to real-time as is technically possible.

97. The aim of the transparency regime is to provide for an adequate level of transparency to market participants while at the same time ensuring that liquidity providers are not exposed

to undue risk. As such, the transparency framework provides for the possibility for trading venues (as well as for OTC-transactions) to defer publication of certain transactions which should be calibrated considering their size and liquidity profile. The MiFIR review revamps the current deferral regime applicable to bonds, SFPs and EUAs under Article 11 of MiFIR. For OTC transactions, the post-trade regime under Article 21 of MiFIR remains broadly unchanged and investment firms may defer the publication of OTC-transactions on the same conditions as those set out in Article 11 of MiFIR.

98. Firstly, the new regime removes the concept of the LIS, illiquid and SSTI deferrals, and the requirement for trading venues (and investment firms for OTC transactions) to obtain NCA's prior approval of their proposed arrangements for deferred trade-publication.

99. Secondly, it creates a tailored regime for bonds, by including the possibility to defer publication in accordance with five different categories. In addition, it introduces changes to simplify the current deferral regime for SFPs and EUAs.

100. Finally, it provides for an overhaul of the supplementary deferral regime under Article 11(3) of MiFIR. The new regime, which will only apply when this revised RTS 2 starts applying, only allows for NCAs to allow extended deferrals for sovereign debt instruments issued by that Member State, and only for a limited period of time. For sovereign instruments not issued by a Member State, the decision shall be taken by ESMA.

5.1 Deferral regime for bonds

101. In relation to bonds, the deferral regime under Article 11 of MiFIR introduces five categories of bond profiles applying to each the following maximum durations:

Category	Size	Liquidity	Max. Price Deferral	Max. Volume Deferral
1	Medium	Liquid	15 minutes	
2	Medium	Illiquid	End of trading day	
3	Large	Liquid	End of T+1	one week
4	Large	Illiquid	End of T+2	two weeks
5	Very Large	N/A	Four weeks	

Table 8: Post-trade deferral categories as defined in Article 11 of MiFIR.

102. The empowerment under Article 11(4) of MiFIR tasks ESMA to specify three different core aspects for the development of the bond deferral regime, in accordance with the above table:

a) what constitutes a liquid and illiquid market for bonds;

b) what constitutes a transaction of medium, large and very large size in a liquid and illiquid class of bonds; and,

c) what is the applicable deferral duration for each of the five categories.

103. Under the revised framework for bonds, a **liquid market** is "*a market in which there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed according to the issuance size of the bond*" (revised Article 2(17)(a)(i) of MiFIR).

104. ESMA performed a quantitative assessment using data reported to the Financial Instruments Transparency System (FITRS) for the purposes of the transparency calculations to assess the correlation between liquidity and issuance size. To perform this analysis, ESMA assessed the number of ISINs, trade volume and trade count.

105. In addition, with the objective of simplifying the regime ESMA proposed in the CP to bucket different bond types into three categories: (1) sovereign and other public bonds, (2) corporate, convertible and other bonds, and (3) covered bonds.

106. Considering the analysis performed in the CP, ESMA proposed to set the liquidity thresholds for bonds as illustrated by the below table:

Bond Type	Liquidity threshold
Sovereign and other public bonds	>= EUR 1Bn
Corporate, convertible and other bonds	>= EUR 500Mn
Covered bonds	>= EUR 250Mn

Table 9: Proposal for issuance size liquidity threshold as proposed in ESMA's CP

107. In relation to the practical application of the liquidity assessment, ESMA proposed in the CP that the assessment should be based on the bond issuance outstanding amount, and not the initial issuance size. ESMA considered that the relevant factor when assessing the liquidity of a bond should consider potential changes to the issuance size over time, due to the result of, for example, bond taps or buybacks.

108. To implement these proposed changes to the liquidity assessment for bonds, ESMA proposed to add a new Article 6a and to amend Annex III of RTS 2.

109. In order to implement the new deferral regime for bonds set out in Article 11 of MiFIR, ESMA is tasked with specifying **what constitutes a transaction of medium, large and very large sizes**. The empowerment is specified in Article 11(4)(e) of MiFIR. In addition,

under Article 11(4)(f) of MiFIR ESMA is tasked to specify the **price and volume deferral duration** applicable to each of the five categories, applying specified maximum durations.

110. In order to perform the quantitative analysis, ESMA looked at data available in FITRS for the period between 2021 and 2023 in order to understand the percentage of volumes and number of trades under the same three bond categories: (1) sovereign and other public bonds, (2) corporate, convertible and other bonds and (3) covered bonds.

111. Considering the data analysis provided and having in mind the main objective of increasing post-trade transparency, ESMA proposed the following deferral tables:

Category	Issuance Size	Size	Price Deferral	Volume deferral
N/A	Any	< 5 Mn	Real time	
1	>= 1 Bn	[5Mn – 15Mn[	15 minutes	
2	< 1 Bn	[5Mn – 15Mn[	End of trading day	
3	>= 1 Bn	[15Mn – 50Mn[	End of trading day	One Week
4	< 1 Bn	[15Mn – 50Mn[	End of trading day	Two weeks
5	Any	>= 50Mn	Four Weeks	

Table 10: Sovereign and other public bonds

Category	Issuance Size	Size	Price Deferral	Volume deferral
N/A	Any	< 1 Mn	Real time	
1	>= 500 Mn	[1Mn - 5Mn[	15 minutes	
2	< 500 Mn	[1Mn - 5Mn[	End of trading day	
3	>= 500 Mn	[5Mn – 15Mn[	End of trading day	One Week
4	< 500 Mn	[5Mn – 15Mn[	End of trading day	Two weeks
5	Any	>= 15 Mln	Four Weeks	

Table 11: Corporate, convertible and other bonds

Category	Issuance Size	Size	Price Deferral	Volume deferral
N/A	Any	< 5 Mn	Real time	
1	>= 250 Mn	[5Mn – 15Mn[	15 minutes	
2	< 250 Mn	[5Mn – 15Mn[	End of trading day	
3	>= 250 Mn	[15Mn – 50Mn[	End of trading day	One Week
4	< 250 Mn	[15Mn – 50Mn[	End of trading day	Two weeks
5	Any	>= 50Mn	Four Weeks	

Table 12: Covered bonds

112. In order to implement the regime, ESMA proposed to add a new Article 8a to RTS 2 setting out the maximum deferral durations and the appropriate size thresholds. In addition, ESMA proposed to amend Annex III of RTS 2.

Feedback to the consultation

113. Responses to the CP were split in terms of their agreement with ESMA's proposal, with a slight majority of respondents, mainly buy and sell-side representatives, disagreeing with the approach by considering it too ambitious.

114. The feedback received from respondents who disagreed with ESMA's approach was quite consistent across the board. These respondents were of the view that ESMA should consider other variables when considering the different bond groupings. In particular for sovereign bonds, respondents suggest ESMA should look into including a split by issuer (some respondents argued that ESMA should consider the six main issuers[14], others suggested to split by issuer zone[15]), bond type (overall, fixed coupon bonds seem to be more liquid than inflation linked or floating-rate notes) or duration (feedback received suggests that bonds with a time-to-maturity below (or equal to) 10 years are more liquid than those with a longer duration).

115. In relation to corporate bonds, those responses who disagreed with the approach taken in the CP suggested a split based on bond ratings, with investment grade (IG) bonds being

[14] Overall, the six main issuers considered were: Germany, Italy, France, Spain, the United Kingdom (UK) and the United States (US).
[15] Mainly European Economic Area (EEA), US and UK

considered inherently more liquid than high yields (HY). Other respondents also proposed that as an alternative to ratings, a split between currencies could be envisaged.

116. Respondents who disagreed with the proposal in the CP also suggested a different approach to setting size thresholds. Although there was a broad agreement that a greater level of transparency compared to the current status quo should be achieved, the feedback suggested that ESMA should introduce a different quantitative analysis. These respondents noted that ESMA's analysis did not take liquidity providers' undue risk adequately into account. Overall, respondents agreed that ESMA should introduce a measure that could capture liquidity providers' risk. For this purpose, market participants suggested to use the concept of trade out time[16] (ToT), based on the average daily volumes (ADV), to measure how long it takes for a liquidity provider to trade out of their position.

117. Finally, a majority of respondents suggested that at this stage ESMA should consider setting the maximum allowed deferrals for Category 3 and 4, instead of ESMA's proposal of decreasing to end of day (EOD). These respondents recalled that the empowerment includes the possibility *"to recalibrate the applicable deferral duration with the aim of gradually decreasing it where appropriate"* [17].

118. Overall, respondents argued that should more granular bond types are proposed, it would allow for more ambitious thresholds for highly liquid bonds while better protecting illiquid instruments. This would allow maintaining broadly the same percentages of volume and number of trades being disclosed real-time as those in ESMA's proposal.

119. In addition to the responses received to the CP, Article 11(4) of the revised MiFIR requires ESMA to develop draft RTS to specify the deferral regime after consulting the European Commission's expert stakeholder group on equity and non-equity market data quality and transmission protocols (DEG). The DEG published its advice[18] on 17 October 2024. The main feedback received from the DEG in relation to the bond deferral regime includes a suggestion to re-analyse the data set (potentially with a removal of trades below EUR 100k) and to re-calibrate the transparency regime as proposed in the CP. In particular, the DEG suggests that it is possible to achieve a better balance between the simplicity of the regime and a more granular bond grouping. To achieve this, the DEG suggests ESMA to consider using other variables such as the currency, issuer country, duration, return type and the concept of ADV and ToT. In addition, it further suggests that, for corporate bonds, a distinction between IG and HY should be considered. The DEG also suggests that ESMA should reconsider the large bucket size and EOD price dissemination.

[16] See for example study by the Autorité des Marchés Financiers (AMF).
[17] See Article 11(4) of MiFIR.
[18] For the expert group's full advice please visit Reports by the expert stakeholder group on equity and non-equity market data quality and transmission protocols - European Commission

120. ESMA also received a similar advice from ESMA's SMSG[19]. The advice, published on 17 September 2024, recommended that ESMA should ensure the maximum amount of transparency possible but should re-evaluate the approach to liquidity provider's undue risk. To do so, the SMSG, in line with other respondents and the advice form the DEG, suggests considering an alternative data-based exercise based on the ADV methodology as a proxy of ToT concept. Furthermore, it recommends that ESMA should look at other drivers, such as currency, maturity or credit rating, when assessing the liquidity of a bond. The SMSG also warned that liquidity in bond markets can easily shift between jurisdictions and ESMA should consider the approach taken in the UK by the Financial Conduct Authority (FCA).

ESMA's assessment and proposal

121. With its proposal, ESMA aimed at achieving a simple regime and increase real-time transparency available in the market. The approach would increase market transparency, one of the objectives laid down by the EC when publishing the MiFIR review, and also make the consolidated tape more appealing as more trades would be published real-time and therefore more valuable for users of the tape.

122. Nevertheless, ESMA understands the feedback received which urged to go for a better tailored approach. ESMA has therefore reviewed the regime aiming to increase efficiency whilst keeping overall simplicity. ESMA has tried to review RTS 2 with more efficient thresholds, with higher threshold sizes for those bonds considered to be more liquid and lower for those illiquid bonds.

ADV and methodology

123. In order to perform this analysis, ESMA has looked at data from 2023 that is submitted to ESMA for the purpose of the transparency calculations in order to calculate the ADV.

124. Stakeholders responding to the ESMA consultation used different methodologies to calculate the ADV, leading to significant differences in results. ESMA understands that the methodologies differ in the way in which the denominator of the ADV (i.e. the number of days in the observation period) is calculated.

125. Some used the same denominator for all bonds (e.g. 250 trading days), thereby ignoring the fact that some bonds were unavailable for trading during some days of the observation period (if they were admitted to trading after the observation period start date or terminated before the observation period end date). This tends to underestimate the ADV. Others counted in the denominator only days on which the bond was available for trading and actually traded, thereby ignoring days on which the bond did not trade (zero

[19] Please see Annex III for the SMSG full advice.

volume). This tends to overestimate the ADV, especially for corporate bonds because many of them trade only sporadically, hence have a lot of days with zero volume.

126. ESMA considered both options and sought to calculate ADV in such a way that it reflects trading activity as closely as possible. For that purpose, ADV is calculated for each bond as the sum of volumes over the observation period divided by the number of days on which the bond was available for trading during the observation period, including days with zero volume. ADVs per group are calculated as the average of the individual ADVs of the instruments in that group.

Bond grouping

127. ESMA has then looked at the different characteristics suggested by respondents and analysed whether these influenced the ADV, i.e. whether looking at additional characteristics allow for a better distinction between liquid and illiquid bonds. In addition, once a bond grouping is set, ESMA has analysed the ToT to assess the suitability of the size thresholds in light of liquidity providers' risk. The ToT is calculated by dividing the size threshold by the ADV. It provides an estimation of the time it takes for a liquidity provider to trade out of the position and is considered as an appropriate proxy to capture liquidity providers' undue risk. This analysis was performed for the different bond types initially proposed by ESMA in the CP.

<u>Sovereign bonds and other public bonds</u>

128. For sovereign and other public bonds, ESMA analysed the ADV per issuance size bucket (Figure 1) which shows a significant difference on the ADV between sovereign bonds and other public bonds. Moreover, most volumes on sovereign bonds are traded for issuance sizes above EUR 2Bn.

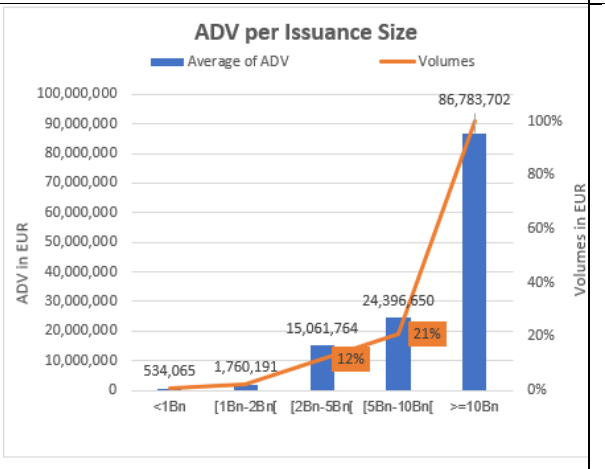
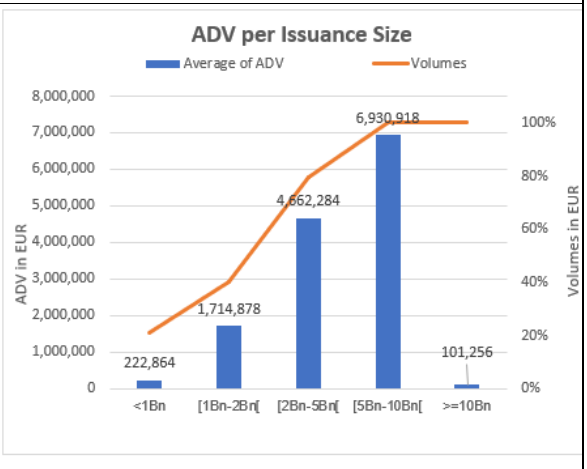
Sovereign Bonds	Other Public Bonds
	

FIGURE 1: AVERAGE DAILY VOLUME PER ISSUANCE SIZE BUCKET OF SOVEREIGN AND OTHER PUBLIC BONDS

129. ESMA also looked at whether the issuer country had a significant effect on the ADV. The first analysis looked at the ADV of sovereign bonds issued by EEA countries, the US and the UK, concluding that group ADV was about 18 times larger than that of other issuers, and represented 95% of total volumes. The second analysis looked into the six most liquid issuers (Germany, Spain, France, Italy, US and UK), where these represented 84% of the volume with an even greater ADV than that looking at EEA as a whole (Figure 2).

Issuer Zone	ADV (EUR)	Volumes (%)
EEA_US_UK	45,642,928	95.29%
Other	2,627,949	4.71%
Grand Total	**26,197,246**	**100.00%**

Issuer Country	ADV (EUR)	Volumes (%)
DE_ES_FR_IT_US_UK	71,226,694	84%
Other	5,489,673	16%
Grand Total	**26,197,246**	**100.00%**

FIGURE 2: AVERAGE DAILY VOLUME OF SOVEREIGN BONDS PER ISSUER COUNTRY OR ZONE

130. Some respondents, the SMSG and the DEG suggested to further drill down into other bond characteristics. Hence, ESMA also analysed whether significant trends could be further identified by introducing the time-to-maturity and coupon type into the bond groupings. The analysis shows that bonds with a remaining maturity of up to (and including) ten years have a significantly higher ADV than those bonds with longer maturities (Figure 3). In addition, the coupon type also seems to influence the ADV, whereby bonds with fixed coupon have a higher ADV (Figure 4).

Remaining Maturity	ADV (EUR)	Volumes
[0-5Y]	27,617,352	53%
]5-10Y]	37,021,575	31%
]10-15Y]	10,592,308	4%
>15Y	15,092,192	12%
Grand Total	**26,197,246**	**100%**

FIGURE 3: AVERAGE DAILY VOLUME OF SOVEREIGN BONDS PER REMAINING MATURITY

Coupon type	ADV	Volumes
Fixed coupon[20]	27,925,092	90%

[20] CFI third letter = F

Zero coupon[21]	21,265,893	5%
Other coupon	13,441,473	5%
Grand Total	**26,197,246**	**100.00%**

FIGURE 4: AVERAGE DAILY VOLUME OF SOVEREIGN BONDS PER COUPON TYPE

131. As a conclusion, the data analysis confirms that the additional characteristics suggested by stakeholders allow for a better distinction between liquid and illiquid sovereign bonds. In addition, data also suggests that a different treatment between sovereign bonds and other public bonds should be considered given the different ADV.

132. Therefore, ESMA is of the view that more granular grouping would allow bonds with similar ADVs to be grouped together and hence allow for a more efficient calibration of the post-trade transparency regime. On that ground, ESMA proposes to split sovereign and other public bonds into the following two groups:

- Group 1: the most liquid bonds i.e. only sovereign bonds, where (1) the issuer is either an EU member state, the US, the UK, or the European Union itself; and (2) the remaining time to maturity is up to and including 10 years; and (3) the coupon is fixed. This group represents around 70% of the total volumes of sovereign and other public bonds, with an average issuance size of EUR 13Bn. For this group, a high issuance size of EUR 5Bn is used to distinguish between liquid and illiquid bonds.

- Group 2: the least liquid bonds i.e. all other public bonds, and any sovereign bonds not included in Group 1. This group represents around 30% of the total volumes of sovereign and other public bonds, with an average issuance size of 4.6Bn. For this group, a lower issuance size of EUR 1Bn is used to distinguish between liquid and illiquid bonds.

133. This grouping methodology allows to achieve significant differences between the ADV of liquid versus illiquid bonds. Indeed, in Group 1 the ADV of liquid bonds is around EUR 131Mn for liquid versus EUR 9Mn for illiquid; while in Group 2 the ADV of the liquid bonds is around EUR 12Mn for liquid versus EUR 0.3Mn for illiquid (Table 13). This distinction allows to calibrate the regime more efficiently.

	Volumes (%)	NbTrade (%)	Count of ISIN (%)	Average of Issuance Size (EUR)	ADV (EUR)
Group 1	**69.6%**	**51.7%**	**16.6%**	**13,016,314,421**	**58,175,700**
Liquid (IS>=EUR5Bn)	61.6%	41.8%	6.7%	30,773,068,437	131,617,817
Illiquid (IS<EUR5Bn)	7.9%	9.9%	10.0%	1,173,739,484	9,194,688

[21] CFI third letter = Z

Group 2	**30.4%**	**48.3%**	**83.4%**	**4,636,995,926**	**4,922,642**
Liquid (IS>=EUR1Bn)	29.2%	45.6%	31.9%	11,660,773,028	12,355,629
Illiquid (IS<EUR1Bn)	1.3%	2.7%	51.4%	277,297,191	308,944
Grand Total	**100.0%**	**100.0%**	**100.0%**	**6,031,762,564**	**13,786,798**

Table 13: sovereign and other public bonds grouping and liquidity determination

134. In addition to setting out the liquidity thresholds, ESMA is also tasked with setting out the size thresholds for the different deferral categories as well as the maximum duration. The analysis performed included an analysis on the ADV for each grouping and respective liquidity profile and the embedded ToT. ESMA considers that the ToT to be a good proxy to measure the time for liquidity providers to unwind their positions and as such to evaluate liquidity providers risk. Nevertheless, the use of ToT should not create a deferral regime in such a way that liquidity providers or market makers trade out of a position "risk-free" and as such the analysis was performed with this in mind.

135. First, considering the groups ADVs and resulting ToT, ESMA suggests increasing the thresholds of liquid bonds and decreasing the thresholds of illiquid bonds, compared to the size thresholds proposed in the CP. Moreover, considering the different ADVs for liquid and illiquid bonds, even in the same grouping, ESMA also suggests setting different size thresholds for liquid and illiquid bonds within the same grouping to achieve a more effective deferral regime. This not only ensures that liquidity providers are further protected for illiquid instruments, but also achieves an overall higher degree of transparency, since most trading happens on highly liquid instruments.

136. When calibrating the size thresholds, ESMA has sought to ensure that the ToT of liquid groups remained of the same order of magnitude to the ToT of illiquid groups, for the same deferral duration. ESMA has adopted a relatively cautious approach in setting thresholds for liquid bonds, setting thresholds at lower levels than those suggested by their ADVs and resulting ToTs. This approach appears justified in light of simultaneous international developments (in particular in the UK), as well as the possibility to further increase the thresholds at a later stage. This results in ToT which are slightly lower for liquid compared to illiquid bonds in the medium and large categories, which ensures that liquidity providers are appropriately protected, and liquidity is not undermined.

137. Finally, considering the feedback received from stakeholders, ESMA considers it reasonable to allow for the maximum duration of each category. ESMA reminds market participants that MiFIR requires ESMA to review the draft RTS with the aim of reducing the applicable deferral duration for the different categories[22].

[22] See second subparagraph of Article 11(4) of MiFIR: "*For each of the categories set out in paragraph 1a, ESMA shall regularly update the draft regulatory technical standards referred to in the first subparagraph, point (f), of this paragraph in order to recalibrate the applicable deferral duration with the aim of gradually decreasing it where appropriate. No later than one year after*

138. Considering the different variables (different liquidity profile between sovereign bond groupings, the objective of achieving a high degree of transparency and the need to protect against liquidity providers' undue risk) ESMA has set a new deferral matrix as shown below.

Group 1 (most liquid sovereign bonds)

Category	Issuance Size (EUR Bn)	Liquidity	Trade Size (EUR mn)	Price Deferral	Volume Deferral	ISIN ADV (EUR Mn)	ToT (days)
1	>=5 Bn	Liquid	[15Mn - 50Mn[	15Min		131.6	0.1 - 0.4
2	<5 Bn	Illiquid	[5Mn - 15Mn[	End of Day		9.2	0.5 - 1.6
3	>=5 Bn	Liquid	[50Mn - 100Mn[	T+1	One Week	131.6	0.4 - 0.8
4	<5 Bn	Illiquid	[15Mn - 50Mn[	T+2	Two Weeks	9.2	1.6 - 5.4
5	>=5 Bn	Liquid	>=100Mn	Four Weeks		131.6	0.8
5	<5 Bn	Illiquid	>=50Mn	Four Weeks		9.2	5.4

the decreased deferral durations become applicable, ESMA shall perform a quantitative and qualitative analysis to assess the effects of the decrease. Where available, ESMA shall use the post-trade transparency data disseminated by the CTP for this purpose. If adverse effects to the financial instruments appear, ESMA shall update the draft regulatory technical standards referred to in the first subparagraph, point (f), of this paragraph to increase the deferral duration back to the previous level."

Group 2 (least liquid sovereign bonds, and all other public bonds)

Category	Issuance Size (EUR Bn)	Liquidity	Trade Size (EUR mn)	Price Deferral	Volume Deferral	ISIN ADV (EUR Mn)	ToT (days)
1	>=1 Bn	Liquid	[10Mn - 20Mn[	15Min		12.4	0.8 - 1.6
2	<1 Bn	Illiquid	[1Mn - 2Mn[	End of Day		0.3	3.2 - 6.5
3	>=1 Bn	Liquid	[20Mn - 50Mn[	T+1	One Week	12.4	1.6 - 4
4	<1 Bn	Illiquid	[2Mn - 5Mn[	T+2	Two Weeks	0.3	6.5 - 16.2
5	>=1 Bn	Liquid	>=50Mn	Four Weeks		12.4	4
5	<1 Bn	Illiquid	>=5Mn	Four Weeks		0.3	16.2

Table 14: sovereign and other public bonds deferrals

139. ESMA tested the impact of this new framework on the overall transparency. As shown in the table below, the revised framework ensures that 34% of the volumes, and 96% of the number of trades, are published real-time; moreover over 50% of the volumes, and 98% of the number of trades, are published by the end of the day.

140. Compared to the CP proposal, the real-time transparency increases due to the increased size threshold of Category 1 (medium liquid). The share of volumes published by the end of the day decrease compared to the CP proposal but remain at a high level, above 50%. This is mainly due to the increase of the price deferral in Category 3 (large liquid) from EoD in the CP to T+1 in the final proposal. Due to the low levels of activity in illiquid bonds, the decrease of the size thresholds for those bonds does not affect the overall transparency while providing better protection to liquidity providers in those less liquid markets.

Price Deferral	**Real Time**	**15Min**	**EoD**	**T+1**	**T+2**	**4W**
Cumulative volume						
Consultation Paper	17%	39%	62%	62%	62%	100%
Final Proposal	34%	50%	53%	71%	72%	100%
Cumulative number of trades						

Consultation Paper	92%	97%	99%	99%	99%	100%
Final Proposal	96%	98%	98%	99%	99%	100%

Table 15: sovereign and other public bonds overall transparency

Corporate, convertible and other bonds

141. As for sovereign, ESMA analysed the ADV of corporate, convertible and other bonds per issuance size bucket (Figure 5) which confirms the relevance of the issuance size as a liquidity proxy: the ADV gradually increases as the issuance size increases. Most volumes on corporate, convertible and other bonds are traded for issuance sizes above EUR 500Mn. In addition, ADVs and issuances sizes of corporate, convertible and other bonds are significantly lower those of sovereign bonds.

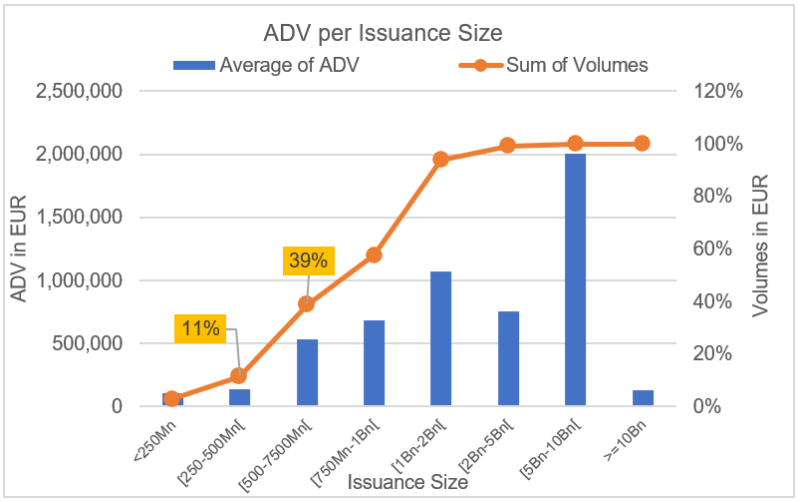


FIGURE 5: AVERAGE DAILY VOLUME PER ISSUANCE SIZE BUCKET OF CORPORATE, CONVERTIBLE AND OTHER BONDS

142. Considering the feedback received from respondents, ESMA further considered whether the additional characteristics proposed (currency and credit rating) led to more consistent bond grouping.

WITH RESPECT TO CURRENCIES, CORPORATE BONDS TRADED IN EUR, USD AND GBP REPRESENT 98% OF THE VOLUMES, WITH AN ADV FIVE TIMES HIGHER THAN BONDS TRADED IN OTHER CURRENCIES. THE RESULTS HOWEVER DID NOT SHOW A SIGNIFICANT DIFFERENCE BETWEEN THE ADV FOR IG AND HY BONDS (

Bond rating	ADV (EUR)	Volumes (%)
Investment Grade	483,015	72%
High Yield	440,966	28%
Grand Total	**471,075**	**100%**

143. Figure 6). In addition, ESMA looked into further metrics, such as the average issuance size and percentage of active days which did not provide evidence of differences in the liquidity profiles of IG and HY.

Bond Currency	ADV (EUR)	Volumes (%)
EUR_USD_GBP	508,083	98%
Other	126,465	2%
Grand Total	**471,075**	**100%**

Bond rating	ADV (EUR)	Volumes (%)
Investment Grade	483,015	72%
High Yield	440,966	28%
Grand Total	**471,075**	**100%**

FIGURE 6: AVERAGE DAILY VOLUME OF CORPORATE, CONVERTIBLE AND OTHER BONDS PER CURRENCY AND RATING

144. The result did not come as a surprise considering the overwhelming feedback received by respondents and the advice from the DEG, which cautioned that the difference between IG and HY bonds would not be seen on metrics such as the ADV. The advice from the DEG suggests that there are meaningful differences in trading characteristics between IG and HY which can be observed by looking at the percentage of volume executed in larger trade sizes. In addition, ESMA observed that there tends to be higher price volatility and wider bid/ask spreads in HY corporate bonds suggesting a distinction between those could deem the deferral regime more efficient. In addition, it should be noticed that the transparency regime in the US and the recently published policy statement from the FCA on bond transparency also make the distinction between IG and HY.

145. Considering the above, ESMA sees merit in separating corporate, convertible and other bonds into two groups, one including IG bonds in the three major currencies (EUR, USD and GBP), while the other should include all other corporate, convertible and other bonds. To ensure a smooth and consistent implementation of the regime ESMA will further clarify how the distinction between IG and HY should be operationalised by publishing Level 3 guidance before the application of the draft RTS.

146. For the liquidity determination, despite the different groupings suggested ESMA keeps its proposal in the CP and therefore the same liquidity size determination should apply equally to all corporate, convertible and other bonds. As such, any bond with an issuance size equal to, or above, EUR 500Mn should be considered liquid. With this issuance size threshold, the ADV of the liquid bonds is roughly five times higher than that of illiquid bonds (Table 16).

	Volumes (%)	NbTrade (%)	Count of ISIN (%)	Average of Issuance Size (EUR)	ADV (EUR)
G3: IG corpo, conv and other in EUR, USD or GBP	**70.0%**	**68.1%**	**62.9%**	**738,558,445**	**532,041**
Liquid (IS >= EUR500Mn)	65.3%	61.0%	39.7%	990,108,118	781,016
Illiquid (IS < EUR500Mn)	4.7%	7.1%	23.2%	308,577,732	106,461
G4: corpo, conv and other not in G3	**30.0%**	**31.9%**	**37.1%**	**582,958,565**	**367,717**
Liquid (IS >= EUR500Mn)	23.2%	24.7%	17.3%	933,622,195	609,121
Illiquid (IS < EUR500Mn)	6.7%	7.2%	19.8%	276,953,887	157,057
Grand Total	**100.0%**	**100.0%**	**100.0%**	**680,829,350**	**471,075**

Table 16: corporates, convertible and other bonds grouping

147. In respect to the size thresholds and deferral duration, ESMA has analysed the ADV and ToT for the different groupings and concluded that the thresholds set in the CP may result in a large proportion of trades and volumes subject to real-time post-trade transparency. Considering the high ToT figures in particular for less liquid bonds, ESMA considers it prudent to, in line with the feedback received by respondents, consider whether liquidity providers' risk should be further protected.

148. As such, ESMA proposes to decrease the thresholds for all bonds that are not IG traded in one of the major currencies. In addition, also considering the feedback received, ESMA proposes to set the deferral duration to the maximum level permitted under Level 1, i.e. increase the price deferral from EOD to T+1 and T+2 for Categories 3 and 4, respectively. Accordingly, ESMA has set a new deferral matrix as shown below.

Group 3 (IG corporate, convertible and other bonds in EUR, GBP, USD)

Category	Issuance Size (EUR Bn)	Liquidity	Trade Size (EUR mn)	Price Deferral	Volume Deferral	ISIN ADV (EUR Mn)	ToT (days)
1	>=0.5 Bn	Liquid	[1.5Mn - 7.5Mn[	15Min		0.78	1.9 - 9.6
2	<0.5 Bn	Illiquid	[0.5Mn - 2Mn[	End of Day		0.11	4.7 - 18.8
3	>=0.5 Bn	Liquid	[7.5Mn - 15Mn[	T+1	One Week	0.78	9.6 - 19.2
4	<0.5 Bn	Illiquid	[2Mn - 5Mn[	T+2	Two Weeks	0.11	18.8 - 47
5	>=0.5 Bn	Liquid	>=15Mn	Four Weeks		0.78	19.2
5	<0.5 Bn	Illiquid	>=5Mn	Four Weeks		0.11	47

Group 4 (corporate, convertible and other bonds not in G3)

Category	Issuance Size (EUR Bn)	Liquidity	Trade Size (EUR mn)	Price Deferral	Volume Deferral	ISIN ADV (EUR Mn)	ToT (days)
1	>=0.5 Bn	Liquid	[1Mn - 5Mn[	15Min		0.61	1.6 - 8.2
2	<0.5 Bn	Illiquid	[0.5Mn - 2Mn[	End of Day		0.16	3.2 - 12.7
3	>=0.5 Bn	Liquid	[5Mn - 10Mn[	T+1	One Week	0.61	8.2 - 16.4
4	<0.5 Bn	Illiquid	[2Mn - 5Mn[	T+2	Two Weeks	0.16	12.7 - 31.8
5	>=0.5 Bn	Liquid	>=10Mn	Four Weeks		0.61	16.4
5	<0.5 Bn	Illiquid	>=5Mn	Four Weeks		0.16	31.8

Table 17: corporate, convertible and other bonds deferrals

149. ESMA tested the impact of this new framework on the overall transparency. As shown in the table below, the revised framework ensures that 24% of the volumes, and 88% of the number of trades, are published real-time; moreover over 60% of the volumes, and 98% of the number of trades, are published by the end of the day.

150. Compared to the CP proposal, the transparency is broadly the same except for the EoD category. Despite decreasing from 80% to 61%, the cumulative share of volumes published by the end of the day remains at a high level. This is mainly due to the increase of the price deferral in Category 3 (large liquid) from EoD in the CP to T+1 in the final proposal.

Price Deferral	Real Time	15Min	EoD	T+1	T+2	4W
Cumulative volume						
Consultation Paper	21%	51%	80%	80%	80%	100%
Final Proposal	24%	58%	61%	74%	76%	100%
Cumulative number of trades						
Consultation Paper	86%	96%	100%	100%	100%	100%
Final Proposal	88%	96%	98%	99%	99%	100%

Table 18: corporate, convertible and other bonds overall transparency

Covered bonds

151. ESMA did not receive extensive feedback relative to covered bonds, apart from the general remarks that further metrics should be looked at for setting the thresholds, in particular the ADV. ESMA has therefore looked at the ADV and the issuance size distribution also for covered bonds (Figure 77).

152. As for the other bond types, the ADV gradually increases as the issuance size increases, confirming the relevance of using the issuance size as a liquidity proxy. 90% of covered bonds volumes are traded on bonds with issuance sizes above EUR 500Mn.

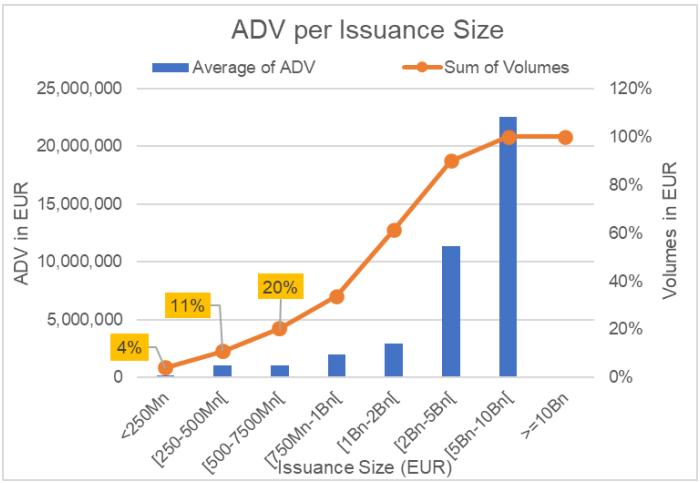


FIGURE 77: AVERAGE DAILY VOLUME PER ISSUANCE SIZE BUCKET OF COVERED BONDS

153. The main conclusion from the analysis supports the argument that an increase of the issuance size threshold would allow for a more efficient calibration of thresholds. Recital 10 of the MiFIR review requires that the issuance size for covered bonds should be determined in accordance with Commission Delegated Regulation (EU) 2015/61 [23]. Therefore, the liquidity determination for the bond deferral regime for covered bonds should set at an issuance size of EUR 500Mn or 250Mn. Provided that setting a threshold of EUR 250Mn as proposed in the CP would essentially render the illiquid bucket irrelevant (as it caters for less than 5% of the total volume), ESMA increased the threshold to EUR 500Mn.

154. Using such issuance size threshold, the ADV of liquid bonds is around ten times higher than that of illiquid bonds (Table 19).

[23] OJ L 11, 17.1.2015, p. 1–36

	Volumes (%)	NbTrade (%)	Count of ISIN (%)	Average of Issuance Size (EUR)	ADV (EUR)
G5: Covered bonds	**100.0%**	**100.0%**	**100.0%**	**585,977,368**	**1,580,972**
Liquid (IS>=EUR 500Mn)	89.0%	79.8%	45.9%	1,113,301,476	2,979,464
Illiquid (IS<EUR 500Mn)	11.0%	20.2%	54.1%	138,090,941	393,152
Grand Total	**100.0%**	**100.0%**	**100.0%**	**585,977,368**	**1,580,972**

Table 19: covered Bonds grouping and liquidity determination

155. In line with the other bond categories, given the different ADV categorisation ESMA slightly decreased the thresholds for the illiquid categories and increased them for the most liquid buckets. Moreover, in line with the approach taken for corporate bonds, ESMA proposes to increase the price deferral from EOD to T+1 and T+2 for Categories 3 and 4 respectively, in line with the feedback received to the consultation. Accordingly, ESMA has set a new deferral matrix as shown below.

Group 5 (covered bonds)

Category	Issuance Size (EUR Bn)	Liquidity	Trade Size (EUR mn)	Price Deferral	Volume Deferral	ISIN ADV (EUR Mn)	ToT (days)
1	>=0.5 Bn	Liquid	[5Mn - 20Mn[	15Min		3.0	1.7 - 6.7
2	<0.5 Bn	Illiquid	[1Mn - 5Mn[	End of Day		0.4	2.5 - 12.7
3	>=0.5 Bn	Liquid	[20Mn - 50Mn[	T+1	One Week	3.0	6.7 - 16.8
4	<0.5 Bn	Illiquid	[5Mn - 10Mn[	T+2	Two Weeks	0.4	12.7 - 25.4
5	>=0.5 Bn	Liquid	>=50Mn	Four Weeks		3.0	16.8
5	<0.5 Bn	Illiquid	>=10Mn	Four Weeks		0.4	25.4

Table 20: covered bonds deferrals

156. In relation to the overall impact on transparency, the final proposal achieves a very slightly lower percentage of volume published real-time, mainly due to the reduction of the size thresholds for illiquid bonds. This change is considered important given the high ToT for the illiquid buckets. Furthermore, taking into consideration the large ToT also for liquid instruments in larger sizes, the increase in the price deferral duration to T+1 (from EOD proposed in the CP) results in lower percentage of transparency by EOD. Nevertheless, in line with the proposal in the CP, a very small number of trades (only 2%) can benefit from the four-week deferral.

Price Deferral	Real Time	15Min	EoD	T+1	T+2	4W
Cumulative volume						
Consultation Paper	13%	28%	61%	61%	61%	100%
Final Proposal	11%	29%	31%	56%	57%	100%
Cumulative number of trades						
Consultation Paper	89%	95%	99%	99%	99%	100%
Final Proposal	87%	93%	95%	98%	98%	100%

Table 21: covered bonds overall transparency

5.2 Deferral regime for structured finance products

Background

157. The revised MiFIR requires ESMA to specify the conditions for deferred publications for SFPs. The empowerment provides more flexibility indicating that the deferral regime should be based on a quantitative and qualitative analysis, taking into account the criteria relevant for the definition of a liquid market and other relevant criteria where applicable. To recall, the performance of the liquidity test throughout the years of application of MiFID II / MiFIR has consistently resulted in classifying SFPs as not having a liquid market.

158. In the CP ESMA proposed: (i) to create a simple regime with static determination of liquidity; (ii) to keep similar arrangements for deferred publication as those under the current RTS 2 (i.e. the same size threshold for both pre- and post-trade purposes of illiquid SFPs and the same deferral duration period (no longer than 19.00 local time on the second working day after the date of the transaction)).

159. ESMA also suggested in the CP to consider all SFPs as illiquid.

Feedback to the consultation

160. Respondents agreed that SFPs are illiquid but considered that a more tailored approach for SFPs is needed, especially in case of LIS transactions. As regards static determination of thresholds mixed feedback was received with some respondents disagreeing with the approach whereas others considered the static approach should incorporate a mechanism for future re-evaluation of SFPs liquidity to account for potential market evolution. The same considerations were provided as regards keeping the current RTS 2 provisions.

161. In addition, some respondents noted that currently all SFPs are deemed illiquid and hence benefit from the standard T+2 deferral under the illiquid deferral. In addition, in most jurisdictions SFPs also benefit from the supplementary deferral allowing for volume omission or weekly aggregation. These respondents noted that under ESMA's proposal trades under EUR 1Mn would be required to be made public in real-time.

162. ESMA also received advice from the DEG on SFPs. The group considers that in light of SFPs being considered illiquid and hence benefit from the deferral for illiquid transactions and most NCAs allow for a supplementary deferral, almost all transactions benefit from a T+2 price deferral and an extended volume omission of four weeks. The DEG suggested that ESMA should review the approach taken in the CP.

ESMA's assessment and proposal

163. ESMA agrees that a more tailored regime should be set for SFPs. Currently, in light of the quantitative assessment all SFPs are considered not to have a liquid market, meaning that almost all trading under these instruments benefit from deferred publication[24] to T+2. Moreover, in the vast majority of jurisdictions a supplementary deferral to allow volume omission is authorised[25]. Therefore, under the current regime SFPs effectively benefit from a price deferral to T+2 and volume omission up to 4 weeks.

164. As such, under the new approach ESMA suggests aligning more closely to the current status quo, i.e. allowing for all transactions on SFPs to benefit from a deferral given its liquidity profile. Therefore, ESMA proposes that price should be disclosed by T+2 whilst volume should benefit from a further deferral of two weeks. This proposal aims to align this regime with the applicable Category 4 for bonds.

165. ESMA suggests amending the new Article 6a of RTS 2 accordingly.

5.3 Deferral regime for emission allowances

Background

166. Under the existing framework and the current liquidity determination, EU EUA (i.e. those reported with the type 'EUAE' in field 11 "Emission Allowances sub type") have a liquid market. With a view of creating a simpler regime with static determination of liquidity for the asset classes covered in the consultation, and based on the data analysis provided, ESMA suggested maintaining the outcome of the current framework thereby determining that EU EUA reported with the type 'EUAE' have a liquid market.

[24] Only three jurisdictions do not authorise for deferred publication for transactions in illiquid instruments.
[25] Only six jurisdictions do not allow for the omission of the publication of the volume during an extended period.

167. To the best of ESMA's knowledge at the time of drafting, instruments qualifying as EUA under C(11) of Annex I of MiFID II and with a type different from 'EUAE' are not available for trading in the EU. However, they could emerge in the future, notably with the creation of a second European Trading System (ETS 2) for buildings, road transport and additional sectors, which is expected to become operational in 2027[26]. As a result, for the time being, EUA with a type different from 'EUAE' should be assessed as not having a liquid market.

168. To implement this proposal, ESMA suggested adding the static determination of liquidity for EUA to the new Article 6a and amending Table 12.1 of Annex III of RTS 2 as follows:

	Asset class — Emission Allowance
Sub-asset class	**Liquidity determination**
European Union Allowances (EUA) RTS2#3 = EMAL and RTS23#37= EUAE	EU emission allowances are considered to have a liquid market
Any other Emission Allowances RTS2#3 = EMAL and RTS23#37 <> EUAE	Any other emission allowances are considered not to have a liquid market

Table 22: Liquidity determination for emission allowances as proposed in the CP

169. In relation to the pre- and post-trade LIS and SSTI thresholds for EUAs, based on the analysis provided by ESMA in the CP, ESMA suggested to add to the new Article 8a the provisions setting out the conditions for deferred application for EUAs, including the maximum deferral period to be no longer than 19.00 local time on the second working day after the date of the transaction. In addition, the pre-trade LIS and post-trade size thresholds were defined in Table 12.1 of Annex III as follows:

Asset class — Emission allowances		
Sub-asset class	**Pre-trade LIS**	**Post-trade size threshold**
European Union Allowances (EUA)	5 lots	25 lots

[26] https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets/ets-2-buildings-road-transport-and-additional-sectors_en

Any other emission allowances	Any size	Any size

Table 23: Emission allowances — pre-trade LIS threshold and post-trade size threshold as proposed in the CP

Feedback to the consultation

170. The proposal for the transparency for EUA presented in the CP did not attract a lot of responses from stakeholders. Those few respondents that provided a view supported ESMA's proposals on the liquidity determination and pre- and post-trade size thresholds.

171. Nevertheless, one respondent noted that the thresholds for EUA should be set in tonnes of CO2 (tCO2) rather than lots, as tCO2 is the common unit of measurement for EUAs. In addition, this respondent proposed to lower the pre-trade thresholds to 2 lots (2,000 tCO2). In relation to the deferral regime, this respondent was of the view that ESMA should set the threshold at a level corresponding to the 80% percentile and should increase the deferral period from T+2 to 4 weeks.

ESMA's assessment and proposal

172. ESMA agrees with the proposal to set the thresholds in tCO2 rather than in lots (same suggestion has been made in the context of pre-trade transparency waivers). Since under the current framework, liquidity thresholds are set in tCO2 ESMA also sees no reason to change the current approach in this respect. ESMA has therefore amended Table 12.1 of Annex III, replacing 5 lots by 5,000 tCO2 and 25 lots by 25,000 tCO2.

173. In relation to the pre- and post-trade thresholds, and considering the overall positive feedback received, ESMA did not amend its initial proposal as presented in the CP. Moreover, ESMA notes that as part of its mandate, it may perform a periodic reassessment of the deferral regime (not limited to EUA but in general).

5.4 Deferral regime for ETCs and ETNs

Background

174. In the CP ESMA suggested an approach similar to that of current RTS 2 and continue to classify ETCs and ETNs as bond types. In addition, ESMA considered it appropriate to move to a static approach in line with the proposal for other non-equity instruments.

175. In relation to the liquidity determination ESMA proposed to classify all ETCs and ETNs as illiquid. Moreover, ESMA suggested setting the LIS pre-trade threshold at EUR 1Mn. Finally, in relation to the deferral regime, the proposal suggested keeping the maximum available deferral to T+2 and set the post-trade threshold to EUR 50Mn.

Asset class — Bonds (ETC and ETN bond types)
For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied

all ETCs and ETNs are considered not to have a liquid market

Asset Class	Pre-trade LiS threshold	Post-trade Size threshold	Maximum price and volume deferral
Exchange Traded Commodities (ETCs)	EUR 1 000 000	EUR 50 000 000	End of T+2
Exchange Traded Notes (ETNs)	EUR 1 000 000	EUR 50 000 000	End of T+2

Table 24: deferral regime for ETCs/ETNs as proposed in the CP

Feedback to the consultation

176. ESMA requested feedback from stakeholders in three different areas – whether respondents agreed to classify ETCs and ETNs as bond types; their views on the liquidity determination; and, whether respondents agreed to the proposed pre- and post-trade thresholds.

177. In relation to the classification of ETCs and ETNs as bond types, respondents that provided a view agreed with ESMA's proposal, especially from a legal standpoint. Nevertheless, respondents overall highlighted that from a trading perspective these instruments trade very much like ETFs and therefore should have the same transparency regime.

178. In addition, some respondents provided their views in relation to the inclusion of ETCs and ETNs in the consolidated tape. In particular, trading venues responding to this question remarked that ETCs and ETNs should be part of the ETF tape and not the bond tape.

179. As for the liquidity determination, respondents unanimously agreed with classifying ETCs and ETNs as illiquid.

180. Finally, ESMA received mixed feedback in relation to the proposed pre- and post-trade thresholds.

181. Those respondents that disagreed with ESMA's proposal consider that further analysis should be conducted. Most of these respondents requested further alignment with ETFs, in particular that the deferral duration should be reduced from the proposed T+2 to the end of the trading day. However, one respondent provided feedback in the opposite direction,

considering that the maximum deferral duration for ETCs and ETNs should be aligned with the longest possible duration for bonds (i.e. four weeks).

182. Finally, one respondent that agreed with the thresholds proposed by ESMA, nevertheless considered that in order to align with ETFs the pre-trade threshold should be increased to EUR 3Mn.

ESMA's assessment and proposal

183. Considering the feedback received from stakeholders, ESMA keeps its classification of ETCs and ETNs as bond types and keeps its proposal to consider all ETCs and ETNs as illiquid instruments.

184. However, in line with the approach taken for SFPs, ESMA further looked at trading in these instruments and considers that a change to the approach proposed in the CP is warranted. Currently, in light of the quantitative assessment all ETCs/ETNs are considered not to have a liquid market, meaning that almost all trading under these instruments benefit from deferred publication[27] to T+2. Moreover, in the vast majority of jurisdictions a supplementary deferral to allow volume omission is authorised[28].

185. Therefore, under the current regime ETCs/ETNs effectively benefit from a price deferral to T+2 and volume omission up to 4 weeks. Considering that the current ESMA proposal in the CP would mean that any trade in ETCs/ETNs would have to be made post-trade transparent real-time up to the size thresholds of EUR 50Mn, ESMA considers it prudent at this stage to further align with the current status quo.

186. As such, ESMA proposes to amend RTS 2 so that ETCs/ETNs benefit from a price deferral of T+2 and a volume deferral up to 2 weeks to cater for these instruments' liquidity profile. This proposal aims to align this regime with the applicable Category 4 for bonds. ESMA suggests amending the new Article 6a of RTS 2 accordingly.

6 Supplementary deferrals

Article 11(4) of MIFIR:

"ESMA shall, after consulting the expert stakeholder group established pursuant to Article 22b(2), develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required pursuant to this Article and Article 27g:

[27] Only three jurisdictions do not authorise for deferred publication for transactions in illiquid instruments.
[28] Only five jurisdictions do not allow for the omission of the publication of the volume during an extended period.

[…]

(h) in respect of sovereign debt instruments, or classes thereof, the criteria to be applied when determining the size or type of a transaction in such instruments for which decisions can be taken pursuant to paragraph 3.

[…]".

Background

187. The MiFIR review introduces a number of changes to the current supplementary deferral regime under MiFIR. Firstly, it limits the possibility for NCAs to supplement the deferral period to sovereign bonds. Secondly, the decision should be made by the NCA of a Member State with regard to sovereign debt instruments issued by that Member State. For sovereign debt instruments not issued by a Member State, this decision shall be taken by ESMA.

188. The supplementary deferral under the new MiFIR regime allows, for sovereign debt instruments:

a) The omission of the publication of the volume of an individual transaction for an extended time period not exceeding six months; or

b) the publication of the details of several transactions in an aggregated form for an extended time period not exceeding six months.

189. The empowerment under Article 11(4) of MiFIR tasks ESMA to set the criteria to be applied when determining the size or type of a transaction in sovereign bonds.

190. Since the Level 1 already clarifies the maximum deferral time, for the purposes of Article 11(3)(a) of MiFIR, ESMA clarified in the CP that no Level 2 requirements specifically related to this provision are needed. It should nevertheless be noted that six months is the maximum deferral and NCAs could set different deferral durations.

191. Regarding the publication of transactions in an aggregated form under Article 11(3)(b) of MiFIR, ESMA suggested in the CP keeping the approach as it currently stands in RTS 2, i.e. transactions benefitting from an extended deferral should be aggregated by the respective trading venues and APAs over the course of one calendar week and should be published on the following Tuesday before 9.00 CET.

192. In addition, the content of the aggregated data to be published should also remain unchanged. Therefore, the publication of aggregated data should include the following information:

- the weighted average price;
- the total volume traded as referred to in Table 4 of Annex II;
- the total number of transactions.

193. Moreover, ESMA considered in the CP the aggregation regime provided in Article 11(3)(b) of MiFIR to be overly complex, difficult to implement and providing limited added value.

Feedback

194. Almost all participants considered that the supplementary deferral option provided by Article 11(3)(a) of MiFIR offers great simplicity. These respondents also urged for a consistent approach between NCAs. In addition, some respondents suggested that ESMA should keep a list of the decisions taken by NCAs in this context.

195. In relation to Article 11(3)(b) of MiFIR, respondents noted that it provides for little benefit, it is difficult to implement and unhelpful for the CTP. However, respondents suggested that if the aggregation option is granted, further guidance is needed to clarify how it should work.

196. Finally, some respondents noted that despite ESMA noting that supplementary deferrals should continue to apply to derivatives until the application of the deferral regime for derivatives, the draft RTS does not provide for such possibility as the whole Article 11 of RTS 2 was deleted.

ESMA's assessment and proposal

197. In relation to the scope of the supplementary deferral regime, the supplementary deferral under the revised MiFIR will only be available for the specific bond type of sovereign bonds. However, in relation to derivatives, ESMA confirms that supplementary deferrals should continue to be available for this asset class, until the empowerment under Article 11a(3) of MiFIR is fulfilled. Therefore, ESMA amends Article 11 of RTS 2 to limit the application of the old regime to derivatives. In addition, it adds a new Article 11a to RTS 2 for the purpose of implementing the new deferral regime for sovereign bonds.

198. With regard to the application of the supplementary deferral regime for sovereign bonds, ESMA reiterates that, in line with the responses received to the consultation, it considers the aggregation regime provided in Article 11(3)(b) of MiFIR to be overly

complex, difficult to implement and providing limited added value. Therefore, in relation to the decision to be taken by ESMA under Article 11(3) of MiFIR ESMA considers that the volume omission option provided under Article 11(3)(a) of MiFIR would be the most effective approach out of the two available options. Nevertheless, ESMA will continue to discuss this, focusing in particular on the appropriateness of the supplementary deferral maximum duration, and will publish its decision in due course.

199. ESMA will continue its discussions with NCAs in its endeavour to achieve a consistent approach amongst Member States. ESMA will also publish a list of the decisions taken by NCAs as required by MiFIR.

7 Temporary suspension of transparency obligation

Article 11(5) of MIFIR

"ESMA shall develop draft regulatory technical standards to specify the following:

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

[…]".

Background

200. Despite the new elements introduced by the MiFIR review, including the new definition of liquidity for bonds, ESMA did not consider that the conditions for triggering the temporary suspension should change and should only be used in extraordinary circumstances. Therefore, ESMA did not propose any changes to the requirements currently under RTS 2 which provide that the liquidity suspension could be triggered following a drop in liquidity during the last 30 days compared to the average monthly volume for the preceding 12 full calendar months:

- by 60% for instruments or classes of financial instruments which have a liquid market;
- by 80% for instruments or classes of financial instruments which do not have a liquid market.

Feedback to the consultation

201. All respondents supported the proposal not to make any changes. However, one respondent considered that those volume calculations could suffer inaccuracies or inconsistencies due to reporting errors or omissions that could affect the way calculations are carried out and as a result of any other data quality issues. This respondent asked for clarification how the impact of any such errors and data quality issues could be addressed to ensure that calculations are not skewed due to that reason and whether ESMA intends to have any monitoring role in the process.

ESMA's assessment and proposal

202. ESMA considers that the calculations of the volume of an instrument at EU level, especially in the context of the bond market, would be requested to ESMA which owns such data for the purpose of the transparency calculations. The ESMA IT systems for such purposes are subject to continuous data quality monitoring and corrections. Therefore, no additional provision seems necessary for this specific scope for which ESMA has no mandate in this specific context. As a result, considering the support for the proposal in the CP, ESMA does not proposes changes to such provisions.

Final Report on the RTS on RCB

8 Introduction and legal mandate

203. The provision of market data is essential for market participants to obtain an overview of trading opportunities and trading activity. Therefore, MiFID II/MiFIR introduced provisions to ensure that market data is available to market participants in an easily accessible, fair and non-discriminatory manner, to decrease the average cost of market data and to make data available to a wider range of market participants.

204. Considering the importance of market data provision, the MiFIR review acknowledged that the provisions in Article 13 of MiFIR did not appear to deliver on their objectives.

205. In this sense, Article 1(12) of the MiFIR Review amends Article 13 of MiFIR by specifying, among others, the duty for market operators and investment firms operating a trading venue, APAs, CTPs and SIs ('market data providers') to (i) make available to the public the relevant market data[29] on a reasonable commercia basis (RCB) including unbiased and fair contractual terms, (ii) ensure non-discriminatory access to the relevant information and (iii) specify that the relevant data policies should be made public free of charge and in a manner which is easy to access and to understand.

206. Additionally, Article 13(5) of revised MiFIR sets a series of mandates for ESMA related to the provision of market data. To fulfil those mandates in May 2024 ESMA published a consultation paper which sought stakeholders' views on, amongst others, a proposed draft RTS on RCB.

207. This final report is based on the feedback received from stakeholders to the consultation paper[30] and the advice from ESMA's Securities and Markets Stakeholder Group (SMSG)[31].

208. The advice from the SMWG was thereby overall supportive of ESMA's proposals and stressed in particular the importance of ensuring a common interpretation and supervisory convergence between NCAs on the application of the RCB framework once the RTS has entered into force.

209. Given the received feedback, ESMA acknowledges that the implementation of the RTS by market participants may require a longer than usual time period. ESMA has thus revised the RTS's application period, proposing it is set 6 months after entry into force (i.e. 9 months after its publication in the official Journal of the EU).

[29] The data in scope is the one included in Articles 3, 4, 6 to 11a, 14, 20, 21, 27g and 27h of MiFIR
[30] The responses to the consultation paper are available for further information on the ESMA website.
[31] The SMSG's advice from 17 September 2024 is available on ESMA's website.

210. The report is organised by providing in each section: i) a short overview of the reasoning underpinning the proposals put forward in the CP, ii) a summary[32] of the feedback received from stakeholders on those proposals and iii) ESMA's proposed way forward.

9 Fees for market data

9.1 Proposal in the CP

211. This section discusses the proposal made in the CP with respect to the mandate in Article 13(5)(e) of revised MiFIR which requires ESMA to specify the elements to be included in the calculation of costs and margin. As specified in Article 13(3) of revised MiFIR the level of fees shall be determined by the cost of producing and disseminating market data and a reasonable margin. Both costs and margin are key to determine the overall fees for market data on an RCB.

Costs of producing and disseminating market data for the purpose of calculation of market data fees

212. In the CP ESMA proposed to take a granular approach with respect to the identification of the costs attributable to market data by establishing cost categories which are relevant to the production and dissemination of market data.

213. ESMA noted that data providers incur a diverse range of costs when operating their businesses[33].Considering this variety of costs ESMA deemed that to establish fees for market data on an RCB it is paramount to clearly differentiate the costs attributable to the production and dissemination of market data from costs attributable to any other business the data provider might undertake.

214. ESMA proposed to categorise the main costs directly associated with the production and distribution of market data as those attributable to: (i) infrastructure, (ii) connectivity, (iii) personnel employed, (iv) financial costs and (v) other administrative costs. The CP included a list of examples of elements to be included in each cost category.

215. In the CP ESMA acknowledged that different data providers have different business models in the production and dissemination of market data[34].ESMA proposed an approach

[32] Annex I contains more encompassing summaries of the responses received.
[33] As an example, TVs sustain a variety of costs associated to their business in terms of aggregation of buyers and sellers, including costs related to technology and infrastructure, software development, sales and marketing, analytics, quantitative research, operations, compliance, and other functions.
[34] As an example, some data providers (notably TVs) offer additional and diverse services beyond the production and distribution of market data, whilst others (e.g., APAs and the CTPs) focus their main activity on the distribution of market data.

in the draft RTS which was meant to be sufficiently flexible to be adapted to the specificity of the business model of each data provider.

216. More specifically, it was clarified that when resources[35] are deployed to provide multiple services not solely limited to the production and distribution of market data the costs of those resources should be appropriately apportioned. Apportioning should be done considering how much of each asset or resource is used to contribute towards the production and dissemination of market data.

217. The draft RTS intentionally did not include audit costs among the costs of production and distribution of market data. It was considered that audit costs are not directly related to the business of producing and disseminating market data, therefore such costs should be borne by the data provider and not by data clients. The draft RTS nevertheless included provisions which regulate audit practices in the context of data provision and dissemination.

Margin for the purpose of calculation of market data fees

218. This section summarises the approach proposed in the CP on setting an appropriate reasonable margin for market data. In the CP ESMA proposed to establish the elements to be considered in the calculation of the reasonable margin through a principle-based approach. ESMA noted that setting a uniform margin applicable to all market data providers posed challenges, also considering that ESMA is not endowed with a price competition mandate to set explicit margins.

219. ESMA proposed principles which aimed to strike a balance between the need to ensure the production and dissemination of market data remains a viable business and the need to ensure as wide as possible access to data for market participants.

220. Article 3 of the draft RTS proposed that data providers should: (i) set such margin in a way that does not disproportionately exceed the costs of data provision and (ii) in cases where the data provider offers other services unrelated to the provision and distribution of market data, set the margin in a way that reasonably compares to the overall margin of the business, including data provisions. The margin should be expressed as a percentage of costs.

221. Additionally, Article 3 of the draft RTS stated that the margin should be set in a manner promoting fees for market data which enable data access to the maximum number of users.

[35] E.g. infrastructure, equipment, personnel, …

222. Based on the previous considerations and to promote a common approach providing for the transparency required to understand the price setting of market data, ESMA proposed that the margin for market data provision should be intended as the net profit achieved by the data provider. The net profit should be calculated by netting the revenues gained from market data provision of the total expenses related to the business of market data provision and dissemination calculated according to Article 2 of the draft RTS.

9.2 Feedback to the consultation

General approach to specify the costs and margin attributable to the production and distribution of market data

223. In the CP ESMA asked to stakeholders if they agreed with the general approach used to specify the costs and margin attributable to the production and distribution of market data. Respondents expressed diverging views regarding the proposed approach.

224. Some respondents expressed support for the general approach, emphasising the importance of transparency and clarity in market data pricing. Those respondents advocated for the explicit inclusion in the draft RTS of a reference to joint costs in the production and dissemination of market data and asked for flexibility in cost allocation due to the diverse business models used by various data providers. Several respondents asked for the inclusion of audit costs in the calculation of the cost of market data and asked to keep the 'other cost' category, explaining it is essential for the allocation of costs which are not foreseen in other categories. Several respondents supported the principle-based approach in specifying margins and stressed the importance of ensuring the proposed approach is sufficiently flexible to allow the business of data provision to remain viable.

225. Another group of respondents supported the overall approach but expressed concerns about the inclusion of joint costs, noting that only costs directly attributable to market data should be considered, based on the view that market data is a 'by-product' of trading and that a joint cost approach could lead to the inclusion of costs not directly related to market data production. Those respondents additionally asked to further specify the costs categories, possibly including a more granular classification of costs and asked for the deletion of the 'other cost' category or for further specifying which type of costs could be included in such category.

226. A number of respondents stressed the importance of strong regulatory oversight and enforcement, including follow up review and supervisory convergence work carried out by ESMA, to ensure compliance with the RCB framework. Respondents additionally emphasised the importance of ensuring fees are not based on the value data represent to users.

227. One respondent highlighted the importance of ensuring proportionality in the application of RCB principles to small market operators, including SME GM operators who typically offer data with low or negative margins to promote interest and investment in the issuers offered for trading. The respondent highlighted that some administrative requirements would impose costs which could be disproportionate considering the margin applied to market data provision.

Costs of producing and disseminating market data for the purpose of calculation of market data fees

228. In the CP ESMA asked stakeholders if they agreed with the proposed approach to cost calculation based on the identification of different cost categories attributable to the production and dissemination of market data. The feedback to the consultation indicated that there is overall support to the proposed approach to cost calculation. Nevertheless, the responses highlighted that stakeholders' views are polarised in two contrasting groups.

229. One group of respondents asked to introduce a more standardised approach to cost classification including more prescriptive guidance with respect to which costs should be included in each category. Those respondents shared the view that market data is a by-product of trading, and the costs attributable to trading activities should be distinguished from costs related to the production and dissemination of market data. Amongst other elements raised those respondents stressed that costs related to taxes should not be included in the calculation of market data costs.

230. Another group of respondents supported the current cost categories, noting that it is essential that the cost categorisation envisaged in the draft RTS is not too prescriptive as it would need to be used by data providers with a variety of business models. Respondents stressed the importance of keeping the "other cost category" contemplated in Art. 2(6) of the draft RTS to avoid a 'one size fits all approach' with respect to cost calculation. This group of respondents expressed the view that market data is a joint product of trading and sufficient flexibility to allocate joint costs should be granted to data providers to ensure effective cost allocation. Those respondents further argued that audit costs should be included in the calculation of the cost of market data.

231. A few respondents generally opposed the cost-based approach, either stating that the proposed approach could lead to price regulation and hinder innovation or expressing concerns on its practical implementation and on possible risks of inconsistent application across market data providers.

232. Few respondents highlighted an inconsistency in the terminology used in the draft RTS, stressing that the two different words 'personnel' and 'human resources' have been used to refer to staff involved in the production and dissemination of market data. Those respondents asked for clarifications regarding the terminology used.

233. In the CP ESMA additionally asked market participants if they agreed with respect to the proposal of apportioning costs based on the use of resources for each service provided. Respondents seemed to overall agree with the proposed methodology. Nevertheless, also in this case respondents had split views and recommended targeted adjustments accordingly.

234. One group of respondents highlighted that the cost accounting methodologies should allow for the inclusion of joint costs which may be shared with other departments (e.g. legal department or HR). Additionally, some respondents asked to provide clarity on the calendar terms on which costs should be calculated.

235. Another group of respondents expresses mixed views. Those respondents either supported a 'by-product' approach which would exclude joint costs from the calculation of the cost of market data or expressed the view that it would be necessary to provide further guidance on how costs should be apportioned. The latter additionally argued that the inclusion of costs and their allocation keys should be supervised and supported by evidence. Along these lines some respondents recommended ESMA to undertake supervisory convergence work as a follow up to the RTS on RCB.

236. Few respondents, who expressed views against the proposal to apportion costs based on usage, argued that such approach is overly onerous and can potentially lead to increased administrative burdens without corresponding benefits.

Margin for the purpose of calculation of market data fees

237. In the CP ESMA asked stakeholders if they agreed that the net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees and if they would include additional principles to define when a margin can be considered reasonable. Stakeholders had a diverse range of opinions.

238. A group of respondents strongly agreed with the choice of having a principle-based approach and agreed with the use of net profit as a representative measure. Some of those respondents stressed that business viability should be ensured and that margins should be set in a way that does not harm data provision. Respondents additionally called for sufficient flexibility in setting margins as to avoid a sharp price increase for smaller clients and retail clients.

239. Several respondents proposed to use operating profit as a proxy of the margin instead of net profit. This view supports the use of the operating profit, which excludes taxes, because it offers a more consistent and comparable measure across different countries and organisations. The level of tax due by an entity is determined by variables not related to market data provision.

240. One group of respondents expressed concerns regarding the use of the term “disproportionate” and rather suggested to use references to benchmarks relevant for the financial industry. Those respondents asked to have a more prescriptive approach, noting that requiring the margin for market data provision to be reasonable when compared to the net profit attributable to the overall business conducted by the data provider may not provide a relevant benchmark.

241. Overall, several respondents highlighted that ESMA should have an overview of the margins applied to data provision from different data providers and in different jurisdictions to avoid too wide discrepancies.

9.3 ESMA’s assessment and next steps

242. Considering the general proposed approach to set costs and margins, ESMA notes that most stakeholders supported the goal of enhancing transparency and fairness in market data pricing. Nevertheless, the view expressed by stakeholders were highly polarised and contrasting when suggesting further possible specifications or proposed amendments of targeted requirements. ESMA also notes that several respondents shared significant concerns about the implementation details of the RCB framework, particularly regarding the need for clear guidelines regarding costs allocation and strong regulatory oversight.

243. On balance, considering the feedback received, ESMA believes that the approach proposed in the draft RTS appears suitable to establish fees on a reasonable commercial basis and sufficiently flexible to cater for the diverse business models of a variety of data providers. ESMA recognises that the cost allocation and the way margins are set will likely differ depending on the business model of the data provider and follow up supervisory convergence work should take this into account.

244. ESMA takes note of the view expressed by a group of stakeholders regarding potential inconsistencies materialising in costs calculations amongst different data providers. ESMA notes that developing a more granular or prescriptive cost categorisation is not possible at this stage. A more granular categorisation would require a detailed overview of the costs contributing to the production and dissemination of market data, which is not available. And the mandate does not allow ESMA to be more prescriptive about the costs attributable to market data. Nevertheless, ESMA believes that the template proposed in the Annex of the RTS including information to be shared with NCAs on the costs and fees for market data, will provide insightful information which will enable follow up supervisory convergence work aimed at ensuring a consistent approach across EU jurisdictions.

245. With respect to the calculation of costs related to data provision and dissemination, ESMA notes that the current proposal appears sufficiently flexible to allow the allocation of various type of costs and the inclusion of a rationale for cost allocation. More specifically,

the template which data providers are mandated to use to share information with the relevant NCA, requires justification for cost allocation and, in case of apportioning of costs, justification for the chosen approach.

246. ESMA is mindful of the fact that it will be necessary to carry out supervisory convergence work. This is to ensure consistent practices across different jurisdictions and across a variety of data providers. Article 13(5) of revised MiFIR requires ESMA, every two years, to 'monitor the developments in the cost of data' and 'where appropriate update the regulatory technical standards in light of the result of its assessment'.

247. In light of the above ESMA does not propose to fundamentally modify the overall approach proposed in the RTS to set costs and margins.

248. With respect to the proposed cost categories, ESMA notes that these categories appear suited and sufficiently broad to allow for transparent and appropriate cost allocation. ESMA has considered the concerns expressed by stakeholders with respect to the inclusion of the 'other cost' category. ESMA notes that the template proposed in the Annex of the draft RTS including the information to be shared with NCAs on the costs and fees for market data requires to list any other cost which is included by the data provider in the 'other costs' category. The template further requires providing a rationale for the inclusion of such costs. ESMA believes on balance that the template is sufficiently granular and hence does not propose the deletion of the 'other cost' category.

249. The suggestion from stakeholders to exclude taxes from the cost calculation methodology seems sensible. ESMA believes that there are merits in excluding taxes from financial costs attributable to market data as indeed the level of taxes is dependable on other not market data related variables. ESMA also agrees that there is an inconsistency in the use of the terms 'personnel' and 'human resources' as in the draft RTS they are used interchangeably and proposes to address it by using the word 'personnel'.

250. With respect to the methodology used for apportioning costs, ESMA considered stakeholders' views and suggestion. The draft RTS has been now updated to include the requirement to calculate the costs of producing and disseminating market data over the accounting year of the market data provider and to review on a yearly basis the methodology used for the apportioning of costs. The latter requirement is meant to enhance clarity with respect to the time period for cost calculation and to ensure that the methodology is timely reviewed and kept up to date. ESMA has additionally deemed relevant to stress in the recitals of the draft RTS that any supporting methodology for the apportioning of costs should be shared by market data providers with NCAs.

251. Considering the margin to be set for data provision ESMA has considered stakeholders comments and on balance believes that a principle-based approach remains suitable. ESMA reiterates that setting a uniform margin applicable to all market data providers poses challenges, also considering that ESMA is not endowed with a price competition

mandate to set explicit margins. Nevertheless, ESMA has decided to consider operating profit as a proxy of the margin as it believes that this measure can ensure additional comparability across data providers and jurisdictions.

10 Information to be provided to the competent authority

10.1 Proposal in the CP

252. This section briefly summarises the proposal for the template developed by ESMA to fulfil the mandate in Article 13(5)(f) of MiFIR, specifying the uniform content, format, and terminology of the information to be provided to the competent authorities.

253. Article 26 of the draft RTS establishes the obligation for market data providers to share information with NCAs regarding, inter alia, the type of market data provided, the cost of market data, the margin applied to the dissemination of data, the rationale in setting data fees and in setting any fee differential.

254. The template developed in the draft RTS gathers information about: i) the market data provider; ii) the type of data offered; iii) the costs attributable to the production and dissemination of market data; iv) client categories; v) the reasonable margin set by the data provider.

10.2 Feedback to the consultation

255. In the CP, ESMA asked stakeholders if they agreed with the proposed template to report information to competent authorities on the cost of producing and disseminating data and on the margin applied to data. Stakeholders expressed overall agreement with the proposed template.

256. Nonetheless, some respondents found the proposed template overly granular and expressed concerns that this might lead to over disclosing technical elements and industrial secrets, therefore suggested limiting disclosures to protect sensitive information in favour of aggregated information. On the other hand, another group of respondents advocated for greater transparency and encouraged ESMA to increase the level of detail of the information to be provided to the NCAs to facilitate the assessment of the appropriateness of the approach taken by market data providers.

257. Also, several respondents called for mandatory periodic reporting, preferably annually, to ensure accountability of market data providers and enable effective supervision by NCAs and ESMA.

10.3 ESMA's assessment and next steps

258. Based on the feedback received, ESMA intends to retain most of the proposed template of Annex II, as the level of detail provided appears to strike an appropriate balance, enabling competent authorities to carry out effective assessments of compliance with the RCB requirements. ESMA has modified the template in order to better match the requirements in the RTS and to avoid reporting of unnecessary data.

259. ESMA acknowledges the concerns raised regarding the disclosure of commercially sensitive information in the proposed reporting template. Nonetheless, ESMA would like to stress that the proposed template of Annex II should be used merely for reporting to competent authorities (i.e. NCA for trading venues, APAs and SIs, and ESMA for CTP) in accordance with Article 26 of the draft RTS.

260. Also, while ESMA recognises the merit in requiring yearly reporting to competent authorities, no specific timeframe can be included in Article 26 of the draft RTS (Level 2) as the condition to report "upon request" is established in Article 13(4) of the MiFIR Review (Level 1). However, as per Article 13(5), ESMA is required to monitor and assess developments in the cost of data every two years. To carry out this assessment, ESMA will rely on the information collected by NCAs over a 2-year period.

11 Non-Discriminatory access to data

11.1 Proposal in the CP

261. ESMA proposed in the CP to require market data providers to provide data on a non-discriminatory basis, including by applying the same fee schedule and terms and conditions as well as offering the same distribution channels and technical arrangements to all actual or potential clients (Article 4).

262. ESMA proposed to allow market data providers to establish client categories, based on factual, easily verifiable, and sufficiently general elements. According to this proposal, each client must fall into only one category. Market data providers may apply different terms and conditions or charge different fees to clients in different categories as long as all clients within a category are treated equally, and fees remain based on the cost of data production and dissemination, and not based on the value the data represent to clients (Article 5).

263. Moreover, ESMA recommended to the European Commission to create a level playing field between market data providers subject to MiFIR and those entities that redistribute market data but are currently not in scope of MiFIR.

264. ESMA proposed that market data providers shall ensure that data is sent through all offered distribution channels at the same time (Article 6).

11.2 Feedback to the consultation

265. The received feedback predominantly focussed on the possibility for market data providers to establish client categories (Article 5). Respondents generally agreed with ESMA's proposal and explicitly supported a distinction between professional and non-professional clients.

266. Several respondents expressed, however, concerns that client categories may lead to value-based pricing, arguing that the cost of producing and disseminating market data would not differ among customers. Client categories would only increase complexity and lead to higher market data costs for users.

267. Respondents explicitly asked ESMA to provide more guidance on the factual elements that can be used to categorise market data clients. Moreover, concerns were expressed regarding Article 5(2) of the draft RTS which appeared unclear to respondents, and which could lead to unjustified fee increases.

268. Most respondents express support for ESMA's call to create a level playing field between market data providers subject to MiFIR and those not in scope, such as redistributors, benchmark providers, credit rating agencies, and ESG providers.

11.3 ESMA's assessment and next steps

269. ESMA took the feedback into consideration, made the adjustments highlighted in paragraph 278 below but overall maintained the proposal allowing market data providers to establish client categories.

270. ESMA has added further guidance on the factual elements that could be used to establish such client categories in the recitals of the RTS and has provided the following examples of valid categories: (i) data redistributors, (ii) professional clients and (iii) non-professional clients.

271. ESMA would like to reiterate that the fees charged to clients must be based on the costs sustained to provide data, independent to which client category they belong.

272. ESMA maintains its recommendation to the European Commission to level the playing field between market data providers subject to MiFIR and those entities that redistribute market data but are currently not in scope.

12 What constitutes unbiased and fair contractual terms

12.1 Proposal in the CP

273. With Article 7 of the draft RTS ESMA introduced an obligation for market data providers to provide upon request from potential clients and before the conclusion of a market data agreement, appropriate information including a quote on applicable fees and charges in line with published market data policies. The provision aims at enabling potential clients to understand an agreement in their specific case, compare different offers, and make an informed decision.

274. To address the imbalance identified in market data agreements to the disadvantage of data clients, Article 8 of the draft RTS established a general prohibition of unfair terms and conditions in market data agreements. The article aims at eliminating any type of unfair terms and practices which result in onerous administrative obligations on data clients, for example through frequent and detailed requests.

275. To enhance transparency, ESMA proposed in Article 9 to require market data providers to ensure that terms and conditions in market data agreements are specified in a clear and concise manner. Broad and general terms should be avoided, and terminology aligned with Articles 1 and 18 of the RTS.

276. With Article 10, ESMA proposed an obligation for market data providers to ensure that the content of market data agreements conforms with published market data policies.

277. To avoid hidden costs, ESMA proposed in Article 11 to prohibit clauses whose application could result in direct, or indirect increases of fees for market data clients.

278. Aiming to avoid double charging, Article 12 of the draft RTS addressed per user fees, requiring that where market data products have been obtained through multiple channels, fees should be charged only once.

279. In Article 13 ESMA proposed to require market data providers to make market data available without being bundled with other services.

280. Article 14 aims to restrict the use of unjustified or overly onerous penalties. ESMA proposed to require market data providers to substantiate breaches to which penalties could be applied and to base their amount on the revenues that would have been generated if the client had complied with the applicable agreement. The article introduced a time limit in the application of penalties with respect to the moment when the breach occurred, ensuring data providers have an incentive to alert users and allowing affected parties to retrieve evidence of the infringement and rectify any wrongdoing.

281. With regard to audits, ESMA proposed in Article 15 to reverse the current burden of proof and limit information requests to what is strictly necessary for the purpose of the auditing a specific infringement. An audit should be initiated only upon a notification to the client indicating the alleged infringement and the grounds for suspecting its occurrence. The party audited should always have the right to comment on the facts audited, as well as the right to challenge the audit outcome. Data providers should specify details regarding audit practices in the data agreement and in order to avoid excessively lengthy audits, ESMA proposed to limit the time period the audit may cover.

282. To allow sufficient time to understand the effects of unilateral amendments to market data agreements, in Article 16, ESMA proposed that market data providers should notify market data users of any amendments two months in advance of entry into force. Where the amendment would result in an increase of fees, the agreement should provide the user with the right to terminate the agreement, without incurring any penalties.

12.2 Feedback to the consultation

283. Respondents explained that several issues were not addressed by the RTS:

- Market data providers are often based outside the EU (e.g. US or UK) which may limit the impact of the RTS;
- Unjustified requirements to delete historical data at the end of contracts;
- Unjustified restrictions on the use of derived data and non-display data, as well as charges for per-location and affiliate usage;
- Clauses that allow data providers to discontinue data dissemination without a proper audit process.

284. Moreover, respondents suggested to oblige data providers to publish detailed information on costs and fee calculations, to establish a permanent dispute resolution mechanism or an ombudsman to handle conflicts, or to regulate the provision of market data as service agreements rather than licensing agreements.

285. Respondents overall supported the obligation to provide pre-contractual information (Article 7). Some respondents suggested to prescribe deadlines for data providers to respond to user requests and to standardise the provided information.

286. Broad support was expressed for the prohibition of unfair terms and conditions in market data agreements (Article 8). Some respondents cautioned that terms like “proportionate” and “unjustified” were subjective and required rigorous enforcement.

287. Most respondents supported the need for clear and concise language in market data agreements (Article 9), and some suggested to standardise market data agreements.

288. Article 10 was widely supported, and many respondents highlight the importance of making market data agreements, price lists, and policies publicly available.

289. Most respondents also supported Article 11. Some expressed concerns about the potential for market data providers to increase fees indirectly by cancelling and reissuing agreements while others asked for further clarification if the article would restrict inflation-linked fee adjustments.

290. With regard to the per-user model (Article 12), respondents explained that it had been commonly inserted into market data agreements, with most exchanges and market data providers offering this option.

291. However, its implementation varied widely, and despite its availability, the per-user model had generated limited interest among clients, partly due to the significant administrative burden, i.e. tracking and reporting user access, managing permissions and entitlements, and reconciling data across multiple vendors. The current process was often opaque, with data users having limited visibility into how their data is being reported and reconciled by vendors and exchanges.

292. Several respondents suggested creating centralised reporting platforms to streamline the reconciliation process and improve transparency. These platforms would allow data users, vendors, and exchanges to share and verify user information more efficiently.

293. Moreover, several respondents argued to re-include the proportionality principle from the market data guidelines also in the RTS. The costs of implementing the per-user model should be proportionate to the benefits, and smaller data providers should not be unduly burdened.

294. The obligation to keep data unbundled (Article 13) was largely supported by the respondents.

295. With regard to penalties (Article 14), many respondents supported the requirement for market data providers to specify in advance which actions could incur penalties and to base the size of the penalties on the revenues that would have been generated if the client had complied with the agreement.

296. However, there were concerns about the vagueness of terms such as “unreasonably exceed” and “reasonable time.” Respondents suggested that these terms needed clearer definitions and specific caps on penalties to ensure legal certainty and fairness.

297. Many respondents supported setting a time limit for penalty requests, typically two to three years. Additionally, some respondents recommended including an appeals process for penalties, allowing data clients to challenge penalty charges.

298. Some respondents emphasised the need to distinguish between penalties and interest on unpaid amounts. They argue that applying a reasonable interest on unpaid amounts is necessary to make the data provider whole.

299. Some respondents opposed the idea of penalties altogether, arguing that they are not standard practice among providers of other goods and services in financial services.

300. To improve the proposal, respondents suggest that market data providers should be required to periodically disclose their penalties to ESMA.

301. With regard to audits (Article 15), many respondents agreed with ESMA's proposal, specifically the reversal of the burden of proof and the requirement for audits to be based on clear evidence. Some respondents, in contrast, argued that placing the burden of proof on data providers is unrealistic and impractical, as it would significantly affect their ability to ensure compliance.

302. Many respondents suggested a time limit for audits of two to three years and to require clearly defining the scope of audits before they commence. Moreover, some respondents argued that the effort required to conduct an audit should remain proportionate to the amount of market data fees that have allegedly not been paid.

303. Respondents suggest that market data providers should be required to provide clear and comprehensive information on audits in the market data agreements, including the infringements that can trigger an audit, the documents required, the audit procedure, and how data confidentiality will be ensured.

304. Some recommend including an appeals process for audits, allowing data users to challenge audit findings or to require third-party auditors to be subject to fixed fees rather than incentive-based fees to avoid conflicts of interest.

305. Some respondents opposed the idea of audits altogether, arguing that they are not standard practice among providers of other goods and services in financial services.

306. With respect to the article on amendments to market data agreements (Article 16), many respondents advocated for an extended notice period, suggesting durations ranging from 90 days to one year. Most respondents agreed that clients should have the right to withdraw from agreements without additional fees if amendments significantly impacted them, particularly regarding fee changes. Additionally, some argued for limiting changes to once per annum.

12.3 ESMA's assessment and next steps

307. To address the market practices which respondents perceived as detrimental, but which are not explicitly regulated by the RTS, ESMA has introduced further guidance in the recitals to the RTS which can be relied on for supervisory purposes.

308. Regarding the further amendments proposed by stakeholders, such as the requirement to publish detailed information on costs and fee calculations, to set up a dispute resolution mechanism or to regulate data as service level agreements, ESMA believes that those proposals exceed its mandate and does not propose to change the RTS in these directions.

309. In light of the overall support for ESMA's proposal, the approach has been largely maintained and only Article 11 on additional fees has been amended. In particular, the practice of terminating and renewing contracts is further restrained, and inflation-linked fee increases explicitly permitted.

310. Based on the received feedback, ESMA replaced the "per-user model" by a "per-client model". The change underpins the concept that market data are only charged once per client, the signatory to the market data agreement, limiting administrative burdens and potentially lowering the cost of market data for clients.

311. ESMA does not consider reintroducing the proportionality principle from the market data guidelines in order to level the playing field and simplify the application of rules.

312. Following the general support for the current proposal, ESMA intends to maintain its overall approach to penalties. However, ESMA considers it as reasonable to limit the time period from the occurrence of an infringement to the imposition of a penalty to 5 years, in line with investment firms' record keeping obligations as per Article 16 of Directive 2014/65/EU. In addition, ESMA has introduced a field on penalties in its proposed template for the information to be provided to the competent authority, which can be found in Annex II of the RTS.

313. Given the feedback, ESMA intends to maintain its overall approach to audits. To ease the burden on market data providers, ESMA has modified the wording concerning the evidence required to substantiate the alleged infringement.

314. In alignment with Article 14 on penalties and investment firms' record keeping obligations as per Article 16 of Directive 2014/65/EU, ESMA has limited the time period an audit may cover to 5 years from the audit notification date.

315. ESMA has increased the notice period for amendments of market data agreements to 3 months and further clarified the right of market data clients to withdraw from the contract in case of significant amendments.

13 Content, format and terminology of the market data policies

13.1 Proposal in the CP

316. Article 13(1) of revised MiFIR mandates that trading venues, APAs, SIs, and CTPs make market data policies freely accessible and easy to understand for all users. Therefore, to enhance transparency, standardisation, and accessibility of market data policies, ESMA proposed converting its Guidelines on cost transparency for market data into binding legal requirements, ensuring standardised terms for consistency in market data fees and policies. The key elements of ESMA's proposals in the CP are summarised below:

- Free public access to market data policies: TVs, APAs, SIs, and CTPs should publish their market data policies free of charge, in a way that is easy to access and understand;

- Standardised terminology: ESMA proposed consistent terms like "professional" and "non-professional clients," "display" and "non-display data," and a standardised "unit of count" for measuring data consumption. To better reflect costs, ESMA proposed the definition of additional terms like "physical connection" and asked for feedback on alternative units of count that could more accurately capture data use;

- Market data policy format: policies should be clearly presented on market data providers' websites in a single, accessible location. This transparency allows users to easily find and understand terms, fees, and conditions before entering agreements;

- Cost disclosure: providers should outline fee structures, including any shared or joint costs, and clarify if margins are included, without disclosing actual costs or profits. This explanatory information will enable users to make informed comparisons and support competitive pricing.

13.2 Feedback to the consultation

317. In the CP, ESMA asked market participants to express their view on: (i) the standardised publication template set out in Annex I of the draft RTS; (ii) the proposed list of standard terminology and definitions; (iii) the appropriateness of the definition of "physical connection" to quantify the level of data consumption, and; (iv) whether the "user-id" and the "device" should still be considered as "unit of count" for the display and non-display data.

318. Market participants expressed broad support for the standardisation of market data policies to improve compatibility for users. However, feedback varied according to the specific proposals, as follows:

(i) Standardised publication template set out in Annex I of the draft RTS

319. Respondents expressed overall support for the proposed template, with suggestions for periodic reviews of templates to maintain effectiveness. Some respondents, however, expressed concerns about the requirement to disclose cost allocation details, which they feel could expose commercially sensitive information and recommend limiting such disclosures to competent authorities. On the other hand, to enhance transparency, some respondents advocated for a more granular template to clarify cost allocation and revenue transparency by fee type. Proposed changes include requiring market data policies to be public for at least five years, with at least 90 days' notice before updates take effect and detailed comparisons of old and new policies upon revision.

(ii) List of standard terminology and definitions

320. Market participants expressed broad consensus on the need for standardised terminology in market data policies to reduce inconsistencies and confusion, while also stressing the need for flexibility in definitions to adapt to market and technological shifts. More specifically, stakeholders supported the proposed definitions of "professional and non-professional clients" to distinguish user types and "display and non-display data" to prevent double charges for varied uses. With respect to "display" and "non-display data", some respondents highlighted that keeping these definitions can justify data providers charging for data according to the use and argued that dissemination of display and non-display data does not generate different costs for the market data provider. The definition of "access fees" raised several concerns about potential double charging. Market participants also advocated for additional definitions, in particular "historical data" and "derived data" to ensure fair pricing practices, and a clearer definition of "unit of count".

(iii) definition of "physical connection" to quantify the level of data consumption

321. Respondents overall noted that physical connections do not reliably indicate data usage levels and should not be used as a proxy for consumption. Also, they emphasised flexibility and technological neutrality in connectivity definitions to accommodate various methods (e.g. cloud-based solutions, microwave, fibre). Alternative metrics for measuring data consumption were suggested and include the number of devices, terminals, display units, data volume, bandwidth usage, and application count, which could provide a more accurate reflection of usage.

(iv) "user-id" and the "device" as "unit of count" for the display and non-display data

322. A group of respondents generally support “user-id” and “device” units but acknowledged these may be outdated, especially with technologies such as cloud-based technologies and blockchain, therefore they stressed the need for both flexibility and clear definitions. Several other respondents opposed using “device” as a unit of count for non-display data, finding it ambiguous and potentially leading to inflated charges. Some respondents emphasised that there’s little correlation between device/user counts and actual data costs and call for definitions that ensure fair and transparent pricing. Alternative units suggested included “application count,” “technical access ID,” “enterprise license,” and “data volume.”

13.3 ESMA’s assessment and next steps

323. ESMA welcomes the positive feedback received on the proposed general approach to standardising market data policies and introduced some adjustments to the draft RTS to address specific feedback received, as follows:

(i) Standardised publication template set out in Annex I of the draft RTS

324. Considering the feedback received, ESMA retains the proposed Annex I template, as it was part of the market data guidelines, and the level of detail was deemed appropriate. ESMA has modified the template to better reflect the requirements in the RTS. In response to the suggestion of making market data policies publicly available for at least five years, ESMA acknowledges the value of enhancing transparency in the evolution of these policies over time. Consequently, ESMA considers it reasonable to require market data providers to make their policies accessible on their websites for a minimum of 5 years.

(ii) List of standard terminology and definitions

325. On the basis of the feedback received, ESMA removed the definitions of “access fee” and “physical connection” and added the definition of “historical data” (see section 7.3). ESMA also considers useful to retain the concepts of “display” and “non-display data” because the aim of Article 18, together with the definitions in Article 1 of the draft RTS, is to harmonise key concepts within the market and establish consistent terminology across providers. These definitions are not intended to determine that display and non-display data should be charged differently based on use. Rather, they provide a standardised framework to support comparability and transparency for all market data users.

(iii) “user-id” and the “device” as “unit of count” for the display and non-display data

326. Taking into consideration the feedback received, ESMA acknowledges that the concept of “unit of count” should remain technologically neutral, thus ESMA removed the correlation between “unit of count” and “display” and “non-display data”.

14 Access and content of delayed data

14.1 Proposal in the CP

327. As presented in the CP, ESMA's proposals aimed to enhance access, content, and format requirements for delayed market data under MiFIR. Article 13(2) of revised MiFIR mandates trading venues, APAs, and SIs to provide delayed data free of charge 15 minutes post-publication, in a machine-readable format accessible to all, including retail investors (excluding CTPs, which may charge fees). ESMA has observed continued complaints about complex access to delayed data, partly due to burdensome registration requirements, and proposed removing these registration processes to improve accessibility.

328. In terms of content, ESMA stressed the importance of including all relevant post-trade data elements, such as price, volume, transaction time, instrument ID, and flags, while maintaining the simplified requirement for pre-trade data to include only the best bid and offer, given the high volume of data and limited user value at the order level.

329. To standardise the format, ESMA recommended a machine-readable format that supports automated data extraction and requires delayed data to be organised in a single, consistent file per trading day.

14.2 Feedback to the consultation

330. In the CP, ESMA asked market participants to express their view on ESMA's proposed approach on delayed data and in particular whether they agree with the proposal not to require any type of registration to access delayed data. Market participants expressed general consensus on the approach proposed by ESMA on delayed data.

331. In particular, there was agreement on maintaining existing content requirements for delayed data, as outlined in ESMA's guidelines, but some respondents suggest limiting the availability of delayed data to the duration of the trading day rather than more than 24 hours. Other respondents raised concerns regarding restrictive licensing terms, with some advocating for delayed data to be freely available without fees or licenses after 15 minutes. These respondents emphasised that delayed data should be provided free of all charges, including fees related to access, administration, distribution, and usage. Therefore, calls were also made to prohibit converting free delayed data into paid historical licenses and to allow continued use of delayed data after it is no longer publicly available.

332. On the proposal to remove registration to access delayed data, several respondents supported the removal of registration processes to access delayed data, with many respondents supporting this move as it enhances accessibility and data consumption for

market data users. However, some respondents expressed concerns about the need for minimal interaction with users to ensure proper use and compliance, especially for commercial purposes. In particular, these respondents, argued that registration is important for monitoring, verifying users, and providing updates on potential changes, while also ensuring security and tailored services.

14.3 ESMA's assessment and next steps

333. In view of the positive feedback, ESMA largely maintained its approach.

334. Regarding the proposal to remove registration to access delayed data, ESMA took into consideration the feedback received and, on this basis, would like to stress that Article 13(2) of MiFIR Review requires that delayed data should be made freely available 15 minutes after publication to all users, including retail investors, thus without any restrictions on the type of uses. Therefore, ESMA does not see a need to require registration to monitor or verify users. Consequently, ESMA will maintain its approach as no barriers to access delayed data based on user type should be created. ESMA is also of the view that simpler access to delayed market data will encourage greater consumption, ultimately benefiting the growth of capital markets.

335. Regarding concerns about delayed data being converted into historical data licenses, ESMA recognises the validity of the arguments presented, as delayed data should remain free regardless of when access to it is requested. At the same time, ESMA acknowledges that data vendors bear storage costs to maintain delayed data archives, therefore market data vendors should be able to recoup such costs. To address this need, ESMA considers useful to clarify what "historical data" is, introducing a standardised definition for "historical data" in Article 18 as "market data which relates to a period prior to the previous business day which is archived and stored by the market data provider". This definition aims to harmonise the concept across the market and clarify the period during which delayed data must remain free of any charges.

15 Annexes

15.1 Annex I: Cost-benefit analysis

Cost-benefit analysis for RTS 2 amendment

15.1.1 Pre-trade transparency

Policy Objective	
Option 1	Maintain the current approach to the waiver regime, entailing a quantitative approach requiring periodic assessments for large in scale thresholds and liquidity determination.
Option 2	New approach to the waiver regime by setting out a static determination of large in scale threshold and liquidity assessment.
Preferred Option	Option 2 was chosen because it improves the effectiveness and predictability of the regime. By setting static thresholds rather than periodic assessment simplifies the regime for both regulators and stakeholders and reduces reporting burden of firms.

Option 1	**Maintain the current approach to the waiver regime**
	Qualitative description
Benefits	This approach is simple and achieves a high level of post-trade transparency, which is beneficial for end-users as well as for the viability of the upcoming bond consolidated tape.
Costs to regulator	High running costs of IT systems.
Compliance costs	This option does not add costs on top of those mandated already in RTS 2. Firms would continue to incur in significant costs to ensure data is submitted to ESMA on time and with the expected data quality standards.

Option 2	**Set out static determination of liquidity and large in scale thresholds**

	Qualitative description
Benefits	This approach offers a high-level simplicity for the waiver regime. It ensures that the large in scale and illiquid waiver are applied in a predictable manner without any dependencies on data collection, data quality and publication of calculation results. In addition to proving a simpler and more effective regime, it also considerably reduces costs for both regulators and stakeholders.
Costs to regulator	None identified
Compliance costs	There is a one-off cost to set out the new thresholds, but no running costs are expected to be incurred by firms.

15.1.2 Post-trade fields and flags (Annex II of RTS 2)

Policy Objective	Ensure that the post-trade information published by trading venues and APAs is consistent, harmonised and informative for end users
Option 1	Maintain the current fields as defined in Annex II
Option 2	Introduce limited changes to the following fields: - Field deleted: emission allowance type - Fields amended: venue of publication - Fields added: trading system, flags, number of transaction - Introduce a column naming convention Introduce changes to the following flags: - Flags deleted: agency-cross (ACTX) - Flags added: matched-principal trading (MHPT), negotiated trade - Flags added/removed in consequence of the change in the deferral and supplementary deferral regime
Preferred Option	Option 2 was chosen because it improves data quality through harmonized field content and format. It further ensures consistency across reporting regimes (CTP) by aligning fields with those reported to

	the CTP. It ensures the annex remains fit for purpose by adding missing fields and removing irrelevant or redundant fields and flags.

Option 1 is the status-quo hence cost/benefits are not analysed.

Option 2	Introduce limited changes to certain fields and flags
	Qualitative description
Benefits	Simplicity: achieved with the deletion of fields unrelated to trading conditions and redundant flags Data quality: achieved with the harmonisation of field content and format (e.g. flags, column naming convention) Consistency between different reporting regimes: fields aligned with the ones reported to the CTP Legal certainty: addition of fields reported but missing in the Annex (flags, number of transaction)
Costs to regulator	None identified (data is published by APA and trading venues, not sent to NCAs or ESMA)
Compliance costs	The column naming convention has been flagged as the most impactful in terms of compliance costs. The remaining changes are relatively simple and inexpensive.

15.1.3 Post-trade transparency for bonds excluding ETCs and ETNs

15.1.3.1 Liquidity determination and Bond grouping

Policy Objective	Design a methodology to determine the classes of bonds (excluding ETCs and ETNs) that have a liquid market in accordance with the definition of liquid market set in Article 2(17) of MiFIR. Bonds should be allocated to different groups based on their liquidity. The same issuance size thresholds, and trade size thresholds for the application of the deferral regime, apply to bonds pertaining to the same group.
Option 1	Group bonds in accordance with the bond type and, set an issuance size threshold to distinguish between liquid and illiquid bonds within each group
Option 2	Group bonds in accordance with the bond type and other characteristics: the issuer country, the bond time to maturity and the coupon type for sovereign bonds; the currency and credit rating for corporate, convertible and other bonds. Within these groups, set an issuance size threshold to distinguish between liquid and illiquid bonds.

Preferred Option	Option 2 offers a more nuanced approach by considering various bond characteristics, allowing for better differentiation between liquid and less liquid bonds, as showed by average daily volumes (ADV). This granular grouping enhances the calibration of the transparency regime, ensuring more precise and effective liquidity assessments.

Option 1	Group bonds in accordance with the bond type
	Qualitative description
Benefits	Option 1 is the simplest approach. It considers that the liquidity of a bond can be derived from its nature (i.e. whether it's a sovereign, other public, corporate, convertible, covered or other bond). Indeed, the issuance size (itself a proxy of liquidity) varies between bond types, with sovereign bonds having significantly higher issuance sizes compared to other types of bonds. Under Option 1, there are only three groups (one for sovereign and other public bonds, one for corporate, convertible and other bonds, and one for covered bonds) hence less parameters to be set for the issuance size and trade size thresholds.
Costs to regulator	None identified
Compliance costs	Counterparties need to retrieve information on the bond type to apply the correct transparency regime. This cost is expected to be minimal as the bond type is a very basic bond characteristic and will be published in the ESMA Financial Instruments Reference Data System (FIRDS) when the new regime enters into application.

Option 2	Group bonds in accordance with the bond type and other characteristics: the issuer country, the bond time to maturity and the coupon type for sovereign bonds; the currency and credit rating for corporate, convertible and other bonds.
	Qualitative description
Benefits	Option 2 is more complex. It considers that the liquidity of a bond can be derived not only from its nature (i.e. whether it's a sovereign, other public, corporate, convertible, covered or other bond) but also from other bond characteristics.

	Using the average daily volume (ADV) as a liquidity proxy, ESMA has tested each bond characteristic and concluded that: In relation to sovereign and other public bonds: Sovereign bonds with a fixed coupon, a remaining maturity up to (and including) 10 years and for which the issuer country is either a Member State, the US or the UK are significantly more liquid that other bonds. In relation to corporate, convertible and other bonds: Bonds denominated in EUR, GBP and USD are significantly more liquidity than other bonds. While the analysis based on ADV only did not evidence major differences in the liquidity profile of investment grade versus high yield bonds, other analysis based on spread pointed to wider bid-ask spreads for high yield compared to investment grade, especially in stressed market conditions. Overall, adopting those more granular grouping allows for a better distinction between liquid and less liquid bonds and a more fine-tuned calibration of the transparency regime.
Costs to regulator	*One-off* There are five bond groups (two for sovereign and other public bonds, two for corporate, convertible and other bonds, and one for covered bonds) hence a higher number of parameters to be set for the issuance size and trade size thresholds compared to Option 1. Regarding the credit rating, ESMA should provide additional guidance as to the methodology and data source.
Compliance costs	Counterparties need to retrieve information not only on the bond type but also on each individual bond characteristics, to apply the correct transparency regime. This cost is hence higher than under Option 2. All bond characteristics except the credit rating will be published in the ESMA Financial Instruments Reference Data System (FIRDS) when the new regime enters into application, which should alleviate the compliance costs.

15.1.3.2 Trade sizes for the deferral regime

Policy Objective	Design a methodology to determine the trade sizes above which trading venues and investment firms may defer the publication of the transaction details, in accordance with the five categories established in Article 11 of MiFIR.
Option 1	Adopt an outcome-based approach which maximises transparency, i.e. define trade sizes in such a way that pre-established percentages of volumes and/or number of trades are published in real-time. The same

	trade size thresholds are used for liquid and illiquid instruments but different deferral durations apply depending on the bond liquidity.
Option 2	Calibrate the trade size thresholds by striking a balance between a high level of transparency, and an appropriate level of protection for market-maker, providing adequate deferrals for larger trades in particular for less liquid instruments. The trade size thresholds and deferral durations may vary for liquid and illiquid instruments in the same bond grouping. The calibration is performed considering the time it would take to trade out of a position (trade-out time) calculated as the trade size threshold divided by the average daily volume.
Preferred Option	Option 2. This approach allows for precise calibration of trade-size thresholds based on bonds liquidity, ensuring consistent trade-out times across all bonds. By setting higher thresholds for liquid bonds, significant differences in average daily volume (ADV) are accounted for, leading to more effective and balanced transparency regime.

Option 1	**Outcome-based approach to maximise transparency**
	Qualitative description
Benefits	This approach is simple and achieves a high level of post-trade transparency, which is beneficial for end-users as well as for the viability of the upcoming bond consolidated tape.
Costs to regulator	None identified
Compliance costs	This option does not add costs on top of those mandated by the changes to the post-trade transparency framework imposed by the revision of MiFIR.

Option 2	**Quantitative approach to calibrate trade size thresholds by optimising transparency levels while providing adequate protection for liquidity providers.**
	Qualitative description
Benefits	This approach offers a high level of flexibility to fine-tune the calibration of trade-size thresholds. Under each bond grouping, bonds are split between liquid ones (those above the issuance size thresholds) and illiquid ones (those below the issuance size thresholds) and their respective ADV is calculated.

	The data analysis evidences very significant differences in the ADV of liquid versus illiquid bonds, which calls for the setting of higher thresholds for liquid versus illiquid bonds. Trade sizes can then be calibrated in such a way that the trade-out-time is broadly consistent for each group. For example, in the most liquid sovereign bond group, the ADV of the liquid bonds is EUR 131Mn while the ADV of the illiquid bonds is EUR 9Mn. Adopting different trade size thresholds for the liquid and the illiquid bonds ensures that ultimately, the time to unwind a position is broadly consistent across all bonds.
Costs to regulator	None identified
Compliance costs	The one-off costs under this Option are expected to be higher compared to Option 1 because the resulting table defining trade size thresholds for each category is more complex.

15.1.3.3 Deferral duration

Policy Objective	Define the appropriate periods during which trading venues and investment firms may defer the publication of the transaction details, in accordance with the five maximum deferral periods set in Article 11(4)(f) of MiFIR.
Option 1	Set the deferral periods at the maximum set in Article 11(4)(f) of MiFIR.
Option 2	Adopt shorter deferral periods for certain combinations of bond groups and categories
Preferred Option	Option 1. This method envisions a more cautious stance regarding the deferral duration. ESMA also considered feedback from stakeholders, particularly the DEG, which proposed a staggered approach. The review mechanism for the RTS, as outlined in Article 11(4) of MiFIR, accommodates this strategy.

Option 1 is the status-quo hence cost/benefits are not analysed.

Option 2	Adopt shorter deferral periods for certain combinations of bond groups and categories
	Qualitative description
Benefits	Adopt shorter deferral periods results in publishing post-trade transparency reports quicker than under the maximum deferrals set in

	Article 11(4)(f) of MiFIR, which brings benefits in terms of overall transparency. Some jurisdictions have found that increasing transparency, especially through end-of-day publication, improves transparency without negatively impacting liquidity.
Costs to regulator	None identified
Compliance costs	As the post-trade deferral regime changes with the MiFIR review, counterparties need to adapt their IT system to ensure that they comply with the new regime. However, the use of Option 2 (shorter deferral periods) would not add more compliance costs compared to Option 1 (status quo) because it merely requires the use of different parameters in the systems.

15.1.4 Post-trade transparency for ETCs/ETNs, SFPs and Emission Allowances

15.1.4.1 Liquidity determination for ETCs/ETNs, SFPs, and Emission Allowances

Policy Objective	Design a methodology to determine the classes of SFPs, ETC/ETN and Emission Allowances that have a liquid market in accordance with the definition of liquid market set in Article 2(17) of MiFIR
Option 1	Maintain the current approach i.e. a yearly determination of liquidity based on data periodically reported to ESMA
Option 2	New approach based on a static determination of liquidity
Preferred Option	Option 2. The static approach simplifies processes by eliminating the need for ESMA to perform annual liquidity determinations and for trading venues and APAs to submit data, while also removing the need for database maintenance. Additionally, it provides stability as liquidity determinations remain constant, reducing the need for counterparties to periodically check the outcome of the transparency calculations.

Option 1 is the status-quo hence cost/benefits are not analysed.

Option 2	New approach based on a static determination of liquidity
	Qualitative description
Benefits	Simplicity: the static approach removes the obligation for ESMA to perform the yearly determination of liquidity. Trading venues and APAs

	are no longer required to submit transparency quantitative data to ESMA. ESMA no longer needs to maintain the database and to implement the associated data quality framework. Stability: the liquidity determination does not change over time. Counterparties no longer need to retrieve periodically the outcome of the transparency calculations.
Costs to regulator	As a one-off cost, ESMA needs to adapt its IT system by discontinuing the reporting to its transparency system. No on-going IT costs.
Compliance costs	As a one-off cost, counterparties need to adapt their system to ensure that the liquidity determination is derived directly from the RTS 2 rather than from ESMA periodic publications of the transparency calculations. As a one-off cost, trading venues and APA need to discontinue the reporting of transparency data to ESMA. No on-going IT cost.

15.1.4.2 Deferral regime for SFPs and ETCs/ETNs

Policy Objective	Define the deferral regime for SFPs and ETCs/ETNs
Option 1	Keep similar arrangements for deferred publication as those under the current RTS 2 i.e. the same size threshold for both pre- and post-trade purposes of illiquid instruments and the same deferral duration period (no longer than 19.00 local time on the second working day after the date of the transaction).
Option 2	Amend the deferral regime of SFPs and ETCs/ETNs to allow for a price deferral of T+2 and a volume deferral of two weeks for trades of any size
Preferred Option	Option 2. Under the current regime, SFPs and ETCs/ETNs benefit from deferred publication to T+2 and volume omission up to 4 weeks for any transaction size. As the MiFIR review changes require real-time publication for trades below the post-trade size threshold, Option 2 maintains deferrals for trades of any size and aligns the duration with those adopted for illiquid bonds in Category 4.

Option 1 is the status-quo hence cost/benefits are not analysed.

Option 2	Amend the deferral regime of SFPs and ETCs/ETNs to allow for a price deferral of T+2 and a volume deferral of two weeks for trades of any size
	Qualitative description

Benefits	Under the current regime, all SFPs and ETCs/ETNs are illiquid and thereby benefit from deferred publication to T+2. Moreover, jurisdictions authorise a supplementary deferral to allow volume omission[36]. Therefore, under the current regime, SFPs and ETCs/ETNs effectively benefit from a price deferral to T+2 and volume omission up to 4 weeks for transactions of any size. The changes introduced in the MiFIR review require the real-time publication of trades in illiquid instruments below the post-trade size threshold. By removing the post-trade size threshold, Option 2 ensures that transactions in SFPs and ETCs/ETNs continue to benefit from the existing deferrals, i.e. for trades of any size. In addition, it aligns the deferral duration of SFPs and ETCs/ETNs to that of illiquid bonds in Category 4, i.e. T+2 for price deferral and 2 weeks for volume deferrals.
Costs to regulator	As a one-off cost, ESMA needs to adapt its IT system by discontinuing the reporting to its transparency system. No on-going IT costs.
Compliance costs	As the post-trade deferral regime changes with the MiFIR review, counterparties need to adapt their IT system to ensure that they comply with the new regime. However, the use of Option 2 would not add more compliance costs compared to Option 1 (status quo) because it merely requires the use of different parameters in the systems.

15.1.4.3 Deferral regime for Emission Allowances

Policy Objective	Define the deferral regime for emission allowances
Option 1	Keep similar arrangements for deferred publication as those under the current RTS 2 i.e. size thresholds determined using a percentile approach for liquid instruments, and fixed thresholds for illiquid instruments. The deferral duration is T+2.
Option 2	Amend the deferral regime of emission allowances: for liquid instruments adopt a fixed size threshold of 25,000 tCO2; and for illiquid instruments allow for a deferral for transactions of any size. The deferral duration is maintained at T+2.

[36] Only six jurisdictions do not allow for the omission of the publication of the volume during an extended period.

Preferred Option	Option 2. This option is simpler and provides a better calibration of the regime. It reduces compliance costs by removing the need for transparency data submission to ESMA.

Option 1 is the status-quo hence costs/benefits are not analysed.

Option 2	Amend the deferral regime of emission allowances: for liquid instruments adopt a fixed size threshold of 25,000 tCO2; and for illiquid instruments allow for a deferral for transactions of any size. The deferral duration is maintained at T+2.
	Qualitative description
Benefits	The current percentile approach for calibrating size thresholds for EUAs has been found to overestimate these thresholds due to the large size of the first trade-size bin and the existence of a threshold floor. This issue is pronounced for EUAs, where most transactions are significantly smaller than 100 lots, making accurate percentile determination difficult. Under Option 2, thresholds have been set using a more granular dataset which allows a more precise calibration. A size threshold of 25,000 tCO2 is adopted for liquid instruments, corresponding to the 95th percentile. On illiquid instruments, as for SFPs and ETCs/ETNs, deferrals are allowed for transactions in any size. This option is simpler and removes compliance costs: with the adoption of a fixed trade-size threshold for liquid emission allowances, venues and APA are no longer required to submit transparency data to ESMA.
Costs to regulator	As a one-off cost, ESMA needs to adapt its IT system by discontinuing the reporting to its transparency system. No on-going IT costs.
Compliance costs	As a one-off cost, counterparties need to adapt their system to ensure that the deferral parameters are derived from the RTS 2 rather than from ESMA periodic publications of the transparency calculations. As a one-off cost, trading venues and APA need to discontinue the reporting of transparency data to ESMA. No on-going IT cost.

Cost-benefit analysis for RTS on Reasonable Commercial Basis

This section provides a cost-benefit analysis (CBA) of the draft RTS on RCB. ESMA notes that question 50 raised in the CP inviting stakeholders to more specifically identify the cost associated with implementing and complying with the provisions of the draft RTS was responded to by a limited number of respondents. These responses are considered in this CBA.

The current baseline or status quo are the existing market data guidelines published by ESMA in 2021. The proposed RTS transforms those guidelines into legally binding regulation, aiming at strengthening their enforceability. The change included in the RTS which is expected to have financial implications for the stakeholders, is the explicit elimination of the setting of fees based on the value the market data presents to the users.

Quantitative data on the effects of the draft RTS on the revenues of market data providers and the costs for market data users are not available. Data on revenues is only available in the public domain on a very high level, e.g. annual statements of market data providers. In addition, the market for market data is highly complex as the business models of market data providers and their fee schedules are y divergent. Similarly, the consumption of market data by users in terms of volume and usage is heterogeneous as well. As a result, the area of revenues and usage of market data remains relatively abstract and to some extent opaque. These aspects complicate the quantitative analysis of the possible effects of the RTS on RCB. ESMA's cost benefit analysis remains qualitative in nature and aims at outlining major effects.

The stakeholders identified for the purpose of this CBA are: ESMA, NCAs, market data providers (market operators, investment firms operating a trading venue, APAs, CTPs and SIs), and market data users.

As the new RTS only marginally amend the existing market data guidelines, ESMA believes that the combined costs associated with the implementation of the RTS will be limited and fully compensated by the benefits arising from their improved enforceability.

ESMA provides below an analysis of the costs and benefits that could arise from the RTS on RCB compared to the baseline, i.e. the market data guidelines.

Chapter II: Calculation of fees, cost and margins of market data

Policy Objective	Improve the transparency on the cost basis underlying the production and dissemination of market data products and the application of a reasonable margin to calculate market data fees.
Technical Proposal	ESMA proposes categories of costs which are relevant for the production and dissemination of market data, and which shall serve as a basis for calculating

	margins. The section also establishes principles for the calculation of reasonable margins to be used for calculating fees of market data products.
Benefits	ESMA's proposal will support market data providers by enhancing clarity on the applicable regulatory requirements. It will reduce the risk that market data fees are not based on costs for producing the market data. The provision on reasonable margins should prevent excessive margins while ensuring market data providers are able to maintain a viable business. Furthermore, the increased transparency will help to promote regulatory and supervisory convergence across NCAs as authorities will have better information to analyse and compare differences.
Costs to regulator	NCAs will be responsible for supervising regulatory compliance of market providers. This task can be integrated into NCAs existing supervisory processes and may require occasional data collections. The RTS builds on the existing guidelines on market data. The enforcement of these guidelines is already within the remit of the NCAs. ESMA believes that the cost to NCAs remains limited. ESMA shall, every two years, monitor the developments in the cost of data and shall where appropriate update the regulatory technical standards in light of the result of its assessment. ESMA is already performing such monitoring, albeit more minimally, and expects potential costs that may arise from revising the RTS to be manageable with the current resourcing.
Compliance costs	Market data providers will be required to assess the obligations in the RTS against their existing processes and will most likely need to review them. Technical and administrative adjustments will be required by market data providers, in order to align internal accounting and pricing mechanisms with the proposed rules. Compliance costs are expected to be unevenly distributed over market data providers since not all market data providers have a market data business which is comparable in scope and size. As the RTS builds on the existing market data guidelines and introduces only limited changes, ESMA expects the burden on market participants to be limited.
Costs to other stakeholders	None identified.

Chapter III: Non-discriminatory access

Policy Objective	Ensure access to data on a non-discriminatory basis, as regards fees, terms and conditions related to access, technical arrangements, and distribution channels.
Technical Proposal	Market data providers shall apply the same fee schedule to all clients belonging to the same category. Client categories should be clearly defined and sufficiently general. Each client should only belong to one client category and all clients within the same category must be treated equally. Market data margins can be different between client categories resulting in different fee schedules. Even if differentiating between client categories, the fee schedule will have to comply with the other provisions of the RTS, and the applied margins will have to remain reasonable.
Benefits	ESMA believes that this section of the RTS will help to reduce the high level of complexity of market data policies and licensing agreements, creating more certainty for market data users on the applicable fees, terms and conditions. As the RTS requires client categories to be factual and non-discriminatory ESMA expects the RTS to improve equal treatment of clients.
Costs to regulator	NCAs will be responsible for supervising regulatory compliance of market providers. This task can be integrated into NCAs existing supervisory processes and may require occasional data collections. The RTS builds on the existing guidelines on market data enforcement of which is already within the remit of the NCAs. ESMA believes that the cost to NCAs remains limited. ESMA shall, every two years, monitor the developments in the cost of data and shall where appropriate update the regulatory technical standards in light of the result of its assessment. ESMA is already performing such monitoring, albeit more minimally, and expects potential costs that may arise from revising the RTS to be manageable with the current resourcing.
Compliance costs	Market data providers will be required to assess the RTS against their existing policies and processes and will likely need to review them. Adjustments by market data providers currently applying value-based pricing will be required with regard to existing fee schedules and contractual agreements. Fee schedules and agreements may be significantly simplified as a result compared to existing complex and extensive fee schedules and agreements. The effect on compliance cost is therefore not clear as these could initially raise during the adaptation period to then decrease due to the simplification of fee schedules and agreements. Market data providers may need to inform and update relevant staff of any changes to internal policies and processes and potentially training.

	As the RTS builds on the existing market data guidelines and introduces only limited changes, ESMA expects the burden on market participants to be limited.
Other costs	None identified.

Chapter IV: Unbiased and fair contractual terms

Policy Objective	Prevent to the maximum possible extent unfair practices, unjustified increases in fees of market data, and to regulate specific aspects of licensing agreements, such as (i) onerous administrative obligations on data users, (ii) ambiguous language in licensing agreements; (iii) frequent unilateral amendments to agreements; (iv) the general lack of transparency on terms and conditions; (iv) excessive fees; (v) increases of fees through penalties; and (iv) overly burdensome audits.
Technical Proposal	The draft RTS introduces an obligation on the provision of pre-contractual information; defines general principles on the fairness, clarity and consistency of terms and conditions; prohibits certain additional fees and product budling; and regulates the conditions for penalties and audits.
Benefits	ESMA believes that the proposed regulation of contractual agreements and market practices will foremost benefit market data clients. Benefits may materialise through lower compliance burdens (such as for legally assessing contractual agreements, keeping track of amendments to those agreements, or responding to audits), freeing internal staff from those tasks. Moreover, by ensuring that no unjustified penalties or excessive fees are levied, the RTS may also lead to a direct reduction of costs associated with market data products. Furthermore, the RTS gives guidance to data providers and NCAs on which market practices are deemed unfair to promote supervisory convergence and compliance.
Costs to regulator	NCAs will be responsible for supervising regulatory compliance of market providers. This task can be integrated into NCAs existing supervisory processes and may require occasional data collections. The RTS builds on the existing guidelines on market data enforcement of which is already within the remit of the NCAs. ESMA believes that the cost to NCAs remains limited. ESMA shall, every two years, monitor the developments in the cost of data and shall where appropriate update the regulatory technical standards in light of the result of its assessment. ESMA is already performing such monitoring,

	albeit more minimally, and expects potential costs that may arise from revising the RTS to be manageable with the current resourcing.
Compliance costs	Market data providers will be required to assess the RTS against their existing policies and processes and will likely need to review them. Adjustments by market data providers may be required with regard to existing fee schedules and contractual agreements. The increased clarity is expected to lower the costs at both market data providers and clients, e.g. by reducing the number and intrusiveness of audits. Market data providers will need to inform and update relevant staff of any changes to internal policies and processes and potentially training. As the RTS builds on the existing market data guidelines and introduces only limited changes, ESMA expects the burden on market participants to be limited.
Other costs	None identified.

Chapter V: Content, format and terminology of the market data policies

Policy Objective	Empower users to make informed decisions regarding market data by having timely access to information on and understanding the fees, terms and conditions associated with market data provision.
Technical Proposal	The proposed RTS defines content, standardised terminology as well as accessibility and format requirements for the publication of market data policies. ESMA proposes a standardised template including disclosures on product costs and profit margins.
Benefits	The standardisation will enable clients to better understand and compare market data agreements. The standardised reporting template will further improve transparency in the market data offerings. Taken together these requirements will improve the comparability of market data offerings and help clients to make better informed decisions.
Costs to regulator	NCAs will be responsible for supervising regulatory compliance of market providers. This task can be integrated into NCAs existing supervisory processes and may require occasional data collections. The RTS builds on the existing guidelines on market data enforcement of which is already within the remit of the NCAs. ESMA believes that the cost to NCAs remains limited. ESMA shall, every two years, monitor the developments in the cost of data and shall where appropriate update the regulatory technical standards in light of the result of its assessment. ESMA is already performing such monitoring,

	albeit more minimally, and expects potential costs that may arise from revising the RTS to be manageable with the current resourcing.
Compliance costs	Market data providers will be required to assess the RTS against their existing policies and disclosures and will likely need to review them. Adjustments by market data providers may be required with regard to existing contractual agreements and disclosures. ESMA expects these adjustments to predominantly one-off costs as future changes will be incremental and likely on an annual basis. As the RTS builds on the existing market data guidelines and introduces only limited changes, ESMA expects the burden on market participants to be small.
Other costs	None identified.

Chapter VI: Data access, content and format of delayed data

Policy Objective	Ensure that market data is made available free of charge 15 minutes after publication in a format that is machine-readable and usable for all data users, including retail.
Technical Proposal	ESMA's proposal requires market data providers to make delayed market data public on a non-discriminatory basis. The requirements detail the exact content (i.e. data fields) to be published for delayed pre- and post-trade data, as well as requirements on format and readability. Delayed data will be accessible without registration.
Benefits	Unhindered access to delayed data is expected to lead to new usage of delayed data, such as automatic use in post trade analysis and best-execution analysis. This will improve service and possibly lower service costs to end-clients. Delayed data which will be free irrespective of its use, will benefit providers and end-users of value-added services as the cost of use of delayed data will decrease. Also new services are expected to be developed as a consequence of unhindered and free access to delayed data. Delayed data agreements and audits will disappear further reducing costs.
Costs to regulator	NCAs will be responsible for supervising regulatory compliance of market providers. This task can be integrated into NCAs existing supervisory processes and may require occasional data collections. The RTS builds on the existing guidelines on market data enforcement of which is already within the remit of the NCAs. ESMA believes that the cost to NCAs remains limited.

	ESMA shall, every two years, monitor the developments in the cost of data and shall where appropriate update the regulatory technical standards in light of the result of its assessment. ESMA is already performing such monitoring, albeit more minimally, and expects potential costs that may arise from revising the RTS to be manageable with the current resourcing.
Compliance costs	Market data providers will be required to assess the RTS against their existing policies and disclosures and will likely need to review them. IT changes will have to be implemented to allow for unhindered access and market data server capacity will need to be adjusted to support expected delayed data requests. Absent a ground to charge for delayed data, existing delayed data agreements will terminate removing the need to maintain, monitor or audit these agreements. ESMA expects the burden on market participants to be small.
Other costs	None identified.

Chapter VII: Content, format and terminology of the information to be provided to the competent authorities on the actual costs of producing and disseminating market data, including a reasonable margin

Policy Objective	Ensure that NCAs obtain sufficient information on the provision of market data, ensure data comparability, and enable ESMA to monitor and assess developments and compliance.
Technical Proposal	ESMA proposes minimum requirements on the content and a standardised reporting template to be used.
Benefits	Both NCAs and ESMA (in case of a CTP) will be responsible for monitoring compliance with the requirements in the RTS. The reporting template is expected not only to simplify monitoring, but also to improve comparability. This will help authorities to align their supervisory practices and create a level playing field for market participants. Market data providers are expected to benefit from reduced data requests from the relevant authorities as the template should provide the relevant information for verifying compliance.
Costs to regulator	ESMA expects the template to reduce the supervisory effort of authorities in their supervision of market data providers. Processing the information is an existing task of authorities and should not increase supervisory costs.
Compliance costs	Market data providers will incur one off costs for implementing the reporting-template in their processes and systems. The template builds on the existing template required by the guidelines on market data and the requirements

	stated in the other chapters of the RTS. ESMA expects the compliance costs to be limited.
Other costs	None identified.

15.2 Annex II: Advice of the Securities and Markets Stakeholder Group

Advice of the Securities and Markets Stakeholder Group[37]

Bond Transparency Framework – Executive Summary

The SMSG agrees that an appropriate outcome of ESMA's calibration exercise to determine which types of bonds should be subject to the various deferral periods set out in the level 1 MiFIR Review framework would be one that results in the largest portion of transactions being made real time or intra-day transparent, provided this does not materially impact on the liquidity or the competitiveness of the EU bond market. To ensure both maximum transparency levels and adequate protection of liquidity providers, the SMSG suggests that ESMA consider alternative, data-based methodologies for calibrating the framework and in particular an approach where average daily trading volumes are used as a proxy for what the market is able to absorb. The SMSG also recommends that ESMA employ other drivers of liquidity in addition to issuance size in its segmentation approach as this will enable more precise targeting of less liquid bonds associated with appropriate deferrals, while simultaneously facilitating increases in real time transparency for the vast majority of bonds which are liquid and where the bulk of trading activity takes place.

[37] To access the full SMSG advice please visit ESMA's website or follow the link ESMA24-229244789-5138 SMSG advice on the May 2024 MiFIR Consultation Package

15.3 Annex III: Feedback to the Consultation Paper

Summary of responses to the CP on RTS 2 amendment

Q1: Do you agree with the proposed definition of CLOB trading systems? If not, please explain why.

Most respondents agreed with the proposed definition of CLOB trading systems. Two respondents suggested deleting the reference to "auction" in "continuous auction order book trading systems" to avoid any confusion with periodic auction trading systems, noting that "auction" refers to systems limited in time as opposed to continuous order book trading. One respondent sought for clarification as to whether trading systems where matching requires confirmation of the liquidity provider's quote ("last look") qualify as CLOB trading systems. Some other respondents disagreed with the proposed definition of CLOB trading systems because they considered that the definition should be expanded to include other trading systems. Those responses are discussed under Q2.

Q2: Do you consider that the definition should include other trading systems? Please elaborate.

Most respondents were of the view that the definition of CLOB trading systems should not include other trading systems. Three respondents however considered that the definition should be expanded to include other hybrid systems used by trading venues, including derivatives exchange, that combine elements not only of CLOB and periodic auctions systems but also others, such as trade registration or block trading systems. According to those respondents, pre-trade transparency requirements should also apply to the non-CLOB-like parts of the hybrid system if parts of the system fulfil the requirements of a CLOB system.

Q3: Do you agree that the description of periodic auction trading systems set out in Annex I of RTS 2 is relevant for specifying the characteristics of those trading systems in the revised RTS? If not, please elaborate.

Most respondents agreed the description of periodic auction trading systems set out in Annex I of RTS 2 is relevant for specifying the characteristics of those trading systems in the revised RTS. One respondent however noted that all the volume matched auctions operated by MiFIR venues only generate the price at the end of the volume matching session which operates as a price-blind until finalisation and asked to complement the definition by adding "(…) *regardless of whether price components are set at the commencement or at the finalisation of the methodology process.*"

Q4: Do you agree to use ESA 2010 to classify bond issuers? If not, please explain and provide alternatives on how clarify how to classify sovereign, other public and corporate issuers.

While some support for the proposal was expressed, the respondents highlighted the difficulty of applying ESA 2010 methodology. In this context, ESMA will not amend RTS 2 to align with ESA 2010. However, in order to reduce cases of misclassification ESMA will align sovereign bond definition of RTS 2 with the one included in Article 4 (60) of MiFID II.

Q5: Do you agree with the proposed LiS pre-trade thresholds for bonds? In your answer, please also consider the analysis provided in sections 4.2.1.

The majority of respondents generally agreed with the proposed LiS pre-trade thresholds for bonds, noting that they align with existing thresholds and past assessments. Respondents mostly agreed with the proposed simplification.

A few respondents proposed using alternative proxies for liquidity and recommended periodic reviews of the thresholds to ensure they remain appropriate. However, some respondents expressed concerns about the levels of the thresholds, suggesting they should not be lower than the current limits or should be carefully calibrated to avoid being set too high. More specific responses on this are given on Q11 and Q12. One respondent suggested to define more granular groups than proposed.

Q6: Do you agree with the proposed LiS pre-trade thresholds for SFPs and EUAs? In your answer, please also consider the analysis provided in section 4.2.2.

The majority of respondents were in favour of the proposed LiS thresholds for SFPs and EUAs. One respondent argues EUAs should be determined in Tons, not Lots.

Q7: Do you agree with the approach taken for the illiquid waiver for bonds, SFPs and EUA? If you disagree with how the liquidity threshold is determined, please include your comments in Q11 for bonds, Q14 for SFPs and/or Q17 for EUAs.

The majority of respondents agreed with the approach taken for the illiquid waiver for bonds, SFPs, and EUA, noting that it should improve market transparency and reduce complexity. However, several respondents' expressed concerns about relying solely on issuance size as the criterion for liquidity determination. They suggest considering additional factors such as market depth, bid-ask spreads, turnover volumes, duration/maturity, and credit rating. Some suggested to use a more granular categorisation to mitigate the risk of oversimplifying by using only issuance size. Suggestions are made in Q11- Q13.

One respondent noted that adopting this proposal would put UE Investment Firms at a disadvantage to UK Investment Firms because of diverging regulations. There is also a call for ESMA to monitor the framework and address any issues that may arise.

Q8: Do you agree with the changes to post-trade fields summarised in Table 5? Please identify the proposal ID in your response.

In the consultation paper, ESMA proposed six changes to the post-trade fields defined in Table 2 of Annex II or RTS 2. Most stakeholders supported those proposals. Some did not support all the proposals and provided feedback and suggestions in relation to certain proposals, which are summarised below.

Proposal 1: introduce a column-naming convention

Three market participants disagreed, stating that a column-naming convention was not practical for market data disseminated via technical protocols.

Proposal 2: delete references to the CTP in the column “Type of execution or publication venue”

The proposal was supported and no specific comment made.

Proposal 3: delete the field “Type” for emission allowance and derivatives thereof

ESMA intended to propose the deletion of the field “type” for emission allowance and derivatives thereof, as explained in Paragraph 50 and 51 of the CP. However, this proposal was incorrectly reflected in the table summarising the proposals (Table 5 p.30 of the CP). Therefore, stakeholders asked ESMA to clarify its intention.

Proposal 4: Require the publication of the self-identifying field “Venue of Publication” by RM, MTF, OTF and APA

Some stakeholders understood that ESMA’s proposal was to require the publication of the “type” of publication venue (i.e. whether the publication venue is an APA, RM, MTF or OTF). They disagreed with this proposal, given that the information on the type of venue is already available in the ESMA register.

Proposal 5: Add a field “Flag” and specify that where a combination of flags is possible, the flags should be reported in the same field, separated by commas.

Two stakeholders noted that the format and logic of the new field was not aligned with that of the MMT which venues already implement and encouraged ESMA to ensure consistency with MMT.

Regarding the format of the field, one stakeholder pointed that any data representation in CSV format will result in the flags being split up at the point of encoding. Hence, they suggested using an alternative delimiter such as space or semicolon, instead of the proposed comma.

Proposal 6: Add a field “Trading system”, to be populated only for transactions executed on regulated markets, MTF or OTFs.

Several stakeholders sought confirmation about the classification of trade registration systems (also referred to as block trading systems or off-order book on-exchange). Some expected a classification as ‘OTHR’ or ‘HYBR’.

One stakeholder suggested renaming the field ‘Type of trading’ instead of ‘Type of trading system’ because pre-trade data transparency requirements are a factor of the type of trading activity taking place on a system. According to this stakeholder, this is particularly relevant in the context of CLOBs which cover two different types of trading activity with different pre-trade transparency requirements.

In a similar vein, one stakeholder suggested the field should provide a list for the types of trading protocols within the system, because non-equities systems tend to be a collection of different protocols adhering to the same liquidity pool under the same MIC.

One stakeholder suggested that the field was not necessary for CTP purposes. To this point, ESMA recalls that the type of trading system is part of the legally mandated market data to be published by the CTP, in accordance with Article 2(36b)(b)(vi) of MiFIR.

Q9: Do you agree not to change the concept of “as close to real-time as technically possible”? If not, what would be in your view the maximum permissible delay?

Almost all respondents agreed with maintaining the current definition and maximum delay of “close to real-time as technically possible”. One respond believed that a further reduction from 5 to 1 minute is possible in the future.

Only a few respondents disagreed to certain extent. A couple of respondents did not agree with the use of the word “technically”. One respondent suggested that the concept of “as close to real-time as technically possible” should be restricted to trades identified in Table 5 under the Formats ‘CLOB’ & 'QDTS' only. For other trading systems the period should be 30 minutes, and the description term should be “as close to real-time as possible”.

Q10: Do you agree with the changes proposed for the purpose of the reporting of OTC transactions?

Most of the respondents agreed with the changes suggested. However, few requests of further clarifications via Q&As were asked for in relation to the possibility of providing the industry with a decision tree, in the form of a Q&A, outlining the responsible entity for reporting in various scenarios. In addition, one respondent requested ESMA to clarify the definitions and granularity of “classes of financial instruments” and treatment of branches. Finally another respondent suggested that a clarification is needed for the scenario where the party interposing is a DPE and the seller is not a DPE, notably on whether the interposing DPE should make the transaction public taking all reasonable steps to ensure that the transaction is made public as a single transaction. If this is the intention, the wording “or is not a DPE and the party that interposes its own account is a DPE” could be added to the Manual on post-

trade transparency, section 4.2.2.2.iFinally a respondent made the point that whilst the RTS on package orders will be addressed during the review for derivatives, the current drafting of Article 7(8) in the CP removes the ability to apply the "package deferral" where components of a package transaction may all be reported under a deferral, subject to at least one component of the package meeting a requirement stated in Article 8. The respondent agreed with ESMA's recognition that package transactions extend beyond derivatives and therefore believe that it is important to include the "package deferral" for package transactions containing components eligible for a deferral within Article 8a.

Q11: Do you agree with the liquidity thresholds set out in Table 7 above? If not, please provide an alternative approach.

Overall, stakeholders' views were split and a consensus did not emerge. Favourable comments generally came from regulated markets and data providers, as well as one traders' association.

Respondents who supported the proposal for the liquidity determination considered that the thresholds proposed were reasonable. They appreciated the proposal for its simplicity and the increased level of transparency it would bring to the market. They also noted that Level 1 is very prescriptive and mandates the use of issuance size for the liquidity determination, leaving limited discretion for ESMA in its assessment. Several also mentioned that their data analysis broadly concurs with the ESMA findings. Some encouraged ESMA to perform periodic recalibrations to ensure that the system remains relevant overtime.

Responses generally against the proposal in the CP outnumbered the favourable ones and generally came from sell-side and buy-side stakeholders. Those respondents who did not support the proposal for the liquidity determination cited the following reasons:

- the methodology should seek to achieve a balance between providing an adequate level of liquidity and protecting liquidity providers from undue risks. They consider that ESMA's proposal to achieve 90% of volumes in the liquid bucket is focusing on the first side of the equation and does not sufficiently consider the mitigation of risks for liquidity providers. They recalled the important role of market makers for the proper functioning of the bond market and their need to hedge their positions via other instruments.

- the liquidity assessment should consider more carefully the MiFIR definition of a liquid market namely a "market in which there are ready and willing buyers and sellers on a continuous basis".

- the proposal especially for corporate bonds would lead to a substantial change compared with the existing framework, indicating the chosen liquidity thresholds are too low. It could penalise the liquidity and deteriorate pricing of certain bonds (especially the least liquid ones) and affect the competitiveness of the EU market vis-

à-vis the UK or US ones, where the transparency frameworks are less prescriptive. Several also mentioned the proposal could in turn hurt the usefulness of the bond consolidate tape.

To address those issues, stakeholders identified several areas of improvement and some supported their proposals with in-depth quantitative analysis. The main proposals relate to bonds grouping, and the use of alternative quantitative criteria.

Q12: Do you agree with the proposed thresholds specified in the above Tables? If not, please justify by providing qualitative data to your analysis and differentiating per asset class.

Respondents were split in relation to the specific thresholds. On the one hand, regulated markets, data providers and proprietary traders were generally in agreement with the proposals, and, in some cases, argued for more ambitious thresholds. On the other hand, there was a slight majority of respondents, most from buy- and sell- side and some trading venues, disagreed with ESMA's approach.

The main feedback received from those who disagreed with ESMA's proposal suggested that ESMA should perform another data analysis and look at liquidity providers undue risk. In particular, these respondents suggested that ESMA should look at the "time to trade-out" concept and set thresholds considering this assessment. Liquidity providers should be able to trade out of a position before the trade is made post-trade transparent. Although there are two/three alternative proposals respondents urge ESMA to do its own analysis using this "time to trade out" concept.

Respondents also mentioned several suggestions to use other metrics:

- Sovereign bonds: split by currency / country; use maturity – longer maturities normally mean higher risk and therefore should deserve lower thresholds.
- Corporate bonds: use rating IG vs HY (no suggestions on how to calibrate this or define it)
- Covered bonds: use maturity.

Respondents also suggested to split CAT 0 and CAT 5 in liquid and illiquid sizes.

Q13: Do you agree with the maximum deferral period set out in the tables above?

The majority of respondents did not agree with ESMA's proposal, with a split between some respondents that suggest shorter or longer deferral periods. A slight majority of respondents were overall in favour of setting the deferrals to the maximum allowed on Level 1 and hence agains ESMA's proposal to decrease the deferral duration of Categories 3 and 4 to end-of-

day. In line with other responses, some respondents suggested ESMA should perform another data analysis and use a quantitative approach that is based on average daily volume (ADV) and trade-out-time to calibrate the deferral regime.

Other respondents argued that for Category 1, a deferral of 15-minutes is not needed, and those trades should be required to be published real-time.

Q14: Do you agree with a static determination of liquidity and determine that all SFPs are illiquid? If not, can you suggest any alternative methodology on how to define liquidity for SFPs?

The majority respondents supported the static approach proposed by ESMA and agreed to determine all SFPSs as illiquid. A couple of those respondents suggested incorporating a mechanism for future re-evaluation of SFP liquidity to reflect potential market changes.

Respondents who disagreed with the approach, highlighted that adequate deferral calibration is needed and it should be adopted a data-based approach focused on liquidity provision. Until this is done the current approach should be maintained. These respondents argued that the current approach will undermine the development of the EU securitisation market and also emphasized the competitive aspect with the UK which removed SFPs from the scope of post-trade transparency. Another respondent agreed that all SFPs should be classified as illiquid but considers that the current proposal for T+2 deferral does not provide adequate protection, especially for large size trades. The respondent stressed the possible negative impact on trading activity in SFPs and the risk of market fragmentation. In addition, it proposed calibrating the regime in line with developments in other key jurisdictions to avoid regulatory divergence. Generally alternative proposals suggested maintaining the approach typically followed for SFPs until today.

Q15: Do you agree not to introduce changes to the threshold size currently applicable to SFPs as provided in RTS 2?

Once respondent developing a separate transparency regime for SFPs, distinct from the bond universe structure. The response emphasizes using specific criteria to define liquidity thresholds. Another respondent requested the introduction deferrals for LIS transactions.

Q16: Do you agree with the maximum duration proposed?

Most respondents who provided a view agreed with the proposal. Nevertheless, some respondents disagreed and suggested the current status quo to be maintained.

Q17: Do you agree with a static determination of liquidity and determine that all EUA are liquid? If not, can you suggest any alternative methodology on how to define liquidity for EUAs?

Only a few respondents provided feedback on this question and generally agreed with ESMA's proposal to determine that all EUAs have a liquid market.

One stakeholder recommended ESMA to perform a periodic review and reassessment of the framework to ensure flexibility in the determination of liquidity for EUAs.

One stakeholder agreed with the liquidity determination only in the case of front vintage EUAs.

Q18: Do you agree with the proposed framework for the deferral regime for EUAs? If not, please suggest an alternative methodology.

Only a few respondents provided feedback on this question. Two stakeholders supported ESMA's proposals.

One stakeholder disagreed with ESMA's proposals and made the following suggestions:i1/ to set the thresholds in tonnes of CO2 (tCO2) rather than lots, as tCO2 is the common unit of measurement for EUAs;i2/ to decrease the pre-trade LIS threshold from the proposed 5 lots to 2 lots (2,000 tCO2);i3/ to decrease the post-trade deferral threshold at a level corresponding to the 80% percentile and to increase the deferral period from T+2 to 4 weeks.

Q19: Do you agree with the classification of ETCs and ETNs as types of bonds?

All respondents that provided a view agreed to classify ETCs / ETNs as bond types, especially from a legal standpoint. Nevertheless, respondents overall highlighted that from a trading perspective these instruments trade very much like ETFs and therefore should have the same transparency regime applied to them.iIn addition, trading venues responding to this question remarked that ETC/ETN should be part of the ETF tape and not the bond tape.

Q20: Do you agree with the liquidity determination for ETCs and ETNs. If not, please suggest an alternative approach to the liquidity determination.

All respondents agreed with ESMA's proposal for the liquidity determination of ETCs and ETNs.

Q21: Do you agree with the pre- and post-trade thresholds? If not, please suggest an alternative methodology.

Respondents were split in relation to the proposed pre- and post-trade thresholds. A few respondents urged ESMA to conduct further analysis.

Those respondents that disagree with ESMA's proposal consider that further analysis should be concluded. From those respondents, one respondent considers that the deferral duration for ETCs/ETNs should be aligned with the longest possible duration for bonds (i.e. four

weeks). All other respondents requested further alignment with ETFs, in particular that the deferral duration should be reduced from the proposed T+2 to END OF DAY.

Finally, one respondent that agreed with the thresholds proposed by ESMA, nevertheless considered that in order to align with ETF pre-trade threshold should increase to € 3 000 000.

Q22: What is your view in relation to the implementation of the supplementary deferral regime for sovereign bonds?

Almost all participants defended that the supplementary deferral option provided by Article 11(3)(a) of MiFIR offers great simplicity. These respondents also urge for a consistent approach between NCAs. In addition, some respondents suggest that ESMA should keep a list of the decisions taken by NCAs in this context.

In relation to Article 11(3)(b) respondents noted that it provides for little benefit, it is difficult to implement and unhelpful for the CTP. However, respondents suggest that if the aggregation option is granted, further guidance is needed to clarify how it should work.

Finally, some respondents noted that despite ESMA noting that supplementary deferrals should continue to apply to derivatives until the application of the deferral regime for derivatives, the draft RTS does not provide for such possibility as the whole Article 11 of RTS 2 was deleted.

Q23: Do you agree not to make any changes to the temporary suspension of transparency obligations framework as it currently in RTS 2?

All respondents supported the proposal not to make any changes. However, one respondent considered that those volume calculations could suffer inaccuracies or inconsistencies due to reporting errors or omissions that could affect the way calculations are carried out and as a result of any other data quality issues. However, ESMA's approach in the CP did not specify how the impact of any such errors and data quality issues can be addressed to ensure that calculations are not skewed due to that reason and whether ESMA intended to have any monitoring role in the process.

Q24: Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

The main points raised by respondents include the need for a more nuanced treatment of bonds with different liquidity profiles, and the importance of appropriate deferral duration for illiquid instruments.

Some respondents also mentioned there should be volume caps on large trades to protect trading interests. On implementation period, some respondents requested an 18-month implementation period for the amended RTS 2.

Additionally, respondents emphasize the need for a holistic approach to regulatory changes and ensuring that the EU's transparency requirements do not disadvantage its markets compared to other jurisdictions.

Q25: What level of resources (financial and other) would be required to implement and comply with the draft amended RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.

A majority of respondents anticipated significant costs and resources required for compliance and the need for a phased implementation approach. Even though the proposals should simplify the requirements, the changes to the systems will still be significant. In addition, the interlinkages between various RTSs complicate the implementation and thus increase costs. Some respondents recommended a specific implementation time varying from 6 to 18 months. A number of respondents stressed the importance of aligning timelines for RTS 23 and RTS 2 (to 18 months). Aligning would avoid the risk of missing data and allow firms to allocate resources more efficiently for the transition.

Summary of responses to the CP on the RTS on Reasonable Commercial Basis

Q26: Do you agree to the general approach used to specify the costs and margin attributable to the production and distribution of market data? Please elaborate.

The responses received to the question regarding the approach used to attribute the costs and margin attributable to the production of market data are polarized.

Some respondents support the general approach, emphasizing the importance of transparency and clarity in market data pricing, and appreciate the recognition of shared costs and the principle-based approach to specifying margins. Those respondents emphasize the need for flexibility in cost allocation and the importance of recognizing joint costs. They argue that the costs of producing and disseminating market data are inherently linked to the operation of trading platforms. They also stress the importance of maintaining a viable business model for data providers and call for flexibility in cost allocation methods to accommodate different business models and operational practices. Some respondents recommend the inclusion of audit costs in the list of cost categories, as they deem those costs form an integral part of the enforcement of contracts between data providers and users. Some respondents call for a dedicated RCB framework for the Consolidated Tape Provider (CTP), ensuring that the CTP's pricing reflects the underlying costs incurred by data providers. In the view of the respondents this would prevent distortive price competition and ensure meaningful revenue redistribution to European markets.

Other respondents express concerns about the inclusion of joint costs, arguing that only direct costs should be considered and a by-product approach possibly aligned with what the FCA has done should be taken. They believe that the joint cost approach could lead to inflated costs and margins, as it allows for the inclusion of costs not directly related to market data production. Some respondents additionally stress that the 'other cost' category should not be kept in the RTS as this could provide leeway to data providers to include additional costs. There is a strong call for clear definitions and guidelines to avoid ambiguity and ensure consistent application of the rules. Terms like "other costs" and "further costs" should be clearly defined to prevent misuse. These respondents stress the importance of strong regulatory oversight and enforcement to ensure that market data fees are based on actual costs and reasonable margins. Regular reviews and audits by ESMA are deemed essential to maintain compliance with the Reasonable Commercial Basis (RCB) framework. Those respondents express a strong consensus against value-based pricing, emphasizing that market data fees should be cost-based to avoid excessive fees and not aligned with the principles of the RCB framework.

One respondent highlights the importance of considering the reality of SME GMs Operators who typically have low or negative margins for market data. The respondent explains that this is due to the offer of data at low or negative margins to promote interest and investment in

SME companies, which is crucial for their ecosystem. Additionally, the respondent expresses the view that in some instances regulatory requirements not directly tailored to SME GM imposes costs on those markets which are disproportionate, addressing matters that are not directly observable on such markets. In this sense the respondent urges to take into account the possibility to exempt SME Market Operators (with 80-90% SME listings) from requirements including publishing detailed cost disclosures, exemptions from calculating and applying reasonable margins, and extensive information reporting to the NCA. Those requirements can indeed cause disproportionate administrative costs.

Overall, while there is general support for the approach to enhance transparency and fairness in market data pricing, there are significant concerns about the implementation details, particularly regarding the inclusion of joint costs and the need for clear guidelines and strong regulatory oversight.

Q27: Do you agree with the proposed approach to cost calculation based on the identification of different cost categories attributable to the production and dissemination of market data (i.e. (i) infrastructure costs; (ii) connectivity costs; (iii) personnel costs; (iv) financial costs; (v) administrative costs)? Please elaborate.

From the responses received there appears to be overall a support with respect to the proposed approach to cost calculation, which involves identifying different cost categories attributable to the production and dissemination of market data. Nevertheless, respondents appear polarised in two contrasting groups.

One group of respondents argues for a more standardized approach to cost classification, more prescriptive guidance as to which costs should be included in each category and the request to have hard evidence presented to regulators to justify cost allocation. This appears motivated by a belief that market data is a by-product of trading and by the view that costs attributable to trading activities should be distinguished from costs related to the production and dissemination of data and the users of market data should not bear costs related to the trading activity.

This group of respondents additionally focussed on the below elements:

- **Increased granularity and transparency**: Some respondents recommend establishing clear cost and revenue lines for standard data products versus atypical products. This would help in understanding the cost structure and margins better.

- **Further specify how to include infrastructure costs**: There are suggestions to differentiate infrastructure costs based on the type of data provider (e.g., trading venues vs. APAs or CTPs) and to further specify which types of infrastructure costs can be included in the calculation of fees for market data. Additionally specify which type of ‘leased services’ could be included.

- **Further specify how to include connectivity costs**: There are suggestions to break down connectivity costs, having standard costs for basic transmission mechanisms and separate costs for more sophisticated products like low-latency dissemination.

- **Exclusion of some costs categories**: Several respondents highlight that some costs should be excluded from the calculation of cost categories, including: (i) Audit Costs; (ii) R&D Costs, (iii) Marketing Costs. In this respect one respondent suggests including in a recital of the RTS a reference to the costs NOT to be included in the calculation.

- **Taxes**: Any cost due to taxation should not be included in the calculation. This is because taxation varies amongst countries and jurisdictions and depends on the level of profitability of the company.

Another group of respondents, predominantly trading venues, argues that the categorization should not be too prescriptive and the "other cost category" currently contemplated in Art. 2(6) is necessary as a 'one size fits all approach' is not feasible with respect to cost calculation. This appears motivated by the view that trading is not the primary business of an exchange, and that market data is a joint product. Several of those respondents argue that there should be a clear mention to joint costs attributable to market data.

This group of respondents further refers to:

- **Reference to 'joint product' and indirect costs**: Some respondents suggest that Article 2 of the draft RTS should include in the calculation of the costs of market data 'direct costs' and 'indirect costs', explicitly mentioning them in the L2 draft. They explain that this distinction is relevant as data is a joint product of trading hence some indirect costs should be included in the calculations.

- **Inclusion of audit costs**: Several respondents highlight the importance to include audit costs as those costs are key to fulfil the MiFID II regulatory obligation to apply market data fees and policies on a non-discriminatory basis and they are core to the business of producing and disseminating data.

- **Caution against complexity in costs allocation**: The financial players who will need to comply with the RTS (TVs, APAs, CTP…) have a different operating model, hence a too granular allocation of costs would be impossible to apply.

- **Trading infrastructure**: Clear understanding that the trading infrastructure is a joint cost which relates to the production of market data and should be appropriately apportioned.

- **Caution towards an approach that would benefit ineffective operators**: One respondent argues that the current cost approach might benefit ineffective operators

who will charge higher costs due to not investing in performance/appropriate infrastructure.

- **Cost of storage**: One respondent suggests including cost of data storage amongst the categories.

- **Fixed costs**: On respondent proposes that costs to be allocated to the production of market data should be based on fixed costs and not variable ones.

A few respondents oppose the cost-based approach altogether, arguing that it could lead to price regulation and hinder innovation. Some respondents express concerns about the practical implementation of the proposed approach, including amongst other elements the risk of inconsistent application and the potential for frequent price increases by trading venues.

As a general remark few respondents noted the use of the two different words: 'personnel' and human resources to refer to staff involved in the production and dissemination of market data and asked for clarification. Some respondents suggest taking into account the fact that TVs will provide data to the CTP and that the revenue sharing principle is applicable.

Q28: Do you agree with the proposal of apportioning costs based on the use of resources (i.e., infrastructure, personnel, software…) for each service provided? Do you think the methodology to be used to apportion costs should be further specified? Please elaborate.

Overall, there appears to be general agreement among respondents for the proposal of apportioning costs based on the use of resources. Nevertheless, respondents seem split into two main groups and recommend targeted adjustments accordingly.

One group of respondents highlights that the cost accounting methodologies should include both direct and indirect costs associated with market data offerings, such as connectivity fees and necessary software or hardware. They recommend that the methodology is reviewed regularly to account for changes in marginal costs and ensure that cost allocations remain accurate and fair. Respondents highlight the need for flexibility to accommodate different business models and further to allow the inclusion of shared costs, including joint costs which may be shared with other departments (e.g. legal or HR). Flexibility, in the view of respondents, is crucial due to the acknowledgment that diverse operating models will lead to an allocation of joint costs by data providers that is different depending on the market operators. Additionally, some respondents caution against creating an overly bureaucratic burden that could increase costs without significant benefits. Some respondents argue that due to the difficulties in finding a precise allocation of joint costs, using revenues is the most practical and (economically) sensible method. Additionally, some respondents highlight the fact disclosure of keys for allocating costs in the market data policies might disclose business sensitive information. One respondents asks for standardising and normalising relevant accounting whilst setting out the calendar terms for the basis periods of applicable costs and

licences. Moreover, guidance as to which costs borne in the EU versus those in other locations or in other group entities may be applied.

Another group of respondents expresses mixed views either (i) supporting an approach who would exclude apportioning joint costs and inputting them towards the cost of market data or (ii) asking for further specifications on how costs should be apportioned. The first group of respondents expressed a preference for the 'by-product' approach which should exclude joint costs. Some respondents emphasized that that general overhead and trading system operation costs should not be included in the cost for market data. The second group of respondents argued that if allocation of joint costs of the basis of the usage of resources is brought forward then the choice to include some costs should be documented with hard evidence and there should be some scrutiny on the allocation keys. Other respondents argued that cost accounting methodologies should be clear and documented to ensure transparency and fairness in cost apportionment. Along these lines some respondents argue that allowing market data providers to allocate costs without rigorous supervision could lead to misalignment in cost allocation, and thus, strong scrutiny by ESMA is recommended. Finally, respondents suggest to take into account the fact that APAs and CTP will not have joint costs attributable to the production of market data, whilst TVs could include part of the trading costs.

Few respondents, who are against the proposal to apportion costs based on usage, argue that such approach is overly onerous and can potentially lead to increased administrative burdens without corresponding benefits.

Q29: Do you agree that the net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees and would you include additional principles to define when a margin can be considered reasonable? Please elaborate.

The responses to the question about using net profit as a proxy for the margin applicable to data fees reveal a diverse range of opinions.

Some respondents strongly agree with the choice of having a principle-based approach and do not disagree with the use of net profit as a representative measure. Nevertheless, they recommend clarifying in the recitals that the costs should represent the total cost (including joint costs). Additionally, some respondents stress that business viability should be taken into account and that that the way margins are set should not harm the provision of data. Additionally, respondents argue that there should be sufficient flexibility in setting margins as to avoid a sharp price increase for smaller and retail clients.

Some respondents note that the current approach could be considered challenging for the CTP as there are difficulties in the first years of operation in forecasting the client base that the CTP will have.

Several respondents suggest using operating profit instead of net profit. They highlight that operating profit, which excludes taxes and financing costs, offers a more consistent and comparable measure across different countries and organizations. In the view of the respondents variations in taxes and financing structures can complicate the use of net profit as a proxy and operating profit would provide a clearer and more equitable basis for determining reasonable margins.

Some respondents express concerns regarding references to terms as “disproportionate” which are not defined in regulation and rather suggest using references to established benchmarks for the financial industry. In this sense one category of respondents seem to indicate a preference for limiting margins applicable to data provision and having a more prescriptive approach. Other respondents explain that requiring the margin for market data provision to be reasonable when compared to the to the net profit attributable to the overall business conducted by the data provider may not provide a relevant or fair benchmark.

Overall, many respondents highlight that it would important that ESMA has an overview of the margins applied to data provision from different data providers in different jurisdictions to avoid that there are too wide discrepancies.

Q30: Do you agree with the proposed template for the purpose of information reporting to NCAs on the cost of producing and disseminating data and on the margin applied to data? Please elaborate, including if further information should in your view be added to the template.

Stakeholders expressed overall agreement with the proposed template. Nonetheless, some respondents found the proposed template overly granular and expressed concerns that this might lead to over disclosing technical elements and industrial secrets, therefore suggested limiting disclosures to protect sensitive information in favour of aggregated information.

On the other hand, another group of respondents advocated for greater transparency and encouraged ESMA to increase the level of detail of the information to be provided to the NCAs to facilitate the assessment of the appropriateness of the approach taken by market data providers.

Also, several respondents called for mandatory periodic reporting, preferably annually, to ensure accountability of market data providers and enable effective supervision by NCAs and ESMA.

Q31: What are in your view the obstacles to non-discriminatory access to data taking into consideration the current data market data policies and agreements?

A majority of respondents highlighted the complexity and opacity of licensing structures as a primary obstacle. Market data licenses were often expensive and multi-layered, making it difficult for users to understand and manage costs. Frequent changes to licensing terms and

fee schedules, often without transparency, led to retroactive fees and penalties. Additionally, users frequently needed multiple licenses for the same data, which unnecessarily increased costs.

Monopolistic practices by dominant data providers exacerbated these issues. Many respondents noted that these providers could impose unfair terms due to their market power, often bundling essential data with additional services, forcing users to purchase unwanted data or services. The lack of standardisation across providers further complicated matters, as inconsistent terminology and definitions made it difficult to compare and understand licensing agreements. This fragmentation of licenses, where new data categories and licensing models were continually created, added to the operational complexity and costs for users.

Discriminatory pricing was another significant obstacle. Many respondents pointed out that fees were often based on the perceived value of data to the user, leading to higher costs for certain users. Moreover, users were frequently charged multiple times for the same data based on different use cases or business units. Restrictions on data usage within licenses created further uncertainty and compliance burdens, while prohibitions on creating and distributing derived data limited innovation and the development of new products.

Audit practices also posed challenges. Several respondents noted that audits were often used to impose additional fees and penalties, with inconsistent and non-transparent processes. Technical and connectivity issues, such as varying levels of latency offered by different connectivity options, created an uneven playing field. Not all users could access the fastest data, which could be a competitive disadvantage.

To address these issues, several recommendations were proposed. Simplifying and standardising fee schedules and licensing terms across providers would facilitate comparison and competition. Implementing a single license for all internal uses of data would help avoid multiple charges. Prohibiting value-based pricing and ensuring transparent audit processes would enhance fairness. Additionally, establishing a permanent dispute resolution mechanism and strengthening regulatory oversight would help ensure compliance with non-discriminatory access principles.

Q32: What are the elements which could affect prices in data provision (e.g. connectivity, volume)? Do they vary according to the use of data made by the user or the type of user? Please elaborate.

Generally, most institutions agreed that the primary costs were fixed, related to the production and dissemination of market data. Variable costs, such as those associated with connectivity, volume, and latency, were considered minor in comparison.

Specific elements that could affect prices included latency, with low latency data (delivered in microseconds or nanoseconds) being more expensive due to the required technology. Higher volumes of data could also increase costs, though this was often a minor factor. Different

connectivity options, such as direct lines versus internet, could impact costs, as could the customisation of data products for specific clients.

Pricing models often depended on the use case, with high-frequency trading requiring faster technology. Some institutions argued that the distinction between display (human use) and non-display (application use) was artificial and should be eliminated. There was also a suggestion to differentiate pricing based on the type of user, with professional users typically requiring more sophisticated data.

Respondents recommended standardising data products to avoid multiple and significantly different extra costs, ensuring transparent pricing models based on easily verifiable elements, and maintaining fair access by offering bespoke products to all clients.

Concerns and criticisms focused on the potential for double-counting costs, such as charging separately for connectivity and then including it in data fees. There was also criticism of value-based pricing, which was seen as discriminatory and subjective.

Additional points raised included the impact of inflation and VAT on costs, and the role of technological advancements in reducing costs over time.

Q33: Do you agree with ESMA's proposal on how to set up fee categories. Please justify your answer.

Respondents generally agreed with ESMA's proposal to avoid value-based pricing and ensure categories were based on factual elements. They explicitly supported the distinction between professional and non-professional clients due to the fundamental differences in data consumption.

Several respondents expressed, however, concerns that categories might lead to value-based pricing, arguing that the cost of producing and disseminating market data should not differ among customers. Cost categories caused administrative and practical challenges, such as increased complexity and higher costs for both providers and users. Additionally, there were concerns about the provision allowing incremental fees based on different uses, which could lead to unjustified fee increases.

Respondents emphasised the need for clear and standardised definitions of user categories and fee structures. They suggested that ESMA should provide more guidance on the factual elements used to categorise market data users.

There were concerns that the proposed fee structure could disadvantage smaller market participants by removing the ability to offer differentiated pricing based on the scale of use. This could lead to higher costs for smaller users and reduced competition.

Q34: Regarding redistribution of market data, do you agree with the analysis of ESMA? If not, please elaborate on the possible risks you identify and possible venues to mitigate these. In your response please elaborate on actual redistribution models.

Most respondents expressed support for ESMA's proposal to create a level playing field between market data providers subject to MiFIR and those not in scope, such as redistributors, benchmark providers, credit rating agencies, and ESG providers.

A few respondents highlighted the heavy administrative burden on institutions due to current market data redistribution requirements. Several respondents pointed out that current requirements created barriers, reducing competition and potentially increasing costs. Some respondents suggested banning redistribution clauses as they restricted innovation and lacked logical foundation.

Many respondents emphasised the need for fair cost recovery mechanisms for data providers, ensuring that all users contributed to the costs of data production and dissemination. A few respondents argued against extra costs for non-display data, suggesting that fees should be based on volume and speed instead.

Most respondents supported expanding the regulatory scope to include benchmark providers, CRAs, ESG providers, and other data vendors. A few respondents recommended designing a regulatory framework that could adapt to new types of data providers, ensuring comprehensive coverage and fair competition.

Several respondents discussed the pros and cons of indirect and direct billing models, with a preference for indirect billing due to its simplicity and efficiency in the European context. Many respondents highlighted the need for transparency in fee structures and competition among data vendors to prevent excessive costs for end-users.

A few respondents raised concerns about double pricing for non-display data and suggested that redistribution fees should only apply to the initial distribution within a firm. Some respondents emphasised the importance of regulating market data aggregators to ensure consistency and fair competition.

Q35: Are there any other terms and conditions in market data agreements beyond the ones listed in this section which you perceive to be biased and/or unfair? If yes, please list them and elaborate your answer.

Many respondents highlighted concerns about the jurisdiction and legal framework of market data agreements, noting that these contracts were often governed by non-EU laws, such as US law. This could affect the burden of proof and limit the impact of ESMA's provisions. Additionally, the high legal fees in the US deterred data users from challenging these contracts.

Several respondents pointed out issues with fee structures and communication. They mentioned the frequent introduction of new fee categories with poor communication, leading to retroactive fee collection due to unclear and complex agreements. Excessive fees and penalties, often unrelated to the actual cost of providing data, were also a common concern.

A significant number of respondents discussed the administrative burdens imposed by these agreements. They cited onerous administrative obligations, including frequent and detailed information requests, and complex, burdensome audit processes. These audits were often seen as aggressive and aimed at extracting more revenue. Additionally, the requirement to delete historical data at the end of contracts was noted as impractical.

Transparency and clarity in market data agreements were also major issues for many respondents. They highlighted the ambiguous language in agreements, which led to misunderstandings and compliance difficulties. Frequent unilateral amendments to agreements without sufficient notice and a general lack of transparency on terms and conditions were also problematic.

Licensing and usage restrictions were another area of concern for several respondents. They mentioned restrictions on the use of derived data and non-display data, as well as unfair charges for per-location and affiliate usage. Inconsistent definitions and interpretations of terms like “derived work” and “non-display” data further complicated compliance.

Many respondents criticised the audit and compliance processes, describing them as burdensome and invasive, with unreasonable access terms. The lack of a clear end point in information requests led to continuous administrative burdens.

Market data policies that allowed unilateral interpretation by data providers created legal uncertainty, according to several respondents. Clauses that allowed data providers to discontinue data dissemination without a proper audit process were also seen as unfair.

To address these issues, respondents proposed several solutions. They suggested the standardisation of definitions and terms in market data agreements, longer notice periods for changes to agreements, and the establishment of a central complaints mechanism and a permanent dispute resolution process.

Q36: Please provide your view on ESMA’s proposal in respect to (i) the obligation to provide pre-contractual information, (ii) general principle on fair terms, (iii) the language of the market data agreement, (iv) the market data agreement conformity with published policies and (v) the provision on fees and additional costs.

Many respondents supported the obligation to provide pre-contractual information. They stressed the need for clear and standardised information to avoid complexity and ensure transparency. However, some were concerned that pre-contractual information could replicate existing user declarations, leading to additional licenses and higher costs. They argued that

price lists and market data policies should be clear enough for users to understand costs without personalised information. Additionally, there were calls for deadlines for data providers to respond to user requests and for the information to be standardised to allow for like-for-like comparisons across market data providers.

There was broad support for the prohibition of unfair terms and conditions in market data agreements. Some suggested that the definition of fair and unfair terms needed to be clear and specific, recommending that the general principle on fair terms be strengthened to forbid unjustified practices that resulted in additional costs. However, some respondents cautioned that terms like “proportionate” and “unjustified” were subjective and needed rigorous enforcement by ESMA.

Respondents emphasised the need for clear and concise language in market data agreements. There were also calls for the standardisation of market data agreements to avoid complexity and higher costs. Introducing a standard template was suggested to ensure harmonisation and comparability.

Many respondents highlighted the importance of making market data agreements, price lists, and policies publicly available. However, some were concerned about the costs versus benefits of implementing ESMA’s proposals, questioning whether the additional regulatory burdens would genuinely contribute to market efficiency without creating barriers to participation.

Respondents expressed concerns about the potential for market data providers to increase fees indirectly by cancelling and reissuing agreements. They suggested amending the proposals to prevent such practices. There was support for the prohibition of double application of fees for the same data, but respondents sought clarity on how this would be enforced and whether it covered additional fees for data storage or reuse after contract termination. Additionally, some emphasised the need to recognise that different usages of data should trigger different fees.

Q37: According to your experience, has the per-user model been inserted in the market data agreements as an option for billing? If yes, do you have experience in the usage of this option? Is the proposed wording of this option in the draft RTS useful? What are in your views the obstacles to its use?

The per-user model had been commonly inserted into market data agreements, with most exchanges and market data providers offering this option. However, its implementation varied widely, and despite its availability, the per-user model generated limited interest among clients, partly due to the significant administrative burden.

Many respondents had experience using the per-user model but highlighted significant challenges. These challenges included high administrative costs, complex reconciliation processes, and a lack of transparency. Tracking and reporting user access, managing

permissions and entitlements, and reconciling data across multiple vendors were cited as major administrative burdens. Some respondents noted that only a handful of clients had adopted the per-user model, and it was increasingly less likely for users to rely on multiple sources of real-time data.

Several respondents expressed concerns that the proposed wording in the draft RTS oversimplified the per-user model. They argued that it omitted important elements such as the eligibility process and the proportionality principle. Respondents suggested that the RTS should include clear eligibility criteria and conditionality regarding the costs of making data available. They recommended replicating provisions from previous guidelines to address these issues.

The significant administrative costs associated with implementing the per-user model were a major obstacle. These costs included executing agreements, managing permissions, and reconciling user data. The process of reconciling user data across different vendors and exchanges was complex and often lacked transparency, leading to discrepancies and additional burdens. The current process was often opaque, with data users having limited visibility into how their data was being reported and reconciled by vendors and exchanges.

Several respondents suggested creating centralised reporting platforms to streamline the reconciliation process and improve transparency. These platforms would allow data users, vendors, and exchanges to share and verify user information more efficiently. Additionally, there was a call for the re-inclusion of the proportionality principle in the RTS. Respondents argued that the costs of implementing the per-user model should be proportionate to the benefits, and smaller data providers should not be unduly burdened.

Q38: Do you agree with ESMA's proposal on penalties? Please elaborate your answer.

Many respondents agreed with the need for transparency and objectivity in penalties. They supported the requirement for market data providers to specify in advance which actions could incur penalties and to base the size of the penalties on the revenues that would have been generated if the client had complied with the agreement.

However, there were concerns about the vagueness of terms such as "unreasonably exceed" and "reasonable time." Respondents suggested that these terms needed clearer definitions and specific caps on penalties to ensure legal certainty and fairness.

Many respondents supported setting a time limit for penalty requests, typically two to three years, to ensure timely enforcement and provide legal certainty. Additionally, some recommended including an appeals process for penalties, allowing data users to challenge penalty charges.

Respondents emphasised the need to distinguish between penalties and interest on unpaid amounts. They argued that applying a reasonable interest on unpaid amounts was necessary to make the content provider whole, while penalties should be clearly defined and justified.

Some respondents opposed the idea of penalties altogether, arguing that they were not standard practice among providers of other goods and services in financial services.

To improve the proposal, respondents suggested that market data providers should be required to periodically disclose their penalties to ESMA along with written justifications in a standardised format.

Q39: Do you agree with ESMA's proposal on audits? Please elaborate your answer.

Many respondents agreed with ESMA's proposal on audits, emphasising the importance of proportionality, transparency, and limiting information requests to what was strictly necessary. They supported the prohibition of the reverse burden of proof and the requirement for audits to be based on clear evidence of serious indications of infringement.

However, some respondents argued that placing the burden of proof on data providers was unrealistic and impractical, as it would significantly affect their ability to audit and ensure compliance. They suggested that the involvement of data users in the audit process was necessary to maintain a level playing field. There was a general consensus on the need for a time limit for audits, with many suggesting a maximum period of two to three years. Additionally, respondents recommended defining the scope of audits before they commenced.

High operational costs associated with audits were highlighted as a concern, with respondents arguing that audits should be conducted in a way that minimised these costs and ensured fairness. There was support for ensuring that the effort required to conduct an audit remained proportionate to the potential amount of market data fees that had allegedly not been paid correctly.

To improve the proposal, respondents suggested that market data providers should be required to provide clear and comprehensive information on audits in their agreements, including the infringements that could trigger an audit, the documents required, the audit procedure, and how data confidentiality would be ensured. Some recommended including an appeals process for audits, allowing data users to challenge audit findings. There were also calls for third-party auditors to be subject to fixed fees rather than incentive-based fees to avoid conflicts of interest.

Some respondents opposed the idea of audits altogether, arguing that they were not standard practice among providers of other goods and services in financial services.

Q40: Would you adopt any additional safeguards to ensure market data agreements terms and conditions are fair and unbiased? Please elaborate your answer.

Many respondents advocated for an extended notice period for amendments to market data agreements, suggesting durations ranging from 90 days to one year, while some respondents noted that the current practice of providing 90 days' notice was adequate and should not be shortened. There was a consensus that clients should have the right to withdraw from agreements without additional fees if amendments significantly impacted them, particularly regarding fee changes.

Some respondents called for detailed and transparent information on costs and fee calculations in market data policies or suggested providing access to historical price lists to enhance transparency further. Additionally, there was a call for limiting changes to once per annum to prevent frequent and burdensome amendments.

Several respondents suggested establishing a permanent dispute resolution mechanism or an ombudsman to handle conflicts and ensure fair enforcement of market data agreements.

Several respondents suggested that the provision of market data should be treated as service agreements rather than licensing agreements.

Q41: Do you agree with the standardised publication template set out in Annex I of the draft RTS? Do you have any comments and suggestions to improve the standardised publication format and the accompanying instructions? Please elaborate your answer.

Most respondents express support for the initiative to standardize market data policies, recognizing its potential to improve compatibility for market data clients. However, they caution that the current provisions may fall short of achieving true comparability across different policies. To address this, they recommend periodic reviews of the reporting template to ensure it remains fit for purpose and adaptable to industry needs.

A significant concern raised is the disclosure of cost allocation keys and other commercially sensitive information. Respondents argue that such requirements could unintentionally expose sensitive data to competitors, undermining the objective of avoiding the revelation of actual costs or margins. They propose limiting detailed cost disclosures to national regulators, emphasizing that public disclosure of this information could have adverse competitive implications.

Respondents highlight the substantial investment and operational costs required to comply with the proposed template. This includes not only financial implications but also the potential strain on resources. A balance must be struck between achieving transparency and safeguarding commercially sensitive information, ensuring that compliance is both practical and cost-effective.

Several specific amendments have been suggested to enhance the framework's effectiveness while addressing industry concerns. These include:

- Requiring market data policies to remain publicly available for at least five years.

- Mandating detailed comparisons between previous and updated policies whenever changes occur, with at least 90 days' advance notice before changes take effect.
- Expanding granularity in the reporting template to improve cost traceability and transparency.

Respondents advocate for greater transparency around revenues and fee structures. They recommend that market data providers publish annual revenues derived from market data, including their proportion of total revenues. These should be broken down by fee types, such as connectivity fees. Additionally, there is strong support for removing price differentials between display and non-display data and linking any price increases to the Consumer Price Index (CPI) for justification.

The use of non-proprietary, easily accessible formats such as CSV for publishing data is widely endorsed. This would enable market data users to better assess and compare information, fostering an environment of clarity and accountability.

Trading Venues emphasize the need to protect commercially sensitive information, advocating for transparency restricted to regulatory bodies. They highlight the financial and operational challenges posed by the proposed template and call for measures to ensure that compliance requirements are manageable.

Market data users, on the other hand, prioritize greater transparency and comparability. They propose the publication of historical data, detailed explanations of fee changes, and the elimination of pricing disparities between data types. They also call for breaking down revenues and fees to enhance clarity and accountability.

Both trading venues and market data users agree on the importance of transparency and comparability in market data policies. Periodic reviews of the reporting framework are also universally supported to ensure its continued relevance and effectiveness. Some respondents find the requirement to disclose consolidated tape provider (CTP) costs unnecessary. They argue that data consumers are primarily interested in the quality of the tape and the actual price charged, especially given that CTP services lack competition due to the existence of only one provider.

Q42: Do you agree with the proposed list of standard terminology and definitions? Is there any other terminology used in market data policies that would need to be standardised? If yes, please give examples and suggestions of definitions.

There is broad agreement among institutions on the importance of standardised terminology in market data policies, as this would help prevent inconsistencies and confusion. A clear framework for terminology is seen as essential for improving transparency and usability across the industry. However, they stress the importance of refining definitions to avoid ambiguity and ensure fair practices. The balance between standardisation and flexibility is seen as vital for

accommodating evolving market needs and technological advancements while minimizing unnecessary costs and complexity.

Institutions have identified specific areas where definitions are critical. For instance, there is significant support for clearly defining “professional” and “non-professional” clients to distinguish between different user types effectively. Similarly, clear distinctions between “display” and “non-display” data are needed to avoid double charging when the same data is used for different purposes. Concerns have also been raised about access fees, with some institutions cautioning that such fees could lead to double charging. Furthermore, the concept of “derived data” requires a precise definition to ensure fair and consistent charging practices.

Despite these agreements, there are concerns about the potential costs and challenges associated with implementing new terminology. Many institutions argue that revising terminology yet again could incur substantial operational costs without delivering meaningful benefits. There is also a strong call for flexibility in definitions to allow for adaptation to technological advancements and changing market dynamics. Institutions emphasize the need to avoid redundancy or duplication in definitions, which could lead to unnecessary complexity and additional charges.

Specific feedback has also been provided regarding certain articles in the framework. Stakeholders suggest adding detailed definitions for key terms such as “market data client,” “unit of count,” and “historical data” to enhance clarity and consistency throughout the policy.

Q43: Do you consider that the “user-id” and the “device” should still be considered as “unit of count” for the display and non-display data respectively? Do you think (an)other unit(s) of count can better identify the occurrence of costs in data provision and dissemination and if yes, which?

The use of "device" as a unit of count for non-display data has faced significant criticism due to its ambiguity and potential to inflate charges. Many respondents argue that "user-id" is a more appropriate unit for display data, though concerns remain about its practicality, particularly for non-display purposes. The debate highlights a lack of alignment between current units of count and the evolving needs of the market, with both "user-id" and "device" seen as outdated or overly rigid in certain contexts.

To address these concerns, respondents have proposed alternative units of count, including "application count," "technical access ID," "enterprise license," and "data volume." Some also suggest a tiered pricing model based on user categories or specific use cases, which they believe would better reflect actual costs and usage patterns. This approach would allow for more equitable and transparent pricing, especially for non-display data.

Flexibility and standardisation are recurring themes in the feedback. While there is a call for greater adaptability to accommodate different technologies and use cases—such as cloud computing and blockchain—there is also an emphasis on the need for clear, precise, and

verifiable definitions. Standardised terms and frameworks would reduce confusion and help ensure fair pricing practices, benefiting both providers and consumers of market data.

Proposed solutions focus on enhancing clarity and providing more relevant options for units of count. Clear and precise definitions of "user-id" and "device" are considered essential to eliminate ambiguity. However, many advocate for the adoption of alternative measures, like "application count" or "enterprise license," to better align with the actual costs and complexities of data provision. Flexibility in defining units of count is also seen as crucial for accommodating new technologies, with some recommending a shift from rigid units to use case-based categories that simplify reporting and management for data consumers. A tiered model for non-display data, based on user categories or use cases, has also been proposed to reflect costs more accurately while ensuring transparency and avoiding duplicative charges.

The perspectives of trading venues and market data users reveal contrasting priorities. Trading venues generally support retaining "user-id" and "device" as units of count but stress the importance of updating definitions to reflect technological advancements. They note that outdated definitions may not capture the realities of modern systems, such as AI-driven data handling or cloud-based solutions, and advocate for flexibility to avoid unnecessary burdens. In contrast, market data users prefer alternative units that better correlate with usage patterns and costs, like "application count" or "enterprise license." They highlight that the number of devices or users often has no direct relationship to the actual costs of data dissemination and stress the need for transparent, standardised definitions to prevent overcharging and ensure fairness.

Q44: Do you foresee other types of connectivity that should be defined beside “physical connection” to quantify the level of data consumption? Please elaborate your answer.

The feedback highlights several key issues and proposed solutions regarding the definition and measurement of data consumption. Firstly, there is a debate over the definition of "physical connection." Some respondents suggest that it should include wireless methods to keep up with technological advancements, while others argue that physical connections do not accurately reflect data usage and should not be used as a proxy.

Alternative methods for quantifying data consumption were also discussed. Suggestions include using the number of devices, terminals, display units, and simultaneous IP addresses. Some respondents propose metrics like data volume, bandwidth usage, and application count as better indicators of data consumption.

Flexibility and technological neutrality are emphasized as necessary for defining connectivity types. This would accommodate various technologies and use cases, such as cloud, microwave, and fiber. There are concerns about the administrative burden and compliance issues associated with counting physical connections.

Proposed solutions include amending the definition of physical connection to include wireless methods and ensuring it is broad enough to cover various connectivity methods without being overly prescriptive. Alternative metrics for data consumption, such as the number of devices and data volume, are suggested to provide a more accurate reflection of usage. Flexibility in defining connectivity types is recommended to reduce administrative burden and compliance issues.

Q45: Do you think there is any other information that market data providers should disclose to improve the transparency on market data costs and how prices for market data are set? If yes, please provide suggestions.

The feedback emphasizes the need for standardization to ensure transparency and comparability of costs among market data providers. Without standardization, market data clients will struggle to make like-for-like comparisons. There are concerns that the draft RTS lacks the necessary granularity and detail, potentially including irrelevant costs that do not pertain to the production and dissemination of market data.

Respondents support requiring market data providers to disclose all cost types included in their fees, along with examples. They also believe providers should disclose whether margins are included in the fees and explain how these margins are justified. The feedback highlights the absence of requirements for timely information, suggesting that cost information should be available immediately after the annual financial results are published. Additionally, market data policies should be accessible in a single location on providers' websites, free of charge and without discrimination.

Proposed solutions include developing a fixed list of costs for the cost-based approach to ensure comparability and providing guidance to NCAs on interpreting and supervising cost disclosures. Detailed justifications for all costs included under the draft RTS are recommended, along with external benchmarks for margin comparison. Timely availability of cost information and accessible market data policies are also suggested. Some respondents propose including overhead costs for a full-cost approach, while others suggest justifying incremental costs based on cost plus margin.

Q46: Do you agree with the approach on delayed data proposed by ESMA? Please elaborate your answer.

There is general agreement on removing registration processes to access delayed data, with many respondents emphasizing that this data should be free of all charges, including access, administrative, distribution, display, non-display, and derived data fees. Additionally, there is a call for delayed data to be provided in a machine-readable format to facilitate easier ingestion by firms, with some suggesting that it should be available in a streaming mode via an API, as a flat file is often insufficient.

Concerns are raised about restrictive licensing terms for delayed data, which can lead to additional costs through administrative overheads or requirements to pay for additional use cases. Some respondents believe that delayed data should be free to use without any fee or license requirements after 15 minutes. There is also agreement on maintaining the same requirements for delayed data as outlined in the ESMA guidelines, including specific fields for post-trade transparency and pre-trade data. However, some respondents feel that requiring delayed data to be available for more than 24 hours is excessive and suggest limiting its availability to the whole trading day.

Proposed solutions include amending the draft RTS to explicitly state that delayed data will be free of all charges and ensuring it is provided in a machine-readable format, including streaming mode via an API. To enhance standardization and comparability, a standardized rate card model should be developed, and market data providers should be required to list all cost types included in their fees, along with examples. It is also suggested to prohibit the use of historical data licenses that convert free delayed data into payable data licenses and to ensure that delayed data is free to use without fee or license requirements after 15 minutes, regardless of the type of client or user. Finally, while maintaining the same requirements for delayed data as in the ESMA guidelines, it is recommended to limit its availability to the whole trading day and allow users to store, access, and use previously obtained delayed market data even when it is no longer publicly available.

Q47: Do you agree with the proposal not to require any type of registration to access delayed data? Please elaborate your answer.

The feedback discusses the proposal to remove registration processes for accessing delayed data. There is general agreement with this proposal, as many respondents believe it will enhance accessibility and use of delayed data by market data users. However, some concerns are raised about the need for a minimum degree of interaction with users to monitor and verify the proper use of delayed data, especially for commercial purposes.

Some respondents argue that registration processes are crucial for trading venues to monitor and verify users accessing market data and ensure proper use of delayed data. Registration also allows market data providers to have contact details to inform users about potential updates, such as changes in formats. Additionally, registration can help ensure that data is accessed by legitimate users only and provide tailored services and support based on specific needs and usage patterns. Some respondents believe that a simple registration process should remain possible to facilitate user tracking, data usage monitoring, and compliance with relevant regulations and contractual agreements.

Proposed solutions include supporting the removal of registration processes to ensure easy access for users and reduce costs. Market data providers could request contact information on a voluntary basis without refusing access if the information is not provided. A balanced approach is suggested, where ESMA enforces a simple and user-friendly registration process

that does not create an unnecessary burden on users. Registration should be optional and only required if it serves a clear administrative or compliance purpose. Maintaining a simple registration process is recommended to ensure that trading venues can monitor and verify users accessing market data and their proper use of delayed data, without impeding access.

Q48: ESMA proposes the RTS to enter into force 3 months after publication in the OJ to allow for sufficient time for preparation and amendments to be made by the industry. Would you agree? Would you suggest a different or no preparation time? Please elaborate your answer.

Concerns have been raised regarding the proposed implementation timeline for the new RTS RCB, specifically the sufficiency of the suggested three-month period for the industry to adapt and make necessary amendments. Many stakeholders believe that this timeframe does not account for the extensive changes required, including operational and contractual adjustments. A longer implementation period is considered essential to ensure smooth compliance and to mitigate potential disruptions.

A key issue lies in the contractual obligations of market data providers, who are often required to notify clients in writing prior to any changes in standard market data policies or technical frameworks. These notice periods typically extend to 90 days or more, which conflicts with the proposed three-month implementation period. This tight timeline would leave insufficient time for providers to integrate the new RCB requirements, communicate them effectively to their clients, and ensure their clients have adequate time to prepare.

The operational and technical adjustments necessitated by the RTS RCB are another critical challenge. Implementation will demand significant updates to disclosures, client documentation, and market data policies. Additionally, clients will need time and resources to adapt to and test these changes within their systems. This further underscores the need for a more realistic implementation schedule.

To address these concerns, stakeholders have proposed extending the implementation period to a minimum of nine to twelve months, with some advocating for as long as eighteen months to ensure comprehensive preparation and compliance. A phased implementation approach has also been suggested to minimize disruptions, allowing for an initial preparation phase followed by full implementation. This would enable a smoother transition for market data providers and their clients.

There have also been calls to align the new provisions more closely with existing guidelines, reducing the burden on both providers and users. Clear and consistent guidelines are seen as vital for facilitating the implementation process and ensuring that all parties can transition effectively.

Stakeholder perspectives differ somewhat. Trading venues generally consider the three-month period insufficient and advocate for at least twelve months to address contractual

obligations, notice periods, and the extensive operational changes required. Market data users, while some agree with the three-month timeline, recognize the challenges posed by the substantial changes and support a phased implementation approach. Both groups emphasize the importance of alignment with existing guidelines to ease the transition.

Q49: Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

The feedback on the definition and use of derived data highlights the pressing need for a clear and universally applied definition to enable standardization and prevent the imposition of costly and expansive licensing requirements. Market data providers are criticized for charging redistribution fees on derived data, despite clients retaining intellectual property rights to such data. Trading venues argue for the retention of all cost categories while cautioning against detailed disclosures that could compromise commercially sensitive information. They also express concerns about overregulation, which could discourage investment in the data ecosystem and lead to increased reliance on third-country data providers. Conversely, market data users advocate for clear definitions and enhanced transparency, particularly through published list prices and price benchmarking. They emphasize the importance of supervisory oversight of market data fees and call for measures to protect smaller users from unreasonable prices and barriers to competition.

Regarding transparency and comparability, there is a consensus that market data providers should be mandated to publish list prices and permit users to engage consultants for price benchmarking. This approach would increase transparency and address concerns about unreasonable market data fees, which disproportionately affect smaller investment managers and hinder competition. Enhanced comparability is seen as crucial to ensuring fair access to data and mitigating the challenges posed by the current regulatory framework.

On cost categories and pricing models, it is suggested that the draft Regulatory Technical Standards (RTS) retain all cost categories, including shared costs, while refraining from imposing detailed disclosures that might expose sensitive commercial information. There is apprehension that the draft RTS might verge on price regulation, potentially conflicting with the principles of freedom of commerce and proportionality. A balanced, principles-based approach is recommended to establish reasonable margins without undermining market dynamics.

In terms of the market data landscape and competitive pressures, overregulation is flagged as a potential deterrent to investment in the data ecosystem. This could inadvertently increase reliance on third-country providers. The anticipated introduction of the consolidated tape (CT) is expected to heighten competitive pressure on market data providers, further underscoring the need for a carefully calibrated regulatory approach.

Proposed solutions include the establishment of a precise definition of derived data. This definition should encompass market data used for creating, maintaining, or supporting

derivative works for commercial purposes, while excluding internal uses such as risk management and accounting. Transparency and benchmarking are also emphasized, with a call for market data providers to publish list prices and allow for external price assessments. Robust oversight is deemed essential to prevent fees that exploit the value market data holds for individual users.

Moreover, stakeholders suggest retaining all cost categories in the draft RTS while avoiding overly detailed disclosures. A principles-based framework is preferred for setting reasonable margins. To support smaller market data users, it is crucial that the draft RTS does not lead to increased fees for these users or retail clients. Exchanges should be allowed to set fees based on customer categories and usage types to ensure smaller players are not disadvantaged compared to larger, global entities.

Q50: What level of resources (financial and other) would be required to implement and comply with the RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.

Respondents reported that implementing and complying with the RTS will demand considerable financial, technical, and human resources. The costs associated with these requirements are expected to vary based on the final scope of the RTS and the specific obligations it imposes. Organizations will face both one-off and ongoing expenses. One-off costs include legal and external counsel fees, investments in market data operations, client relationship management, finance and accounting adjustments, and IT development. Ongoing costs will encompass maintenance fees, periodic reviews, and the need for additional personnel with expertise in market data and legal compliance.

Smaller organizations, with their more limited resources, are likely to experience a disproportionately higher impact. These firms may struggle to allocate sufficient personnel and financial resources to meet the demands of implementation and compliance, making the changes particularly burdensome.

To address these challenges, respondents have proposed several solutions: (i) a phased implementation approach has been suggested to help manage the resource and financial strain; (ii) extending the implementation period to 12 to 18 months would give market data providers and their clients adequate time to adapt to the new requirements and (iii) there is a call for proportionality in the drafting of the RTS, ensuring that smaller firms are not disproportionately burdened by compliance costs.

15.4 Annex IV: Regulatory Technical Standards on RTS 2 amendment

Draft technical standards

COMMISSION DELEGATED REGULATION (EU) XXXX/XX

of XX

amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/583 with regard to regulatory technical standards on transparency requirements in respect of bonds, structured finance products, and emission allowances

(Text with EEA relevance)

THE EUROPEAN COMMISSION

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

Having regard to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012[1], and in particular Article 9(5), Article 11(4), and Article 21(5), thereof,

Whereas:

(1) The review of Regulation (EU) No 600/2014 of the European Parliament and of the Council introduced new provisions aimed at enhancing data transparency, improving availability and quality of market data, thereby fostering a more transparent and efficient financial market within the Union. The review introduced new requirements for pre- and post-trade transparency in non-equity instruments for trading venues and investment firms. The empowerments granted in Regulation (EU) No 600/2014 require amendment to this Regulation to align its requirements with the updated regulatory framework.

(2) This amendment to this Regulation should reflect the enhanced requirements for pre- and post-trade transparency for bonds, structured finance products and emission allowances, whilst keeping unchanged the existing requirements for derivatives which will be updated at a later stage in line with the empowerment under Article 11a(3) of Regulation (EU) No 600/2014. Therefore, to ensure clarity on the subject matter of this amending

[1] OJ L 173, 12.6.2014, p. 84.

Regulation, it is specified that the amendments to transparency requirements for waivers only extend to bonds, structured finance products and emission allowances.

(3) A new empowerment to specify the characteristics of central limit order books (CLOB) and periodic auctions was introduced in Regulation (EU) No 600/2014. It is appropriate to clarify a limited number of technical terms related to the definition of these trading systems. These technical definitions are necessary to ensure the uniform application in the Union of the provisions contained in this Regulation and, hence, contribute to the establishment of a single rulebook for Union financial markets. Those definitions serve only for the purpose of setting out the transparency obligations for non-equity financial instruments and should be strictly limited to understanding this Regulation.

(4) Trading systems operated by means of an order book that only includes market maker quotes and a trading algorithm operated without human intervention that matches incoming buy and sell orders with resting market maker quotes on the basis of the best available price on a continuous basis should be considered as continuous orderbook trading systems. Trading systems operated by means of an order book where the quotes of the liquidity providers are confirmed before the potential execution of an incoming order and a trading algorithm operated without human intervention that matches incoming buy and sell orders with the confirmed quotes of the liquidity providers on the basis of the best available price on a continuous basis should also be considered as continuous order book trading systems.

(5) Where a CLOB trading system combines elements of a continuous order book trading system and of a periodic auction trading system, the continuous order book part and the periodic auction part of the CLOB trading system should be subject to the pre-trade transparency requirements respectively set out in Annex I of Commission Delegated Regulation (EU) 2017/583.[2]

(6) Regulation 600/2014 introduces a definition of package transactions under Article 2(50). It is therefore appropriate to remove it from this Regulation.

(7) The reduced scope of pre-trade transparency for non-equity instruments of Regulation (EU) No 600/2014 requires the removal of quote-drive, request-for-quote and voice trading systems from the description of each trading system and the related information that need to be made public. The revised scope should apply to all non-equity instruments.

(8) Amendments to pre-trade transparency waivers were also introduced in Regulation (EU) No 600/2014 In particular, the size specific to the instrument waiver was removed and as

[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).

such it should be removed from this Regulation. This change applies not only to bonds, structure finance products and emission allowances, but also to derivatives. In addition, a static determination of liquidity for non-equity instruments was introduced aiming at achieving a more stable transparency regime. The static determination should also be introduced to existing waivers currently in place, in particular the large in scale waiver. To ensure a consistent approach between the different empowerments introduced in Regulation (EU) No 600/2014, this Regulation only introduces changes to waivers for bonds, structured finance products and emission allowances.

(9) The introduction of the designated publishing entity aims at ensuring that the requirement for reporting of transactions outside a trading venue are proportionate. Since the new Article 21a of Regulation (EU) No 600/2014 clearly sets out the which party of the transaction as the obligation to report, those requirements previously embedded in this regulation applicable to investment firms should therefore be removed.

(10) The new deferral regime aims at ensuring an appropriate level of transparency and protection, so it does not expose liquidity provides to undue risk. For bonds, the determination of liquidity embedded in the new deferral regime is based on the issuance size of the bond. To ensure that the regime is simple and, at the same time, appropriately calibrated, it is appropriate to create three different bond buckets: sovereign and other public bonds, corporate, convertible and other bonds, and covered bonds. The liquidity assessment should be applicable not only to the deferral regime, but also to the liquidity waiver. This regulation should also set out the difference between initial bond issuance size and outstanding issuance size. In this context, the initial issuance size should be understood as the total value of bonds that are issued at the time of issuance. It represents the initial amount of bonds offered to investors in the primary market. However, in many circumstances, the issuer of the bond (being a corporate, government or other entity) changes the issuance size over time. For the assessment of liquidity, the bond issuance outstanding amount should be the relevant factor.

(11) In addition, this Regulation should also specify the sizes of either liquid or illiquid bonds from which a deferral should be applied and the duration of the deferral, which should be in line with the maximum durations foreseen in Regulation (EU) No 600/2014. The quantitative assessment performed was based on trade data and took into account the three buckets of bond types in order to introduce the simplest and most effective regime possible.

(12) For structured finance products and emission allowances, the changes introduced aimed at minimizing the amendments and ensuring that the new transparency regime does not rely on frequent assessments. The assessment was based on the current framework of Delegated Regulation (EU) 2017/583. The data analysis exercise performed by the European Securities and Markets Authority (ESMA) and past experience in setting transparency requirements for structured finance products, has resulted in the assessment

that this instrument is considered as not having a liquid market. For emission allowances, the data analysis suggests that only European Union emission allowances should be considered to have a liquid market.

(13) As for the size threshold for both pre- and post-trade, the same sizes for the purposes of illiquid structured finance products as those currently in Delegated Regulation (EU) 2017/583 should be kept and the same deferral duration period for the publication of the price (no longer than 19.00 local time on the second working day after the date of the transaction) should be introduced. However, since structured finance products currently benefit from a supplementary deferral of up to four weeks, which is no longer allowed under the new framework, it is considered beneficial to introduce a longer standard deferral period from the second working day up to two weeks after the date of the transaction.

(14) Exchange traded commodities (ETC) and exchange traded notes (ETNs) should remain subject to this regulation as they should be considered debt instruments considering their legal nature. However, the determination of liquidity should not be performed assessing the issuance size as for other bonds but should rely on the concept previously introduced by Delegated Regulation (EU) 2017/583 ensuring nevertheless a static determination of liquidity. As such, the assessment made was such that all ETCs and ETNs should be considered illiquid. In line with the amendments considered for structured finance products, longer volume deferral duration is envisaged for ETCs and ETNs.

(15) The changes introduced in Regulation (EU) No 600/2014 for derivatives are delivered in a different timeline. As such, the regime currently applicable in Delegated Regulation 2017/583 should continue to apply to the extent relevant with the new scope of Regulation (EU) No 600/2014 until the new transparency requirements in respect of derivatives are introduced. As such, the concept of post-trade large in scale, size specific to the instrument and supplementary deferrals should continue to be in place for derivatives.

(16) A number of changes were also introduced to the supplementary deferral regime of Regulation (EU) 600/2014. Firstly, the possibility for NCAs to supplement the deferral period to sovereign bonds was limited. Secondly, the decision should be made by the NCA of a Member State with regard to sovereign debt instruments issued by that Member State. For sovereign debt instruments not issued by a Member State, this decision should be taken by ESMA.

(17) Since Article 11(3)(a) of Regulation (EU) No 600/2014 already clarifies the maximum deferral time , no amendments to Article 11 of Delegated Regulation (EU) 2017/583 are needed in this respect. It should nevertheless be noted that six months is the maximum deferral and NCAs could set different deferral durations.

(18) With regards to the publication of transactions in an aggregated form under Article 11(3)(b) of Regulation (EU) No 600/2014, the regulatory framework remains unchanged

and therefore no amendments should be introduced to Delegated Regulation (EU) 2017/583. Therefore, transactions benefitting from an extended deferral should be aggregated by the respective trading venues and APAs over the course of one calendar week and should be published on the following Tuesday before 9.00 CET.

(19) Delegated Regulation (EU) 2017/583 should therefore be amended accordingly.

(20) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission.

(21) 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[3].

(22) ESMA has considered the advice of the expert stakeholder group on equity and non-equity market data quality and transmission protocols in accordance with Article 22b(3)(b) of Regulation (EU) No 600/2014 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies transparency requirements for waivers under Article 9 of Regulation (EU) No 600/2014 in respect of bonds, structured finance products and emission allowances, transparency requirements for deferred publications under Article 11 of Regulation (EU) No 600/2014 and post-trade disclosure requirements under Article 21 of Regulation (EU) No 600/2014.

Article 2

Amendments to Delegated Regulation (EU) 2017/583

Delegated Regulation (EU) 2017/583 is amended as follows:

(1) Article 1 is replaced by the following:

[3] 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).

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

1. “Central Limit Order Book trading system” means either of the following:

(a) a continuous order book trading system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis;

(b) a trading system combining elements of a continuous order book trading as referred to in point (a) and of a periodic auction trading system defined in paragraph 2.

2. “Periodic auction trading system” means a trading system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention.’;

(2) Article 3 is replaced by the following:

‘*Article 3*

Orders which are large in scale for derivatives’

An order in a derivative is large in scale in scale compared with normal market size where, at the point of entry of the order or following any amendment to the order, it is equal to or larger than the minimum size of order which shall be determined in accordance with the methodology set out in Article 13.’;

(3) the following Article is inserted:

‘Article 3a

Orders which are large in scale for bonds, structure finance products and emission allowances

An order is large in scale compared with normal market size where, at the point of entry of the order or following any amendment to the order, it is equal to or larger than the threshold size for:

a) The bond types as defined in Table 2.3 of Annex III;

b) ETC and ETN bond types as defined in Table 2.5 of Annex III;

c) Structured finance products as defined in Table 3.2 of Annex III;

d) Emission allowances as defined in Table 12.2 of Annex III.’;

(4) Article 5 is deleted.

(5) Article 6 is replaced by the following:

‘Article 6

The classes of derivatives for which there is not a liquid market

A derivative shall be considered not to have a liquid market if so specified in accordance with the methodology set out in Article 13.':

(6) the following Article is inserted:

'Article 6a

The classes of bonds, structured finance products and emission allowances for which there is not a liquid market

For determining whether a bond, structured finance product or emission allowance shall be considered not to have a liquid market, the following static determination of liquidity shall apply:

a) For all bond types except ETCs and ETNs as defined in Table 2.2 of Annex III.

b) For ETCs and ETNs as defined in Table 2.4 of Annex III.

c) For structured finance products as defined in Table 3.1 of Annex III.

d) For emission allowances as defined in Table 12.1 of Annex III.'

(7) Article 7 is amended as follows

(a) In paragraph 1, the following sub-paragraph is added:

'The fields names in Table 2 of Annex II shall be made public using the same naming conventions as defined in the field identifier of that table.

(b) paragraph 4 is replaced by the following:

'4. Post-trade information shall be made available as close to real time as is technically possible and in any case within 5 minutes after the execution of the relevant transaction.'

(c) paragraphs 5 and 6 are deleted;

(d) paragraph 8 is replaced by the following:

'8. Information relating to a package transaction shall include the package transaction flag or the exchange for physicals transaction flag as specified in Table 3 of Annex II.'

(8) the title of Article 8 is amended as follows:

'Article 8

Deferred publication of transactions for derivatives'

(9) the following Article is inserted:

‘Article 8a

Deferred publication of transactions for bonds, structured finance products and emission allowances

1 Market operators and investment firms operating a trading venue and investment firms trading outside a trading venue may defer the publication of the details of transaction in respect of bonds except ETCs and ETNs in accordance with the following durations:

a) a price deferral and a volume deferral not exceeding 15 minutes, for transactions in category 1 in accordance with Table 2.6 of Annex III;

b) a price deferral and a volume deferral not exceeding the end of the trading day, for transactions in category 2 in accordance with Table 2.6 of Annex III;

c) a price deferral not exceeding the end of the first trading day and a volume deferral not exceeding one week after the transaction date, for transactions in category 3 in accordance with Table 2.6 of Annex III;

d) a price deferral not exceeding the end of the second trading day and a volume deferral not exceeding two weeks after the transaction date, for transactions in category 4 in accordance with Table 2.6 of Annex III;

e) a price deferral and a volume deferral not exceeding four weeks after the transaction date, for transactions in category 5 in accordance with Table 2.6 of Annex III.

2 Market operators and investment firms operating a trading venue and investment firms trading outside a trading venue may defer the publication of the details of transaction in respect of ETC and ETN bond type and structured finance products in accordance with the following durations:

a) a price deferral not exceeding the end of the second trading day after the transaction date, for transactions of any size; and,

b) a volume deferral not exceeding two weeks after the transaction date, for transactions of any size.

3 Market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make public each transaction no later than 19.00 local time on the second working day after the date of the transaction, provided the transaction is above the post-trade size for emission allowances in accordance with Table 12.2 of Annex III.’;

(10) the title of Article 9 is amended as follows:

‘Article 9

Transactions which are large in scale for derivatives’;

(11) the title of Article 10 is amended as follows:

‘*Article 10*

The size specific to the financial instrument for derivatives’;

(12) Article 11 is amended as follows:

(a) the title of Article 11 is amended as follows:

‘Article 11

Transparency requirements for derivatives in conjunction with deferred publication at the discretion of the competent authorities’

(b) in paragraph 1, point (d) is deleted;

(c) in paragraph 2, points (b) and (c) are deleted;

(d) paragraph 4. is replaced by the following:

‘4. The aggregated daily or weekly data referred to in paragraphs 1 and 2 shall contain the following information for derivatives in respect of each day or week of the calendar period concerned:

(a) the weighted average price;

(b) the total volume traded as referred to in Table 4 of Annex II;

(c) the total number of transactions.’

(e) paragraph 6. is replaced by the following:

‘6. Where the weekday foreseen for the publications set out in (c) of paragraph 1, and paragraphs 2 and 3, is not a working day, the publications shall be effected on the following working day before 09:00 local time.’;

(13) the following Article is inserted:

‘Article 11a

Transparency requirements for sovereign bonds in conjunction with deferred publication at the discretion of the competent authorities

1. Where competent authorities exercise their powers under Article 11(3) of Regulation (EU) No 600/2014, the following shall apply:

(a) where Article 11(3)(a) of Regulation (EU) No 600/2014 applies, competent authorities shall allow the omission of the publication of the volume of an individual transaction for an extended time period not exceeding six months;

(b) in respect of sovereign debt instruments and where Article 11(3)(b) of Regulation (EU) No 600/2014 applies, competent authorities shall allow, for a period not exceeding six months, the publication of the aggregation of several transactions executed over the course of one calendar week on the following Tuesday before 9.00 local time.

2. The aggregated weekly data referred to in paragraph 1, point (b), shall contain the following information in respect of each week of the calendar period concerned:

(a) the weighted average price;

(b) the total volume traded as referred to in Table 4 of Annex II;

(c) the total number of transactions.

3. Transactions shall be aggregated per ISIN-code.

4. Where the weekday foreseen for the publications set out in point (d) of paragraph 1 is not a working day, the publications shall be effected on the following working day before 9.00 local time.';

(14) Article 13 is amended as follows:

(a) the title is replaced by the following:

'Methodology to perform the transparency calculations for derivatives'

(b) paragraph 1 is amended as follows:

(i) in point (a), point (iv) is replaced by the following:

'(iv) the sub-asset classes of other interest rate derivatives, other commodity derivatives, other credit derivatives, other C10 derivatives, other contracts for difference (CFDs) and other emission allowance derivatives as defined in Tables 5.1, 7.1, 9.1, 10.1, 11.1 and 13.1 of Annex III.'

(ii) in point (b), points (i), (ii) and (ix) are deleted;

(iii) point (d) is deleted.

(c) paragraph 2 is amended as follows:

(i) the introductory wording is replaced by the following:

'For determining the orders that are large in scale compared with normal market size referred to in Article 3, the following methodologies shall be applied:';

(ii) point (a) is amended as follows:

- point (i) is deleted

- point (vi) is replaced by the following:

'(vi) each sub-asset class considered not to have a liquid market for the asset classes of emission allowance derivatives as defined in Table 13.3 of Annex III;';

- points (vii) and (viii) are deleted.

(iii) point (b) is amended as follows:

- The introductory wording is replaced by the following:

‘the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile and the threshold floor for:’;

- point (i) is deleted;

- point (iii) is replaced by the following:

‘(iii) each sub-asset class having a liquid market for the asset classes of emission allowance derivatives as defined in Table 13.2 of Annex III;”;

- point (iv) is deleted;

(d) paragraph 3 is amended as follows:

(i) point (a) is amended as follows:

- point (i) is deleted

- point (vi) is replaced by the following:

‘(vi) each sub-asset class considered not to have a liquid market for the asset class of emission allowance derivatives as defined in Table 13.3 of Annex III;

- points (vii) and (viii) are deleted;

(ii) point (b) is deleted;

(iii) point (d) is replaced by the following:

‘(d) the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile and the threshold floor for each sub-asset class considered to have a liquid market for emission allowance derivatives as provided in Table 13.2 of Annex III.’;

(e) in paragraph 5, point (b) is replaced by the following:

‘(b) the sizes large in scale compared to normal market size and the size specific to the instrument as set out in paragraph 3.’;

(f) paragraph 7 is replaced by the following:

‘For the purpose of paragraph 1(b), paragraph 2(b) and paragraph 3(c) and (d), competent authorities shall take into account transactions executed in the Union between 1 January and 31 December of the preceding year.’;

(g) paragraph 8 is replaced by the following:

‘The trade size for the purpose of paragraph 2(b) and paragraph 3(c) and (d) shall be determined according to the measure of volume as defined in Table 4 of Annex II. Where the trade size defined for the purpose of paragraphs 2 and 3 is expressed in monetary value and the financial instrument is not denominated in euros, the trade size shall be converted to the currency in which that financial instrument is denominated by applying the European Central Bank euro foreign exchange reference rate as of 31 December of the preceding year.’;

(h) paragraph 10 is deleted;

(i) paragraph 11 is replaced by the following:

‘For the purpose of the determinations referred to in paragraphs 2 and 3, points (b) of paragraph 2 and points (c) and (d) of paragraph 3 shall not apply whenever the number of transactions considered for calculations is smaller than 1 000, the threshold values defined in paragraph 2(a) and paragraph 3(a) shall be applied.

(j) in paragraph 12, the introductory wording is replaced by the following:

‘Except when they refer to emission allowances derivatives, the calculations referred to in paragraph 2(b) and paragraph 3(c) shall be rounded up to the next:’;

(k) paragraph 14 is replaced by the following:

‘For equity derivatives that are admitted to trading or first traded on a trading venue, that do not belong to a sub-class for which the size specific to the financial instrument referred to in Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and Article 8(1)(a) have been published and which belong to one of the sub-asset classes specified in paragraph 1(a)(ii), the size specific to the financial instrument and the size of orders and transactions large in scale compared with normal market size shall be those applicable to the smallest average daily notional amount (ADNA) band of the sub-asset class to which the equity derivative belongs.’;

(l) paragraph 15 is replaced by the following:

‘Financial instruments admitted to trading or first traded on a trading venue which do not belong to any sub-class for which the size specific to the financial instrument referred to in Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and Article 8(1)(a) have been published shall be considered not to have a liquid market until application of the results of the calculations performed in accordance to paragraph 17. The applicable size specific to the financial instrument referred to in Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and

Article 8(1)(a) shall be those of the sub-classes determined not to have a liquid market belonging to the same sub-asset class.';

(m) paragraphs 18, 19 and 20 are deleted.

(15) Articles 17 and 18 are deleted.

(16) Annex I is replaced by Annex I of this regulation;

(17) Table 2 and Table 3 of Annex II are replaced by the tables in Annex II of this regulation;

(18) Annex III is replaced by Annex III of this regulation.

Article 3

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.

It shall apply from [TBC]

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

ANNEX I

Description of the type of system and the related information to be made public in accordance with Article 2

Type of system	**Information to be made public**
Continuous order book trading system	For each financial instrument, the aggregate number of orders and the volume they represent at each price level, for at least the five best bid and offer price levels.
Periodic auction trading system	For each financial instrument, the price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price by participants in that system.

ANNEX II

1. Post-trade fields

Table 2

List of details for the purpose of post-trade transparency

The field names (column headers) as published shall be identical to the field identifier provided in Table 2

#	Field identifier	Financial instruments	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 1
1	Trading date and time	For all financial instruments	Date and time when the transaction was executed. For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 2 of Commission Delegated Regulation (EU) 2017/574 (1). For transactions not executed on a trading venue, the date and time shall be when the parties agree the content of the following fields: quantity, price, currencies, as specified in fields 31, 34 and 44 of Table 2 of Annex I of Delegated Regulation (EU) 2017/590, instrument identification code, instrument classification and underlying instrument code, where applicable. For transactions not executed on a trading venue the time reported shall be granular to at least the nearest second. Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the conditions for transmission set out in Article 4 of Delegated Regulation (EU) 2017/590 were not satisfied, this shall be the date and time of the transaction rather than the time of the order transmission.	Regulated Market (RM) Multilateral Trading Facility (MTF), Organised Trading Facility (OTF) Approved Publication Arrangement (APA)	{DATE_TIME_ FORMAT}
2	Instrument identification code	For all financial instruments	Code used to identify the financial instrument	RM, MTF, OTF, APA	{ISIN}

3	Price	For all financial instruments	Traded price of the transaction excluding, where applicable, commission and accrued interest. The traded price shall be reported in accordance with standard market convention. The value provided in this field shall be consistent with the value provided in the field “Price Notation”. Where price is currently not available but pending (“PNDG”) or not applicable (“NOAP”), this field shall not be populated.	RM, MTF, OTF, APA	{DECIMAL-18/13} in case the price is expressed as monetary value {DECIMAL-11/10} in case the price is expressed as percentage or yield {DECIMAL-18/17} in case the price is expressed as basis points
4	Missing Price	For all financial instruments	Where price is currently not available but pending, the value shall be “PNDG”. Where price is not applicable the value shall be “NOAP”.	RM, MTF, OTF, APA	“PNDG” in case the price is not available “NOAP” in case the price is not applicable
5	Price currency	For all financial instruments	Major currency in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, OTF, APA	{CURRENCY CODE_3}
6	Price notation	For all financial instruments	Indication as to whether the price is expressed in monetary value, in percentage, in basis points or in yield The price notation shall be reported in accordance with standard market convention. For credit default swaps, this field shall be populated with “BAPO”. For bonds (other than ETNs and ETCs) this field shall be populated with percentage (PERC) of the notional amount. Where a price in percentage is not the standard market convention, it shall be populated with YIEL, BAPO or MONE, in accordance with the standard market convention. The value provided in this field shall be consistent with the value provided in the field “Price”. Where the price is reported in monetary terms, it shall be provided in the major currency unit. Where the price is currently not available but pending (“PNDG”) or not applicable (“NOAP”), this field shall not be populated.	RM, MTF, OTF, APA	“MONE” —Monetary value “PERC” —Percentage “YIEL” — Yield “BAPO” — Basis points

7	Quantity	For all financial instruments except in the cases described under Article 11(1), points (a) and (b) of this Regulation.	For financial instruments traded in units, the number of units of the financial instrument. Empty otherwise.	RM, MTF, OTF, APA	{DECIMAL- 18/17}
8	Quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, emission allowance derivatives and emission allowances except in the cases described under Article 11(1), points (a) and (b) of this Regulation.	The equivalent amount of commodity or emission allowance traded expressed in measurement unit.	RM, MTF, OTF, APA	{DECIMAL- 18/17}

9	Notation of the quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, emission allowance derivatives and emission allowances except in the cases described under Article 11(1), points (a) and (b) of this Regulation	Indication of the notation in which the quantity in measurement unit is expressed.	RM, MTF, OTF, APA	“TOCD” —tonnes of carbon dioxide equivalent, for any contract related to emission allowances “TONE” — metric tonnes “MWHO” —megawatt hours “MBTU” — one million British thermal units “THMS” Therms “DAYS”— days or {ALPHANUM-4} otherwise

10	Notional amount	For all financial instruments except in the cases described under Article 11(1), points (a) and (b) of this Regulation.	This field shall be populated: (i) for bonds (excluding ETCs and ETNs), with the face value, which is the amount repaid at redemption to the investor; (ii) for ETCs and ETNs and securitised derivatives, with the number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, with the price field multiplied by the quantity field; (iii) for structured finance products (SFPs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction; (iv) for credit default swaps, with the notional amount for which the protection is acquired or disposed of; (v) for options, swaptions, swaps other than those in (iv), futures and forwards, with the notional amount of the contract; (vi) for emission allowances, with the resulting amount of the quantity at the relevant price set in the contract at the time of the trans action. Equivalently, with the price field multiplied by the quantity in measurement unit field; (vii) for spread bets, with the monetary value wagered per point movement in the underlying financial instrument at the time of the transaction; (viii) for contracts for difference, with the number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, with the price field multiplied by the quantity field.	RM, MTF, OTF, APA	{DECIMAL-18/5}
11	Notional currency	For all financial instruments except in the cases described under Article 11(1), points (a) and (b) of this Regulation.	Major currency in which the notional amount is denominated. In the case of an FX derivative contract or a multi-currency swap or a swaption where the underlying swap is multi-currency or a currency CFD or spread-betting contract, this will be the notional currency of leg 1.	RM, MTF, OTF, APA	{CURRENCY CODE_3}
12	[deleted]				

13	Venue of execution	For all financial instruments	Identification of the venue where the transaction was executed. Use the ISO 10383 segment MIC for trans actions executed on an EU trading venue. Where the segment MIC does not exist, use the operating MIC. Use “SINT“ for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is executed on a Systematic Internaliser. Use MIC code “XOFF” for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is neither executed on an EU trading venue nor executed by a systematic inter-naliser. If the transaction is executed on an organised trading platform outside of the EU then in addition to “XOFF” also the population of the field “Third-country trading venue of execution” is required.	RM, MTF, OTF, APA	{MIC} – EU trading venues or “SINT” — systematic inter naliser “XOFF” — otherwise
14	Third-country trading venue of execution	For all financial instruments	Identification of the third-country trading venue where the transaction was executed. Use the ISO 10383 segment MIC. Where the segment MIC does not exist, use the operating MIC. Where the transaction is not executed on a third- country trading venue, the field shall not be populated.	APA	{MIC}
15	Publication Date and Time	For all financial instruments	Date and time when the transaction was published by a trading venue or APA. For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For transactions not executed on a trading venue, the time reported shall be granular to at least the nearest second.	RM, MTF, OTF, APA	{DATE_TIME_ FORMAT}
16	Venue of publication	For all financial instruments	Code used to identify the trading venue and APA publishing the transaction.	RM, MTF, OTF, APA	{MIC}
17	Transaction Identification Code	For all financial instruments	Alphanumerical code assigned by trading venues (pursuant to Article 12 of Commission Delegated Regulation (EU) 2017/580 (2)) and APAs and used in any subsequent reference to the specific trade.	RM, MTF, OTF, APA	{ALPHA NUMERICAL-52}

18	Transaction to be cleared	For derivatives	Code to identify whether the transaction will be cleared.	RM, MTF, OTF, APA	“TRUE” — trans action to be cleared “FALSE” — trans action not to be cleared
19	Flags	For all financial instruments	One or multiple fields should be populated with the applicable flags as described in Table 3 of Annex II. Where none of the specified circumstances apply, the transaction should be published without a flag. Where a combination of flags is possible and reported in one field, the flags should be reported separated by commas.	RM, MTF, OTF, APA	As defined in Table 3 of Annex II

20	Trading System	For all financial instruments	Type of trading system on which the transaction was executed. When the field 'Venue of execution' is populated with "SINT" or "XOFF", this field shall not be populated.	RM, MTF, OTF	'CLOB' -- central limit order book trading system, as defined in Article 1(1) of this RTS. 'QDTS' -- quote driven trading systems, meaning a system where transactions are concluded on the basis of firm quotes that are continuously made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of members and participants to deal in a commercial size and the risk to which the market maker exposes itself. 'PATS' -- periodic auction trading systems, as defined in Article 1(2) of this RTS. 'RFQT' -- request for quote trading systems, meaning a trading system where a quote or quotes are provided in response to a request for a quote submitted by one or more other members or participants. The quote is executable exclusively by the requesting member or market participant. The requesting member or participant may conclude a transaction by accepting the quote or quotes provided to it on request. 'VOIC' – voice trading system, meaning a trading system where transactions between members are arranged through voice negotiation. 'HYBR' – hybrid trading system meaning a system falling into two or more of the types of trading systems referred to above. 'OTHR' – any other trading system,
21	Number of transactions	For sovereign debt instruments	This field should be populated with the number of transactions executed when deferred publication of details of several transactions in an aggregated form is required under Article 11(3)(b) of MiFIR.	RM, MTF, OTF, APA	{DECIMAL-18/17}

2. Post-trade flags

Table 3

List of flags for the purpose of post-trade transparency

POST-TRADE DEFERRAL FLAGS FOR DERIVATIVES			
Flag	**Name**	**Type of execution or publication venue**	**Description**
'LRGS'	Post-trade LIS transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the post-trade large in scale deferral
'ILQD'	Illiquid instrument transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the deferral for instruments for which there is not a liquid market
'SIZE'	Post-trade SSTI transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the post-trade size specific to the instrument deferral

POST-TRADE DEFERRAL FLAGS FOR BONDS (EXCEPT ETCs AND ETNs)			
Flag	**Name**	**Type of execution or publication venue**	**Description**
MLF1	Medium Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(a) of this regulation.
MIF2	Medium Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(b) of this regulation.
LLF3	Large Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(c) of this regulation.
LIF4	Lar ge Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(d) of this regulation.
VLF5	Very Large Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a very large size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(e) of this regulation.

VIF5	Very Large Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a very large size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(e) of this regulation.

POST-TRADE DEFERRAL FLAGS FOR ETC, ETN, SFP, EMISSION ALLOWANCES			
Flag	**Name**	**Type of execution or publication venue**	**Description**
DEFF	Deferral for ETCs, ETNs, SFPs and emission allowances	RM, MTF, OTF, APA	Transactions in ETCs, ETNs, SFPs and emission allowances, which benefit from a deferral specified under Article 8a(1) of this Regulation

SUPPLEMENTARY DEFERRAL FLAGS FOR DERIVATIVES [references to Article 11 of MiFIR before the MiFIR review]				
Article 11(1)(a)(i).	'LMTF'	Limited details flag	RM, MTF, OTF, APA	First report with publication of limited details in accordance with Article 11(1), point (a)(i).
	'FULF'	Full details flag		Transaction for which limited details have been previously published in accordance with Article 11(1), point (a)(i).
Article 11(1)(a)(ii).	'DATF'	Daily aggregated transaction flag	RM, MTF, OTF, APA	Publication of daily aggregated transaction in accordance with Article 11(1), point (a)(ii).
	'FULA'	Full details flag	RM, MTF, OTF, APA	Individual transactions for which aggregated details have been previously published in accordance with Article 11(1), point (a)(ii).
Article 11(1)(b)	'VOLO'	Volume omission flag	RM, MTF, OTF, APA	Transaction for which limited details are published in accordance with Article 11(1), point (b).
	'FULV'	Full details flag	RM, MTF, OTF, APA	Transaction for which limited details have been previously published in accordance with Article 11(1), point (b)
Article 11(1)(c)	'FWAF'	Four weeks aggregation flag	RM, MTF, OTF, APA	Publication of aggregated transactions in accordance with Article 11(1), point (c).
	'FULJ'	Full details flag	RM, MTF, OTF, APA	Individual transactions which have previously benefited from aggregated publication in accordance with Article 11(1), point (c).

SUPPLEMENTARY DEFERRAL FLAGS FOR SOVEREIGN BONDS [references to Article 11 of MiFIR after the MiFIR review]				
Article 11(3)(a)	'OMIS'	Volume omission flag	RM, MTF, OTF, APA	Transaction for which limited details are published in accordance with Article 11(3), point (a) of MiFIR.
	'FULO'	Full details flag	RM, MTF, OTF, APA	Transaction for which limited details have been previously published in accordance with Article 11(3), point (a) of MiFIR
Article 11(3)(b)	'AGFW'	Four weeks aggregation flag	RM, MTF, OTF, APA	Publication of aggregated transactions in accordance with Article 11(3), point (b) of MiFIR.
	'FULG'	Full details flag	RM, MTF, OTF, APA	Individual transactions which have previously benefited from aggregated publication in accordance with Article 11(3), point (b) of MiFIR.

Other Flags			
'BENC'	Benchmark transaction flag	RM, MTF, OTF, APA	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.
'NPFT'	Non-price forming transaction flag	RM, MTF, OTF, APA	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
'TPAC'	Package transaction flag	RM, MTF, OTF, APA	Package transactions which are not exchange for physicals as defined in Article 1.
'XFPH'	Exchange for physicals transaction flag	RM, MTF, OTF, APA	Exchange for physicals as defined in Article 1.
'CANC'	Cancellation flag	RM, MTF, OTF, APA	When a previously published transaction is cancelled.
'AMND'	Amendment flag	RM, MTF, OTF, APA	When a previously published transaction is amended.
'PORT'	Portfolio trade flag	RM, MTF, OTF, APA	Transaction in five or more different financial instruments where those transactions are traded at the same time by the same client and against a single lot price and that is not a 'package transaction' as referred to in Article 1(1).
MTCH	Matched principal trading flag	OTF	Matched principal transactions as set out in Article 4(1)(38) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments
NEGO	Negotiated transaction flag	RM, MTF, OTF	Transactions which are negotiated privately but reported under the rules of a trading venue

ANNEX III

Liquidity assessment, LIS and SSTI thresholds for non-equity financial instruments

1. Instructions for the purpose of this annex

1. The reference to outstanding bond issuance size in Table 2.2 refers to the total value of bonds that have been issued and are currently held by investors.

2. A reference to an 'asset class' means a reference to the following classes of financial instruments: bonds, structured finance products, securitised derivatives, interest rate derivatives, equity derivatives, commodity derivatives, foreign exchange derivatives, credit derivatives, C10 derivatives, CFDs, emission allowances and emission allowance derivatives.

3. A reference to a 'sub-asset class' means a reference to an asset class segmented to a more granular level on the basis of the contract type and/or the type of underlying.

4. A reference to a 'sub-class' means a reference to a sub-asset class segmented to a more granular level on basis of further qualitative segmentation criteria as set out in Tables 2.1 to 13.3 of this Annex.

5. 'Average daily notional amount (ADNA)' means the total notional amount for a particular financial instrument determined according to the volume measure set out in Table 4 of Annex II and executed in the period set out in Article 13(18) for all bonds except ETCs and ETNs and in Article 13(7) for all the other financial instruments, divided by the number of trading days in that period or, where applicable, that part of the year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

6. 'Percentage of days traded over the period considered' means the number of days in the period set out in Article 13(18) for all bonds except ETCs and ETNs and in Article 13(7) for structured finance products, on which at least one transaction has been executed for that financial instrument, divided by the number of trading days in that period or, where applicable, that part of the year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

7. 'Average daily number of trades' means the total number of transactions executed for a particular financial instrument in the period set out in Article 13(18) for all bonds except ETCs and ETN and in Article 13(7) all the other financial instruments, divided by the number of trading days in that period or, where applicable, that part of the year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

8. ‘Future’ means a contract to buy or sell a commodity or financial instrument in a designated future date at a price agreed upon at the initiation of the contract by the buyer and seller. Every futures contract has standard terms that dictate the minimum quantity and quality that can be bought or sold, the smallest amount by which the price may change, delivery procedures, maturity date and other characteristics related to the contract.

9. ‘Option’ means a contract that gives the owner the right, but not the obligation, to buy (call) or sell (put) a specific financial instrument or commodity at a predetermined price, strike or exercise price, at or up to a certain future date or exercise date.

10. ‘Swap’ means a contract in which two parties agree to exchange cash flows in one financial instrument for those of another financial instrument at a certain future date.

11. ‘Portfolio Swap’ means a contract by which end-users can trade multiple swaps.

12. ‘Forward’ or ‘Forward agreement’ means a private agreement between two parties to buy or sell a commodity or financial instrument at a designated future date at a price agreed upon at the initiation of the contract by the buyer and seller.

13. ‘Swaption’ or ‘Option on a swap’ means a contract that gives the owner the right, but not the obligation, to enter a swap at or up to a certain future date or exercise date.

14. ‘Future on a swap’ means a future contract that gives the owner the obligation, to enter a swap at or up to a certain future date.

15. ‘Forward on a swap’ means a forward contract that gives the owner the obligation, to enter a swap at or up to a certain future date.

2. Bonds

Table 2.1 [deleted]

Table 2.2

Bonds (all bond types except ETCs and ETNs) — classes not having a liquid market

Each individual bond shall be determined not to have a liquid market as per Article 6a if it is characterised by a specific combination of bond characteristics as specified in each row of the tables below.

Sovereign and Other Public Bonds

Group ID	MiFIR ID	Bond Type	Issuer or Issuer country	Remaining maturity	Type of coupon	Outstanding issuance size
	RTS2#3	RTS2#9	The country of the issuer reported under RTS23 field "Issuer or operator of the trading venue identifier"	The time remaining until the maturity date reported under RTS23 field "Maturity date"	The third letter of the CFI code reported under RTS23 field "Instrument classification"	RTS23 field "Total issued nominal amount" converted to EUR
G1	BOND	EUSB EUSB means a bond which is neither a convertible nor a covered bond and is issued by a sovereign issuer: (a) the Union; (b) a Member State including a government department, an agency or a special purpose vehicle of a Member State; (c) in the case of a federal Member State, a member of the federation; (d) a special purpose vehicle for several Member States; (e) an international financial institution established by two or more Member States which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems; (f) the	The issuer country is a Member State, the United States of America or the United Kingdom; OR The issuer is the Union.	Up to and including 10 years	F (fixed coupon)	Less than 5 000 000 000 EUR

		European Investment Bank; (g) a sovereign entity of a third country.				
G2	BOND	EUSB or OEPB OEPB means a bond which is neither a convertible nor a covered bond and is issued by a public entity which is not a sovereign issuer .	**Any instrument not in G1**			Less than 1 000 000 000 EUR

Corporate, Convertible and Other bonds

Group ID	MiFIR ID	Bond Type	Currency	Credit Rating	Outstanding issuance size
	RTS2#3	RTS2#9	The currency of the instrument reported under RTS23 field "Notional Currency 1"		RTS23 field "Total issued nominal amount" converted to EUR
G3	BOND	CRPB, CVTB or OTHR CRPB means a bond which is neither a convertible nor a covered bond and that is issued by a Societas Europaea established in accordance with Council Regulation (EC) No 2157/2001[41] or a type of company listed in Annex I or Annex II of Directive 2013/34/EU of the European Parliament and of the Council[42] or equivalent in third countries; CVTB means an instrument consisting of a bond or a securitised debt instrument with an embedded derivative, such as an option to buy the underlying equity;	EUR, GBP, USD	Investment Grade	Less than 500 000 EUR
G4	BOND	CRPB, CVTB or OTHR	**Any instrument not in G4**		Less than 500 000 EUR

[41] Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (OJ L 294, 10.11.2001, p. 1).
[42] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Covered bonds

Group ID	MiFIR ID	Bond Type	Outstanding issuance size
	RTS2#3	RTS2#9	RTS23 field “Total issued nominal amount” converted to EUR
G5	BOND	CVDB CVDB means bonds as referred to in Article 52(4) of Directive 2009/65/EC	Less than 500 000 EUR

Table 2.3

Bonds (all bond types except ETCs and ETNs) — pre-trade LIS thresholds

Asset class — Bonds (all bond types except ETCs and ETNs)	
Bond type	**Pre-trade LIS**
Sovereign Bond and Other Public Bond	EUR 5 000 000
Corporate Bond, Convertible Bond and Other Bond	EUR 1 000 000
Covered Bond	EUR 5 000 000

Table 2.4

Bonds (ETC and ETN bond types) — classes not having a liquid market

Asset class — Bonds (ETC and ETN bond type)
For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6a and 8a the following methodology shall be applied

Exchange Traded Commodities (ETCs) - RTS2#3 = ETCS a debt instrument issued against a direct investment by the issuer in commodities or commodities derivative contracts. The price of an ETC is directly or indirectly linked to the performance of the underlying. An ETC passively tracks the performance of the commodity or commodity indices to which it refers.	All ETCs are considered not to have a liquid market
Exchange Traded Notes (ETNs) - RTS2#3 = ETNS a debt instrument issued against a direct investment by the issuer in the underlying or underlying derivative contracts. The price of an ETN is directly or indirectly linked to the performance of the underlying. An ETN passively tracks the performance of the underlying to which it refers.	All ETNs are considered not to have a liquid market

Table 2.5

Bonds (ETC and ETN bond types) — pre-trade LIS threshold

Asset class — Bonds (ETC and ETN bond type)	
Bond type	**Pre-trade LIS**
ETCs	EUR 1 000 000
ETNs	EUR 1 000 000

Table 2.6

Bonds (all bond types except ETCs and ETNs) – deferral regime

Asset class — Bonds (all bond types except ETCs and ETNs)			
Bond type	**Category**	**Liquidity**	**Size (Above or equal to)**
Sovereign Bond in G1 as per Table 2.2	1	Considered to have a liquid market	EUR 15 000 000
	2	Considered not to have a liquid market	EUR 5 000 000
	3	Considered to have a liquid market	EUR 50 000 000
	4	Considered not to have a liquid market	EUR 15 000 000
	5	Considered to have a liquid market	EUR 100 000 000
	5	Considered not to have a liquid market	EUR 50 000 000
Sovereign Bond and Other Public Bond in G2 as per Table 2.2	1	Considered to have a liquid market	EUR 10 000 000
	2	Considered not to have a liquid market	EUR 1 000 000
	3	Considered to have a liquid market	EUR 20 000 000
	4	Considered not to have a liquid market	EUR 2 000 000
	5	Considered to have a liquid market	EUR 50 000 000
	5	Considered not to have a liquid market	EUR 5 000 000
Corporate Bond, Convertible Bond and Other Bond in G3 as per Table 2.2	1	Considered to have a liquid market	EUR 1 500 000
	2	Considered not to have a liquid market	EUR 500 000

	3	Considered to have a liquid market	EUR 7 500 000
	4	Considered not to have a liquid market	EUR 2 000 000
	5	Considered to have a liquid market	EUR 15 000 000
	5	Considered not to have a liquid market	EUR 5 000 000
Corporate Bond, Convertible Bond and Other Bond in G4 as per Table 2.2	1	Considered to have a liquid market	EUR 1 000 000
	2	Considered not to have a liquid market	EUR 500 000
	3	Considered to have a liquid market	EUR 5 000 000
	4	Considered not to have a liquid market	EUR 2 000 000
	5	Considered to have a liquid market	EUR 10 000 000
	5	Considered not to have a liquid market	EUR 5 000 000
Covered Bonds in G5 as per Table 2.2	1	Considered to have a liquid market	EUR 5 000 000
	2	Considered not to have a liquid market	EUR 1 000 000
	3	Considered to have a liquid market	EUR 20 000 000
	4	Considered not to have a liquid market	EUR 5 000 000
	5	Considered to have a liquid market	EUR 50 000 000
	5	Considered not to have a liquid market	EUR 10 000 000

3. *Structured Finance Products (SFPs)*

Table 3.1

SFPs — classes not having a liquid market

Asset class — Structured Finance Products (SFPs)
SFPs asset-class assessment for the purpose of the determination of the financial instruments considered not to have a liquid market as per Articles 6a – RTS2#3 = SFPS. `
All SFPs are considered not to have a liquid market

Table 3.2

SFPs – pre-trade LIS threshold

Asset class — Structured Finance Products (SFPs)
Pre-trade LIS
EUR 250 000

4. *Securitised derivatives*

Table 4.1

Securitised derivatives — classes not having a liquid market

Asset class — Securitised Derivatives
means a transferable security as defined in Article 4(1)(44)(c) of Directive 2014/65/EU different from structured finance products and should include at least:

(a.1) warrants which mean-securities issued by a financial institution giving the holder the right, but not the obligation, to purchase (sell), at or by the expiry date, a specific amount of the underlying asset at a predetermined strike price or, in case cash settlement has been fixed, the payment of the positive difference between the current market price (the strike price) and the strike price (the current market price);

(a.2) plain vanilla covered warrants which mean-securities issued by the same issuer of the underlying asset giving the holder the right, but not the obligation, to purchase (sell), at or by the expiry date, a specific amount of the underlying asset at a predetermined strike price or, in case cash settlement has been fixed, the payment of the positive difference between the current market price (the strike price) and the strike price (the current market price);

(b) leverage certificates means certificates that track the performance of the underlying asset with leverage effect;

(c) exotic covered warrants means covered warrants whose main component is a combination of options;

(d) negotiable rights whose underlying is a non-equity instrument;

(e) investment certificates means certificates that track the performance of the underlying asset without leverage effect.

'RTS2#3 = SDRV

For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied
all securitised derivatives are considered to have a liquid market

Table 4.2

Securitised derivatives – pre- and post-trade SSTI and LIS thresholds

Asset class - Securitised Derivatives		
Pre-trade and post-trade SSTI and LIS thresholds		
LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
Threshold value	**Threshold value**	**Threshold value**
EUR 60,000	EUR 90,000	EUR 100,000

5. Interest rate derivatives

Table 5.1

Interest rate derivatives — classes not having a liquid market

Asset class — Interest Rate Derivatives

any contract as defined in Annex I, Section C(4) of Directive 2014/65/EU whose ultimate underlying is an interest rate, a bond, a loan, any basket, portfolio or index including an interest rate, a bond, a loan or any other product representing the performance of an interest rate, a bond, a loan.

	Sub-asset class		For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria. For sub-classes determined to have a liquid market the additional qualitative liquidity criterion, where applicable, shall be applied		
				Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]	**Additional qualitative liquidity criterion**

Bond futures/forwards **/ Future on a bond future** **/ Forward on a bond future** **'Future on a bond** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FUTR** **'RTS2#16 = BOND** **or** **Forward on a bond** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FORW** **'RTS2#16 = BOND** **or** **Future on a bond future** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FUTR** **'RTS2#16 = BNFD** **or** **Forward on a bond future** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FORW** **'RTS2#16 = BNFD**	a bond future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (**'RTS2#17) — issuer of the underlying **Segmentation criterion 2 (**RTS2#18) — term of the underlying deliverable bond defined as follows: **Short-term**: the underlying deliverable bond with a term up to 4 years shall be considered to have a short-term **Medium-term**: the underlying deliverable bond with a term between 4 and 8 years shall be considered to have a medium-term **Long-term**: the underlying deliverable bond with a term between 8 and 15 years shall be considered to have a long- term **Ultra-long-term**: the underlying deliverable bond with a term longer than 15 years shall be considered to have an ultra-long-term **Segmentation criterion 3** — time to maturity bucket of the future defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 3 months Maturity bucket 2: 3 months < time to maturity ≤ 6 months Maturity bucket 3: 6 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 5 000 000	10	whenever a sub-class is determined to have a liquid market with respect to a specific time to maturity bucket and the sub-class defined by the next time to maturity bucket is determined not to have a liquid market, the first back month contract is determined to have a liquid market 2 weeks before expiration of the front month

Bond Option **/ Option on a bond option** **/ Option on a bond future** **Bond Option** **'Option on a bond option** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = OPTN** **RTS2#16 = BOND** **or** **'Option on a bond option** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = OPTN** **RTS2#16 = BOND** **or** **Option on a bond future** **RTS2#3 = DERV** **RTS2#4 = INTR** **RTS2#5 = OPTN** **RTS2#16 = BNFD**	a bond option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS2#22) —** ultimate underlying bond **Segmentation criterion 2 (RTS2#8) —** time to maturity bucket of the option defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 3 months Maturity bucket 2: 3 months < time to maturity ≤ 6 months Maturity bucket 3: 6 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 5 000 000	10	

IR futures and FRA/ Future on an interest rate future/ Forward rate agreement on an interest rate future **'Future on an interest rate** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FUTR** **'RTS2#16 = INTR** **or** **Forward rate agreement** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FRAS** **'RTS2#16 = INTR** **or** **Future on an interest rate future** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FUTR** **'RTS2#16 = IFUT** **or** **Forward rate agreement on an interest rate future** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = FRAS** **'RTS2#16 = IFUT**	an interest rate future sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS2#24)** — underlying interest rate **Segmentation criterion 2 (RTS2#25)** — term of the underlying interest rate **Segmentation criterion 3 (RTS2#8)** — time to maturity bucket of the future defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 3 months Maturity bucket 2: 3 months < time to maturity ≤ 6 months Maturity bucket 3: 6 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 500 000 000	10	whenever a sub-class is de termined to have a liquid market with respect to a specific time to maturity bucket and the sub-class de fined by the next time to maturity bucket is deter mined not to have a liquid market, the first back month contract is determined to have a liquid market 2 weeks before expiration of the front month

IR options **/Option on an interest rate future/FRA** **/Option on an interest rate option** **/Option on an option on an interest rate future/FRA** **'Option on an interest rate future/FRA//'Option on an interest rate option** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = OPTN** **'RTS2#16 = IFUT** **or** **'IR Option //'Option on an option on an interest rate future/FRA** **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = OPTN** **'RTS2#16 = INTR**	an interest rate option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS2#24) —** underlying interest rate **Segmentation criterion 2 (RTS2#25) —** term of the underlying interest rate **Segmentation criterion 3 (RTS2#8) —** time to maturity bucket of the option defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 3 months Maturity bucket 2: 3 months < time to maturity ≤ 6 months Maturity bucket 3: 6 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 500 000 000	10	

Swaptions **RTS2#3 = DERV** **RTS2#4 = INTR** **'RTS2#5 = SWPT** **'**	a swaption sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS2#16)** — underlying swap type defined as follows: fixed-to-fixed single currency swap, futures/forwards on fixed-to-fixed single currency swap [**RTS2#16 = XXSC]** fixed-to-float single currency swap, futures/forwards on fixed-to-float single currency swap [**RTS2#16 = XFSC]** float-to-float single currency swap, futures/forwards on float-to-float single currency swap [**RTS2#16 = FFSC]** inflation single currency swap, futures/forwards on inflation single currency swap [**RTS2#16 = IFSC]** OIS single currency swap, futures/forwards on OIS single currency swap [**RTS2#16 = OSSC]** fixed-to-fixed multi-currency swap, futures/forwards on fixed-to-fixed multi-currency swap **[RTS2#16 = XXMC]**	EUR 500 000 000	10	

	fixed-to-float multi-currency swap, futures/forwards on fixed-to-float multi-currency swap [**RTS2#16 = XFMC]** float-to-float multi-currency swap, futures/forwards on float-to-float multi-currency swap [**RTS2#16 = FFMC]** inflation multi-currency swap, futures/forwards on inflation multi-currency swap [**RTS2#16 = IFMC]** OIS multi-currency swap, futures/forwards on OIS multi-currency swap [**RTS2#16 = OSMC]** **Segmentation criterion 2 (RTS2#20)** — notional currency defined as the currency in which the notional amount of the option is denominated **Segmentation criterion 3** ('RTS2#22 or RTS2#23) — inflation index if the underlying swap type is either an inflation single currency swap or an inflation multi-currency swap			

	Segmentation criterion 4 (RTS2#21) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years **Segmentation criterion 5** (RTS2#8) — time to maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 6 months **Maturity bucket 2**: 6 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 5 years **Maturity bucket 5**: 5 years < time to maturity ≤ 10 years **Maturity bucket 6**: over 10 years			

Fixed-to-Float ‘multi-currency swaps’ or ‘cross-currency swaps’ and futures/forwards/ options on Fixed-to-Float ‘multi-currency swaps’ or ‘cross-currency swaps’ a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in different currencies and the cash flows of one leg are deter mined by a fixed **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = XFMC	a fixed-to-float multi-currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated **Segmentation criterion 2** (RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < maturity ≤ 1 month Maturity bucket 2: 1 month < maturity ≤ 3 months Maturity bucket 3: 3 months < maturity ≤ 6 months Maturity bucket 4: 6 months < maturity ≤ 1 year Maturity bucket 5: 1 year < maturity ≤ 2 years Maturity bucket 6: 2 years < maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Float-to-Float ‘multi-currency swaps’ or ‘cross-currency swaps’ and futures/forwards/ options on Float-to-Float ‘multi-currency swaps’ or ‘cross-currency swaps’ a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in different currencies and where the cash flows of both legs are determined by floating interest rates RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = FFMC	a float-to-float multi-currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated **Segmentation criterion 2** (RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < maturity ≤ 1 month Maturity bucket 2: 1 month < maturity ≤ 3 months Maturity bucket 3: 3 months < maturity ≤ 6 months Maturity bucket 4: 6 months < maturity ≤ 1 year Maturity bucket 5: 1 year < maturity ≤ 2 years Maturity bucket 6: 2 years < maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Fixed-to-Fixed ‘multi-currency swaps’ or ‘cross-currency swaps’ and futures/forwards/ options on Fixed-to-Fixed ‘multi-currency swaps’ or ‘cross-currency swaps’ a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in different currencies and where the cash flows of both legs are determined by fixed interest rates RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = XXMC	a fixed-to-fixed multi-currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated **Segmentation criterion 2** (RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years … Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Overnight Index Swap (OIS) 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/options on Over night Index Swap (OIS) 'multi-currency swaps' or 'cross-currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in different currencies and where the cash flows of at least one leg are determined by an Overnight Index Swap (OIS) rate RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = OSMC	an overnight index swap (OIS) multi-currency sub-class is de fined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated **Segmentation criterion 2** (RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Inflation 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/ options on Inflation 'multi-currency swaps' or 'cross-currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in different currencies and where the cash flows of at least one leg are determined by an inflation rate **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = IFMC	an inflation multi-currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Fixed-to-Float 'single currency swaps' and futures/forwards/ options on Fixed-to-Float 'single currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in the same currency and the cash flows of one leg are deter mined by a fixed interest rate while those of the other leg are determined by a floating interest rate **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = XFSC	a fixed-to-float single currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13) — notional currency in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8)— time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Float-to-Float 'single currency swaps' and futures/forwards/ options on Float-to-Float 'single currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in the same currency and where the cash flows of both legs are determined by floating interest rates RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = FFSC	a float-to-float single currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13) — notional currency in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Fixed-to-Fixed 'single currency swaps' and futures/forwards/ options on Fixed-to-Fixed 'single currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in the same currency and where the cash flows of both legs are determined by fixed interest rates RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = XXSC	a fixed-to-fixed single currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13) — notional currency in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Overnight Index Swap (OIS) 'single currency swaps' and futures/forwards/ options on Over night Index Swap (OIS) 'single currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in the same currency and where the cash flows of at least one leg are determined by an Over night Index Swap (OIS) rate **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = OSSC	an overnight index swap (OIS) single currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13) — notional currency in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8) — time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	

Inflation 'single currency swaps' and futures/forwards/ options on Inflation 'single currency swaps' a swap or a future/forward/option on a swap where two parties ex change cash flows denominated in the same currency and where the cash flows of at least one leg are determined by an inflation rate **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = SWAP or FONS or FWOS or OPTS RTS2#16 = IFSC	an inflation single currency sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#13) — notional currency in which the two legs of the swap are denominated **Segmentation criterion 2** ('RTS2#8)— time to maturity bucket of the swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	10	
Asset class — Interest Rate Derivatives				

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), the following methodology shall be applied
Other Interest Rate Derivatives an interest rate derivative that does not belong to any of the above sub-asset classes **RTS2#3 = DERV** **RTS2#4 = INTR** RTS2#5 = OTHR	any other interest rate derivative is considered not to have a liquid market

Table 5.2

Interest rate derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Interest Rate Derivatives									
Sub-asset class	Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for each sub-class determined to have a liquid market								
	Transactions to be considered for the calculations of the thresholds	LIS pre-trade		SSTI post-trade			LIS post-trade		
		Trade - percentile	Threshold floor	Trade - percentile	Volume - percentile	Threshold floor	Trade - percentile	Volume - percentile	Threshold floor
Bond futures/forwards	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 20,000,000	90	70	EUR 25,000,000

Bond options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 20,000,000	90	70	EUR 25,000,000
IR futures and FRA	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 10,000,000	80	60	EUR 20,000,000	90	70	EUR 25,000,000
IR options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 10,000,000	80	60	EUR 20,000,000	90	70	EUR 25,000,000
Swaptions	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Fixed-to-Float 'multi currency swaps' or 'cross-currency swaps' and futures/forwards on Fixed-to-Float 'multi	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000

currency swaps' or 'cross-currency swaps'	financial instruments belonging to the sub-class								
Float-to-Float 'multi currency swaps' or 'cross-currency swaps' and futures/forwards on Float-to-Float 'multi currency swaps' or 'cross-currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Fixed-to-Fixed 'multi currency swaps' or 'cross-currency swaps' and futures/forwards on Fixed-to-Fixed 'multi currency swaps' or 'cross-currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Overnight Index Swap (OIS) 'multi currency swaps' or 'cross-currency swaps' and futures/forwards on Overnight Index Swap (OIS) 'multi currency swaps' or 'cross-currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Inflation 'multi currency swaps' or 'cross-currency swaps' and futures/forwards on Inflation 'multi currency swaps' or 'cross-currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000

Fixed-to-Float 'single currency swaps' and futures/forwards on Fixed-to-Float 'single currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Float-to-Float 'single currency swaps' and futures/forwards on Float-to-Float 'single currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Fixed-to-Fixed 'single currency swaps' and futures/forwards on Fixed-to-Fixed 'single currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Overnight Index Swap (OIS) 'single currency swaps' and futures/forwards on Overnight Index Swap (OIS) 'single currency swaps'	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000
Inflation 'single currency swaps' and futures/forwards on	calculation of thresholds should be performed for each sub-class of the sub-	70	EUR 5,000,000	80	60	EUR 9,000,000	90	70	EUR 10,000,000

Inflation 'single currency swaps'	asset class considering the transactions executed on financial instruments belonging to the sub-class								

Table 5.3

Interest rate derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Interest Rate Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for each sub-class determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Bond futures/forwards	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Bond options	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
IR futures and FRA	EUR 10,000,000	EUR 20,000,000	EUR 25,000,000
IR options	EUR 10,000,000	EUR 20,000,000	EUR 25,000,000

Swaptions	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Fixed-to-Float 'multi currency swaps' or ‘cross-currency swaps’ and futures/forwards on Fixed-to-Float 'multi currency swaps' or ‘cross-currency swaps’	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Float-to-Float 'multi currency swaps' or ‘cross-currency swaps’ and futures/forwards on Float-to-Float 'multi currency swaps' or ‘cross-currency swaps’	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Fixed-to-Fixed 'multi currency swaps' or ‘cross-currency swaps’ and futures/forwards on Fixed-to-Fixed 'multi currency swaps' or ‘cross-currency swaps’	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Overnight Index Swap (OIS) 'multi currency swaps' or ‘cross-currency swaps’ and futures/forwards on Overnight Index Swap (OIS) 'multi currency swaps' or ‘cross-currency swaps’	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Inflation 'multi currency swaps' or ‘cross-currency swaps’ and futures/forwards on Inflation 'multi currency swaps' or ‘cross-currency swaps’	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Fixed-to-Float 'single currency swaps' and futures/forwards on Fixed-to-Float 'single currency swaps'	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000

Float-to-Float 'single currency swaps' and futures/forwards on Float-to-Float 'single currency swaps'	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Fixed-to-Fixed 'single currency swaps' and futures/forwards on Fixed-to-Fixed 'single currency swaps'	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Overnight Index Swap (OIS) 'single currency swaps' and futures/forwards on Overnight Index Swap (OIS) 'single currency swaps'	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Inflation 'single currency swaps' and futures/forwards on Inflation 'single currency swaps'	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000
Other Interest Rate Derivatives	EUR 5,000,000	EUR 9,000,000	EUR 10,000,000

6. Equity derivatives

Table 6.1

Equity derivatives — classes not having a liquid market

Asset class — Equity Derivatives

any contract as defined Annex I, Section C(4) of Directive 2014/65/EU related to:

(a) one or more shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments;

(b) an index of shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments

Asset class — Equity Derivatives	
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied**
Stock index options an option whose underlying is an index composed of shares RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = STIX RTS23#26 or if null RTS23#28	all index options are considered to have a liquid market
Stock index futures/forwards a future/forward whose underlying is an index composed of shares RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = STIX RTS23#26 or if null RTS23#28	all index futures/forwards are considered to have a liquid market

Stock options an option whose underlying is a share or a basket of shares resulting from a corporate action RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = SHRS RTS23#26 or if null RTS23#28	all stock options are considered to have a liquid market
Stock futures/forwards a future/forward whose underlying is a share or a basket of shares resulting from a corporate action RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = SHRS RTS23#26 or if null RTS23#28	all stock futures/forwards are considered to have a liquid market
Stock dividend options an option on the dividend of a specific share RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = DVSE RTS23#26 or if null RTS23#28	all stock dividend options are considered to have a liquid market
Stock dividend futures/forwards a future/forward on the dividend of a specific share RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = DVSE RTS23#26 or if null RTS23#28	all stock dividend futures/forwards are considered to have a liquid market

Dividend index options an option on an index composed of dividends of more than one share RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = DIVI RTS23#26 or if null RTS23#28	all dividend index options are considered to have a liquid market
Dividend index futures/forwards a future/forward on an index composed of dividends of more than one share RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = DIVI RTS23#26 or if null RTS23#28	all dividend index futures/forwards are considered to have a liquid market
Volatility index options an option whose underlying is a volatility index defined as an index relating to the volatility of a specific underlying index of equity instruments RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = VOLI RTS23#26 or if null RTS23#28	all volatility index options are considered to have a liquid market

Volatility index futures/forwards a future/forward whose underlying is a volatility index defined as an index relating to the volatility of a specific underlying index of equity instruments RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = VOLI RTS23#26 or if null RTS23#28	all volatility index futures/forwards are considered to have a liquid market
ETF options an option whose underlying is an ETF RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = OPTN RTS2#27 = ETFS RTS23#26 or if null RTS23#28	all ETF options are considered to have a liquid market
ETF futures/forwards a future/forward whose underlying is an ETF RTS2#3 = DERV RTS2#4 = EQUI' RTS2#5 = FUTR or FORW RTS2#27 = ETFS RTS23#26 or if null RTS23#28	all ETF futures/forwards are considered to have a liquid market

Asset class — Equity Derivatives

<table>
<tr><th>Sub-asset class</th><th colspan="3">For the purpose of the determination of the classes of financial instruments considered not to have a liquid mar ket as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</th><th colspan="2">Each sub-class shall be determined not to have a li quid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria</th></tr>
<tr><th></th><th colspan="3"></th><th>Average daily notional amount (ADNA) [quantitative liquidity criterion 1]</th><th>Average daily number of trades [quantitative liquidity criterion 2]</th></tr>
<tr><td>Swaps

RTS2#3 = DERV

RTS2#4 = EQUI'

'RTS2#5 = SWAP</td><td colspan="3">a swap sub-class is defined by the following segmentation criteria: Segmentation criterion 1 ('RTS2#27) — underlying type: single name, index, basket Segmentation criterion 2 (RTS23#26 or if null RTS23#28) — underlying single name, index, basket
Segmentation criterion 3 ('RTS2#28) — parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility
Segmentation criterion 4 ('RTS2#8) — time to maturity bucket of the swap defined as follows:

Price return basic performance parameter | Parameter return variance/volatility | Parameter return dividend
Maturity bucket 1: 0 < time to maturity ≤ 1 month | Maturity bucket 1: 0 < time to maturity ≤ 3 months | Maturity bucket 1: 0 < time to maturity ≤ 1 year
Maturity bucket 2: 1 month < time to maturity ≤ 3 months | Maturity bucket 2: 3 months < time to maturity ≤ 6 months | Maturity bucket 2: 1 year < time to maturity ≤ 2 years
Maturity bucket 3: 3 months < time to maturity ≤ 6 months | Maturity bucket 3: 6 months < time to maturity ≤ 1 year | Maturity bucket 3: 2 years < time to maturity ≤ 3 years
Maturity bucket 4: 6 months < time to maturity ≤ 1 year | Maturity bucket 4: 1 year < time to maturity ≤ 2 years | ...</td><td>EUR 50 000 000</td><td></td></tr>
</table>

Maturity bucket 5: 1 year < time to maturity ≤ 2 years	**Maturity bucket 5**: 2 years < time to maturity ≤ 3 years	**Maturity bucket m**: (n-1) years < time to maturity ≤ n years
Maturity bucket 6: 2 years < time to maturity ≤ 3 years	…	
…	**Maturity bucket m**: (n-1) years < time to maturity ≤ n years	
Maturity bucket m: (n-1) years < time to maturity ≤ n years		

Portfolio Swaps RTS2#3 = DERV RTS2#4 = EQUI' 'RTS2#5 = PSWP	a portfolio swap sub-class is defined by a specific combination of: **Segmentation criterion 1** ('RTS2#27) — underlying type: single name, index, basket **Segmentation criterion 2** (RTS23#26 or if null RTS23#28) — underlying single name, index, basket **Segmentation criterion 3** ('RTS2#28) — parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility **Segmentation criterion 4** ('RTS2#8) — me to maturity bucket of the portfolio swap defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 month **Maturity bucket 2**: 1 month < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 6 months **Maturity bucket 4**: 6 months < time to maturity ≤ 1 year **Maturity bucket 5**: 1 year < time to maturity ≤ 2 years **Maturity bucket 6**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	EUR 50 000 000	15

Asset class — Equity Derivatives	
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied**

Other equity derivatives an equity derivative that does not belong to any of the above sub-asset classes RTS2#3 = DERV RTS2#4 = EQUI RTS2#5 = OTHR′	any other equity derivative is considered not to have a liquid market

Table 6.2

Equity derivatives - pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Equity Derivatives						
Sub-asset class	**For the purpose of the determination of the pre-trade and post-trade SSTI and LIS thresholds each sub-asset class shall be further segmented into sub-classes as defined below**	**Transactions to be considered for the calculations of the thresholds**	**Pre-trade and post-trade SSTI and LIS threshold values determined for the sub-classes determined to have a liquid market on the basis of the average daily notional amount (ADNA) band to which the sub-class belongs**			
			Average daily notional amount (ADNA)	**LIS pre-trade**	**SSTI post-trade**	**LIS post-trade**
				Threshold value	**Threshold value**	**Threshold value**
Stock index options	a stock index option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying stock index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 200m	EUR 3,000,000	EUR 25,000,000	EUR 30,000,000
			EUR 200m <= ADNA < EUR 600m	EUR 5,500,000	EUR 50,000,000	EUR 55,000,000
			ADNA >= EUR 600m	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
Stock index futures/ forwards	a stock index future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying stock index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 1bn	EUR 550,000	EUR 5,000,000	EUR 5,500,000
				EUR 5,500,000	EUR 50,000,000	EUR 55,000,000

		instruments belonging to the sub-class	**EUR 1bn <= ADNA < EUR 3bn**			
			EUR 3bn <= ADNA < EUR 5bn	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
			ADNA >= EUR 5bn	EUR 30,000,000	EUR 250,000,000	EUR 260,000,000
Stock options	a stock option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying share	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 5m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,250,000
			EUR 5m <= ADNA < EUR 10m	EUR 300,000	EUR 1,250,000	EUR 1,500,000
			EUR 10m <= ADNA < EUR 20m	EUR 550,000	EUR 2,500,000	EUR 3,000,000
			ADNA >= EUR 20m	EUR 1,500,000	EUR 5,000,000	EUR 5,500,000
Stock futures/ forwards	an stock future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying share	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 5m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,250,000
			EUR 5m <= ADNA < EUR 10m	EUR 300,000	EUR 1,250,000	EUR 1,500,000
			EUR 10m <= ADNA < EUR 20m	EUR 550,000	EUR 2,500,000	EUR 3,000,000
			ADNA >= EUR 20m	EUR 1,500,000	EUR 5,000,000	EUR 5,500,000
Stock dividend options	a stock dividend option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying share entitling to dividends	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 5m ADNA**	EUR 25,000	EUR 400,000	EUR 450,000
			EUR 5m <= ADNA < EUR 10m	EUR 30,000	EUR 500,000	EUR 550,000
			EUR 10m <= ADNA < EUR 20m	EUR 100,000	EUR 1,000,000	EUR 1,500,000
			ADNA >= EUR 20m	EUR 150,000	EUR 2,000,000	EUR 2,500,000
	a stock dividend future/forward sub-class is defined by the following segmentation criteria:		**< EUR 5m ADNA**	EUR 25,000	EUR 400,000	EUR 450,000

Stock dividend futures/ forwards	**Segmentation criterion 1 -** underlying share entitling to dividends	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class				
			EUR 5m <= ADNA < EUR 10m	EUR 30,000	EUR 500,000	EUR 550,000
			EUR 10m <= ADNA < EUR 20m	EUR 100,000	EUR 1,000,000	EUR 1,500,000
			ADNA >= EUR 20m	EUR 150,000	EUR 2,000,000	EUR 2,500,000
Dividend index options	a dividend index option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying dvidend index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 200m	EUR 3,000,000	EUR 25,000,000	EUR 30,000,000
			EUR 200m <= ADNA < EUR 600m	EUR 5,500,000	EUR 50,000,000	EUR 55,000,000
			ADNA >= EUR 600m	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
Dividend index futures/ forwards	a dividend index future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying dvidend index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 1bn	EUR 550,000	EUR 5,000,000	EUR 5,500,000
			EUR 1bn <= ADNA < EUR 3bn	EUR 5,500,000	EUR 50,000,000	EUR 55,000,000
			EUR 3bn <= ADNA < EUR 5bn	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
			ADNA >= EUR 5bn	EUR 30,000,000	EUR 250,000,000	EUR 260,000,000
Volatility index options	a volatility index option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying volatility index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 200m	EUR 3,000,000	EUR 25,000,000	EUR 30,000,000
				EUR 5,500,000	EUR 50,000,000	EUR 55,000,000

		instruments belonging to the sub-class	**EUR 200m <= ADNA < EUR 600m**			
			ADNA >= EUR 600m	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
Volatility index futures/ forwards	a volatility index future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying volatility index	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 100m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,500,000
			EUR 100m <= ADNA < EUR 1bn	EUR 550,000	EUR 5,000,000	EUR 5,500,000
			EUR 1bn <= ADNA < EUR 3bn	EUR 5,500,000	EUR 50,000,000	EUR 55,000,000
			EUR 3bn <= ADNA < EUR 5bn	EUR 20,000,000	EUR 150,000,000	EUR 160,000,000
			ADNA >= EUR 5bn	EUR 30,000,000	EUR 250,000,000	EUR 260,000,000
ETF options	an ETF option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying ETF	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 5m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,250,000
			EUR 5m <= ADNA < EUR 10m	EUR 300,000	EUR 1,250,000	EUR 1,500,000
			EUR 10m <= ADNA < EUR 20m	EUR 550,000	EUR 2,500,000	EUR 3,000,000
			ADNA >= EUR 20m	EUR 1,500,000	EUR 5,000,000	EUR 5,500,000
ETF futures/ forwards	an ETF future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 -** underlying ETF	calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class	**< EUR 5m ADNA**	EUR 25,000	EUR 1,000,000	EUR 1,250,000
			EUR 5m <= ADNA < EUR 10m	EUR 300,000	EUR 1,250,000	EUR 1,500,000
			EUR 10m <= ADNA < EUR 20m	EUR 550,000	EUR 2,500,000	EUR 3,000,000
			ADNA >= EUR 20m	EUR 1,500,000	EUR 5,000,000	EUR 5,500,000
Swaps	a swap sub-class is defined by the following segmentation criteria:			EUR 300,000	EUR 1,250,000	EUR 1,500,000

<table>
<tr>
<td></td>
<td>
Segmentation criterion 1 - underlying type: single name, index, basket
Segmentation criterion 2 - underlying single name, index, basket
Segmentation criterion 3 - parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility
Segmentation criterion 4 - time to maturity bucket of the swap defined as follows:
<table>
<tr><th>Price return basic performance parameter</th><th>Parameter return variance/volatility</th><th>Parameter return dividend</th></tr>
<tr>
<td>Maturity bucket 1: 0 < time to maturity ≤ 1 month
Maturity bucket 2: 1 month < time to maturity ≤ 3 months
Maturity bucket 3: 3 months < time to maturity ≤ 6 months
Maturity bucket 4: 6 months < time to maturity ≤ 1 year
Maturity bucket 5: 1 year < time to maturity ≤ 2 years
Maturity bucket 6: 2 years < time to maturity ≤ 3 years
…
Maturity bucket m: (n-1) years < time to maturity ≤ n years</td>
<td>Maturity bucket 1: 0 < time to maturity ≤ 3 months
Maturity bucket 2: 3 months < time to maturity ≤ 6 months
Maturity bucket 3: 6 months < time to maturity ≤ 1 year
Maturity bucket 4: 1 year < time to maturity ≤ 2 years
Maturity bucket 5: 2 years < time to maturity ≤ 3 years
…
Maturity bucket m: (n-1) years < time to maturity ≤ n years</td>
<td>Maturity bucket 1: 0 < time to maturity ≤ 1 year
Maturity bucket 2: 1 year < time to maturity ≤ 2 years
Maturity bucket 3: 2 years < time to maturity ≤ 3 years
…
Maturity bucket m: (n-1) years < time to maturity ≤ n years</td>
</tr>
</table>
</td>
<td>calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class</td>
<td>EUR 50m <= ADNA < EUR 100m</td><td></td><td></td><td></td>
</tr>
<tr><td></td><td></td><td></td><td>EUR 100m <= ADNA < EUR 200m</td><td>EUR 550,000</td><td>EUR 2,500,000</td><td>EUR 3,000,000</td></tr>
<tr><td></td><td></td><td></td><td>ADNA >= EUR 200m</td><td>EUR 1,500,000</td><td>EUR 5,000,000</td><td>EUR 5,500,000</td></tr>
<tr>
<td>Porfolio Swaps</td>
<td>a portfolio swap sub-class is defined by a specific combination of:
Segmentation criterion 1 - underlying type: single name, index, basket
Segmentation criterion 2 - underlying single name, index, basket
Segmentation criterion 3 - parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility
Segmentation criterion 4 - time to maturity bucket of the portfolio swap defined as follows:
Maturity bucket 1: 0 < time to maturity ≤ 1 month</td>
<td>calculation of thresholds should be performed for each sub-class considering the transactions executed on financial instruments belonging to the sub-class</td>
<td>EUR 50m <= ADNA < EUR 100m</td><td>EUR 300,000</td><td>EUR 1,250,000</td><td>EUR 1,500,000</td>
</tr>
<tr><td></td><td></td><td></td><td>EUR 100m <= ADNA < EUR 200m</td><td>EUR 550,000</td><td>EUR 2,500,000</td><td>EUR 3,000,000</td></tr>
<tr><td></td><td></td><td></td><td>ADNA >= EUR 200m</td><td>EUR 1,500,000</td><td>EUR 5,000,000</td><td>EUR 5,500,000</td></tr>
</table>

	Maturity bucket 2: 1 month < time to maturity ≤ 3 months **Maturity bucket 3:** 3 months < time to maturity ≤ 6 months **Maturity bucket 4:** 6 months < time to maturity ≤ 1 year **Maturity bucket 5:** 1 year < time to maturity ≤ 2 years **Maturity bucket 6:** 2 years < time to maturity ≤ 3 years … **Maturity bucket m:** (n-1) years < time to maturity ≤ n years	

Table 6.3

Equity derivatives - pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Equity Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Swaps	EUR 25,000	EUR 100,000	EUR 150,000
Porfolio Swaps	EUR 25,000	EUR 100,000	EUR 150,000
Other equity derivatives	EUR 25,000	EUR 100,000	EUR 150,000

7. Commodity derivatives

Table 7.1

Commodity derivatives – classes not having a liquid market

Asset class — Commodity Derivatives			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
Metal commodity futures/forwards RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'METL' and [RTS2#5 = 'FUTR' or 'FORW']	a metal commodity future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS23#36)** — metal type: precious metal, non-precious metal **Segmentation criterion 2 (RTS23#37)** — underlying metal **Segmentation criterion 3 (RTS2#15)** — notional currency defined as the currency in which the notional amount of the future/forward is denominated **Segmentation criterion 4 (RTS2#8)** — time to maturity bucket of the future/forward defined as follows: **Precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 3 months **Maturity bucket 2**: 3 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 3 years **Non-precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 1 year **Maturity bucket 2**: 1 year < time to maturity ≤ 2 years **Maturity bucket 3**: 2 years < time to maturity ≤ 3 years ...	EUR 10 000 000	10

Asset class — Commodity Derivatives			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
	... **Maturity bucket m**: (n-1) years < time to maturity ≤ n years **Maturity bucket m:** (n-1) years < time to maturity ≤ n years		
Metal commodity options RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'METL' and RTS2#5 = 'OPTN'	a metal commodity option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS23#36)** — metal type: precious metal, non-precious metal **Segmentation criterion 2 (RTS23#37)** — underlying metal **Segmentation criterion 3 (RTS2#15)** — notional currency defined as the currency in which the notional amount of the option is denominated **Segmentation criterion 4 (RTS2#8)** — time to maturity bucket of the option defined as follows: **Precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 3 months **Maturity bucket 2**: 3 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 3 years ... **Maturity bucket m**: (n-1) years < time to maturity ≤ n years **Non-precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 1 year **Maturity bucket 2**: 1 year < time to maturity ≤ 2 years **Maturity bucket 3**: 2 years < time to maturity ≤ 3 years ... **Maturity bucket m**: (n-1) years < time to maturity ≤ n	EUR 10 000 000	10

Asset class — Commodity Derivatives			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
	years **Maturity bucket m:** (n-1) years < time to maturity ≤ n years		
Metal commodity swaps RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'METL' and RTS2#5 = 'SWAP'	a metal commodity swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS23#36)** — metal type: precious metal, non-precious metal **Segmentation criterion 2 (RTS23#37)** — underlying metal **Segmentation criterion 3 (RTS2#15)** — notional currency defined as the currency in which the notional amount of the swap is denominated **Segmentation criterion 4 (RTS23#34)** —delivery type defined as cash, physical or optional **Segmentation criterion 5 (RTS2#8)** — time to maturity bucket of the swap defined as follows: **Precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 3 months **Maturity bucket 2**: 3 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 3 years ... **Maturity bucket m:** (n-1) years < time to maturity ≤ n years **Non-precious metals** **Maturity bucket 1**: 0 < time to maturity ≤ 1 year **Maturity bucket 2**: 1 year < time to maturity ≤ 2 years **Maturity bucket 3**: 2 years < time to maturity ≤ 3 years ... **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	EUR 10 000 000	10

<table>
<tr><th colspan="4">Asset class — Commodity Derivatives</th></tr>
<tr><th rowspan="2">Sub-asset class</th><th rowspan="2">For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</th><th colspan="2">Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds</th></tr>
<tr><th>Average daily notional amount (ADNA) [quantitative liquidity criterion 1]</th><th>Average daily number of trades [quantitative liquidity criterion 2]</th></tr>
<tr><td>Energy commodity futures/forwards

RTS2#3 = ‘DERV’ and RTS2#4 = ‘COMM’ and RTS23#35 = 'NRGY' and [RTS2#5 = ‘FUTR’ or ‘FORW’]</td><td>an energy commodity future/forward sub-class is defined by the following segmentation criteria:
Segmentation criterion 1 (RTS23#36) — energy type: oil, distillates, coal, light ends, natural gas, electricity, inter energy
Segmentation criterion 2 (RTS23#37) — underlying energy
Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the future/forward is denominated
Segmentation criterion 4 — [deleted]
Segmentation criterion 5 (RTS2#14) — delivery/cash settlement location applicable to all energy types
Segmentation criterion 6 (RTS2#8) — time to maturity bucket of the future/forward defined as follows:

Oil/ Distillates/ Light ends

Maturity bucket 1: 0 < time to maturity ≤ 4 months

Maturity bucket 2: 4 months < time to maturity ≤ 8 months

Maturity bucket 3: 8 months < time to maturity ≤ 1 year

Maturity bucket 4: 1 year < time to maturity ≤ 2 years

Coal

Maturity bucket 1: 0 < time to maturity ≤ 6 months

Maturity bucket 2: 6 months < time to maturity ≤ 1 year

Maturity bucket 3: 1 year < time to maturity ≤ 2 years

…

Natural Gas/Electricity/Inter-energy

Maturity bucket 1: 0 < time to maturity ≤ 1 month

Maturity bucket 2: 1 month < time to maturity ≤ 1 year

Maturity bucket 3: 1 year < time to maturity ≤ 2 years

…</td><td>EUR 10 000 000</td><td>10</td></tr>
</table>

<table>
<tr><th colspan="5">Asset class — Commodity Derivatives</th></tr>
<tr><th rowspan="2">Sub-asset class</th><th colspan="3" rowspan="2">For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</th><th colspan="2">Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds</th></tr>
<tr><th>Average daily notional amount (ADNA) [quantitative liquidity criterion 1]</th><th>Average daily number of trades [quantitative liquidity criterion 2]</th></tr>
<tr><td></td><td colspan="3">...
Maturity bucket m: (n-1) years < time to maturity ≤ n years

Maturity bucket m: (n-1) years < time to maturity ≤ n years</td><td></td><td></td></tr>
<tr><td>Energy commodity options

RTS2#3 = ‘DERV’ and RTS2#4 = ‘COMM’ and RTS23#35 = 'NRGY' and RTS2#5 = ‘OPTN’</td><td colspan="3">an energy commodity option sub-class is defined by the following segmentation criteria:
Segmentation criterion 1 (RTS23#36) — energy type: oil, distillates, coal, light ends, natural gas, electricity, inter-energy
Segmentation criterion 2 (RTS23#37) — underlying energy
Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the option is denominated
Segmentation criterion 4 — [deleted]
Segmentation criterion 5 (RTS2#14) — delivery/cash settlement location applicable to all energy types
Segmentation criterion 6 (RTS2#8) — time to maturity bucket of the option defined as follows:

Oil/Distillates/Light ends

Maturity bucket 1: 0 < time to maturity ≤ 4 months

Maturity bucket 2: 4 months < time to maturity ≤ 8 months

Coal

Maturity bucket 1: 0 < time to maturity ≤ 6 months

Maturity bucket 2: 6 months < time to maturity ≤ 1 year

Natural Gas/Electricity/Inter-energy

Maturity bucket 1: 0 < time to maturity ≤ 1 month

Maturity bucket 2: 1 month < time to maturity ≤ 1 year</td><td>EUR 10 000 000</td><td>10</td></tr>
</table>

Asset class — Commodity Derivatives					
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**			**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
				Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
	Maturity bucket 3: 8 months < time to maturity ≤ 1 year	**Maturity bucket 3**: 1 year < time to maturity ≤ 2 years	**Maturity bucket 3**: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 4: 1year < time to maturity ≤ 2 years	…	…		
	…	**Maturity bucket m:** (n-1) years < time to maturity ≤ n years	**Maturity bucket m**: (n-1) years < time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				
Energy commodity swaps RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'NRGY' and RTS2#5 = 'SWAP'	an energy commodity swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#36) — energy type: oil, distillates, coal, light ends, natural gas, electricity, inter-energy **Segmentation criterion 2** (RTS23#37) — underlying energy **Segmentation criterion 3** (RTS2#15) — notional currency defined as the currency in which the notional amount of the swap is denominated **Segmentation criterion 4** (RTS23#34) —delivery type defined as cash, physical or optional **Segmentation criterion 5** — [deleted] **Segmentation criterion 6** (RTS2#14) — delivery/cash settlement location applicable to all energy types **Segmentation criterion 7** (RTS2#8) — time to maturity bucket of the swap defined as follows:			EUR 10 000 000	10
	Oil/Distillates/Light ends	**Coal**	**Natural Gas/'Electricity/Inter-energy**		

Asset class — Commodity Derivatives					
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds	
				Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]
	Maturity bucket 1: 0 < time to maturity ≤ 4 months	**Maturity bucket 1**: 0 < time to maturity ≤ 6 months	**Maturity bucket 1**: 0 < time to maturity ≤ 1 month		
	Maturity bucket 2: 4 months < time to maturity ≤ 8 months	**Maturity bucket 2**: 6 months < time to maturity ≤ 1 year	**Maturity bucket 2:** 1 month < time to maturity ≤ 1 year		
	Maturity bucket 3: 8 months < time to maturity ≤ 1 year	**Maturity bucket 3**: 1 year < time to maturity ≤ 2 years	**Maturity bucket 3**: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 4: 1year < time to maturity ≤ 2 years	…	…		
	…	**Maturity bucket m:** (n-1) years < time to maturity ≤ n years	**Maturity bucket m**: (n-1) years < time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				
Agricultural commodity futures/forwards RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'AGRI' and [RTS2#5 = 'FUTR' or 'FORW']	an agricultural commodity future/forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#36 and RTS23#37) — underlying agricultural commodity (sub-product and further sub product) **Segmentation criterion 2** (RTS2#15) — notional currency defined as the currency in which the notional amount of the future/forward is denominated **Segmentation criterion 3** (RTS2#8) — time to maturity bucket of the future/forward defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 3 months			EUR 10 000 000	10

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]
	Maturity bucket 2: 3 months < time to maturity ≤ 6 months **Maturity bucket 3**: 6 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years		

Asset class — Commodity Derivatives			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
Agricultural commodity options RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'AGRI' and RTS2#5 = 'OPTN'	an agricultural commodity option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#36 and RTS23#37) — underlying agricultural commodity (sub-product and further sub product) **Segmentation criterion 2** (RTS2#15) — notional currency defined as the currency in which the notional amount of the option is denominated **Segmentation criterion 3** (RTS2#8) — time to maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 3 months **Maturity bucket 2**: 3 months < time to maturity ≤ 6 months **Maturity bucket 3**: 6 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	EUR 10 000 000	10
Agricultural commodity swaps RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and	an agricultural commodity swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** (RTS23#36 and RTS23#37) — underlying agricultural commodity (sub-product and further sub product)	EUR 10 000 000	10

Asset class — Commodity Derivatives			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds**	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
RTS23#35 = 'AGRI' and RTS2#5 = 'SWAP'	**Segmentation criterion 2** (RTS2#15) — notional currency defined as the currency in which the notional amount of the swap is denominated **Segmentation criterion 3** (RTS23#34) —delivery type defined as cash, physical or optional **Segmentation criterion 4** (RTS2#8) — time to maturity bucket of the swap defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 3 months **Maturity bucket 2**: 3 months < time to maturity ≤ 6 months **Maturity bucket 3**: 6 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years		
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied**		
Other commodity derivatives a commodity derivative that does not belong to any of the above sub-asset classes	any other commodity derivative is considered not to have a liquid market		

Table 7.2

Commodity derivatives – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Commodity Derivatives									
Sub-asset class	**Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market**								
	Transactions to be considered for the calculations of the thresholds	**LIS pre-trade**		**SSTI post-trade**			**LIS post-trade**		
		Trade - percentile	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**
Metal commodity futures/forwards	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Metal commodity options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Metal commodity swaps	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Energy commodity futures/forwards	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000

	financial instruments belonging to the sub-class								
Energy commodity options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Energy commodity swaps	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Agricultural commodity futures/forwards	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Agricultural commodity options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000
Agricultural commodity swaps	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 500,000	80	60	EUR 750,000	90	70	EUR 1,000,000

Table 7.3

Commodity derivatives – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Commodity Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Metal commodity futures/forwards	EUR 500,000	EUR 750,000	EUR 1,000,000
Metal commodity options	EUR 500,000	EUR 750,000	EUR 1,000,000
Metal commodity swaps	EUR 500,000	EUR 750,000	EUR 1,000,000
Energy commodity futures/forwards	EUR 500,000	EUR 750,000	EUR 1,000,000
Energy commodity options	EUR 500,000	EUR 750,000	EUR 1,000,000

Energy commodity swaps	EUR 500,000	EUR 750,000	EUR 1,000,000
Agricultural commodity futures/forwards	EUR 500,000	EUR 750,000	EUR 1,000,000
Agricultural commodity options	EUR 500,000	EUR 750,000	EUR 1,000,000
Agricultural commodity swaps	EUR 500,000	EUR 750,000	EUR 1,000,000
Other commodity derivatives	EUR 500,000	EUR 750,000	EUR 1,000,000

8. Foreign exchange derivatives

Table 8.1

Foreign exchange derivatives – classes not having a liquid market

Asset class — Foreign Exchange Derivatives
a financial instrument relating to currencies as defined in Section C(4) of Annex I of Directive 2014/65/EU

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Arti	
		Average	Average daily number of trades [quantitative liquidity criterion 2]

Non-deliverable forward (NDF) means a forward that, by its terms, is cash- settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as be tween the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the con tract. RTS2#3 = DERV RTS2#4 = CURR RTS2#5 = FORW RTS2#26 = NDLV	a non-deliverable FX forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8— time to maturity bucket of the forward defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Non-deliverable forward (NDF) are considered not to have a liquid market

Deliverable forward (DF) means a forward that solely involves the ex change of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange. RTS2#3 = DERV RTS2#4 = CURR' RTS2#5 = FORW RTS2#26 = DLVB	a deliverable FX forward sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8— time to maturity bucket of the forward defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Deliverable forward (DF) are considered not to have a liquid market

Non-Deliverable FX options (NDO) means an option that, by its terms, is cash- settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as be tween the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the con tract. RTS2#3 = DERV RTS2#4 = CURR' RTS2#5 = OPTN RTS2#26 = NDLV	a non-deliverable FX option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8— time to maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Non-Deliverable FX options (NDO) are considered not to have a liquid market

Deliverable FX options (DO) means an option that solely involves the ex change of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange. **'RTS2#3 = DERV** **RTS2#4 = CURR** RTS2#5 = OPTN RTS2#26 = DLVB	a deliverable FX option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** ''RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** RTS2#8— time to maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Deliverable FX options (DO) are considered not to have a liquid market

Non-Deliverable FX swaps (NDS) means a swap that, by its terms, is cash-settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as between the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the contract. **'RTS2#3 = DERV** **RTS2#4 = CURR'** RTS2#5 = SWAP RTS2#26 = NDLV	a non-deliverable FX swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8 — time to maturity bucket of the swap defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Non-Deliverable FX swaps (NDS) are considered not to have a liquid market

Deliverable FX swaps (DS) means a swap that solely involves the exchange of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange. **'RTS2#3 = DERV** **RTS2#4 = CURR** RTS2#5 = SWAP RTS2#26 = DLVB	a deliverable FX swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8 — time to maturity bucket of the swap defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	Deliverable FX swaps (DS) are considered not to have a liquid market

FX futures **'RTS2#3 = DERV** **RTS2#4 = CURR'** 'RTS2#5 = FUTR	an FX future sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract **Segmentation criterion 2** 'RTS2#8 — time to maturity bucket of the future defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 week **Maturity bucket 2**: 1 week < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 1 year **Maturity bucket 4**: 1 year < time to maturity ≤ 2 years **Maturity bucket 5**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	FX futures are considered not to have a liquid market

Asset class — Foreign Exchange Derivatives	
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied**
Other Foreign Exchange Derivatives an FX derivative that does not belong to any of the above sub-asset classes 'RTS2#3 = DERV RTS2#4 = CURR 'RTS2#5 = OTHR	any other FX derivative is considered not to have a liquid market

Table 8.2

Foreign exchange derivatives – pre-trade and pot-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Foreign Exchange Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Non-deliverable forward (NDF)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Deliverable forward (DF)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Non-Deliverable FX options (NDO)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Deliverable FX options (DO)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Non-Deliverable FX swaps (NDS)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Deliverable FX swaps (DS)	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
FX futures	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000
Other Foreign Exchange Derivatives	EUR 5,000,000	EUR 20,000,000	EUR 25,000,000

9. Credit derivatives

Table 9.1

Credit derivatives — classes not having a liquid market

Asset class — Credit Derivatives					
	Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria. For sub-classes determined to have a liquid market the additional qualitative liquidity criterion, where applicable, shall be applied**		
			Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]	**On-the-run status of the index** [Additional qualitative liquidity criterion]

Index credit default swap (CDS) a swap whose exchange of cash flows is linked to the creditworthiness of several issuers of financial instruments composing an index and the occurrence of credit events **RTS2#3 = DERV** **RTS2#4 = CRDT**	an index credit default swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** RTS2#34 — underlying index **Segmentation criterion 2** RTS2#42 — notional currency defined as the currency in which the notional amount of the derivative is denominated **Segmentation criterion 3** RTS2#8— time maturity bucket of the CDS defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 year **Maturity bucket 2**: 1 year < time to maturity ≤ 2 years **Maturity bucket 3**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	EUR 200 000 000	10	The underlying index is considered to have a liquid market: (1) during the whole period of its 'on-the-run status' (2) for the first 30 working days of its '1x off-the-run status' 'on-the-run' index means the rolling most recent version (series) of the index created on the date on which the composition of the index is effective and ending one day prior to the date on which the composition of the next version (series) of the index is effective. '1x off-the-run status' means the version (series) of the index which is immediately prior to the cur rent 'on-the-run' version (series) at a certain point in time. A version (series) ceases being 'on-the-run' and acquires its '1x off-the-run' status when the latest version (series) of the index is created.

Single name credit de fault swap (CDS) a swap whose exchange of cash flows is linked to the creditworthiness of one is suer of financial instruments and the occurrence ofcredit events **RTS2#3 = DERV** **RTS2#4 = CRDT**	a single name credit default swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** 'RTS2#41 — underlying reference entity **Segmentation criterion 2** 'RTS2#39 — underlying reference entity type defined as follows: 'Issuer of sovereign and public type' means an issuer entity which is either: (a) the Union; (b) a Member State including a government department, an agency or a special purpose vehicle of a Member State; (c) a sovereign entity which is not listed under points (a) and (b); (d) in the case of a federal Member State, a member of that federation; (e) a special purpose vehicle for several Member States; (f) an international financial institution established by two or more Member States which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems; (g) the European Investment Bank; (h) a public entity which is not a sovereign issuer as specified in the points (a) to (c). 'Issuer of corporate type' means an issuer entity which is not an issuer of sovereign and public type	EUR 10 000 000	10	

	Segmentation criterion 3 RTS2#42 — notional currency defined as the currency in which the notional amount of the derivative is denominated **Segmentation criterion 4** RTS2#8 — time maturity bucket of the CDS defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 year **Maturity bucket 2**: 1 year < time to maturity ≤ 2 years **Maturity bucket 3**: 2 years < time to maturity ≤ 3 years …**Maturity bucket m**: (n-1) years < time to maturity ≤ n years			
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below**	**Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet the following qualitative liquidity criterion**		
CDS index options an option whose underlying is a CDS index **RTS2#3 = DERV** **RTS2#4 = CRDT**	a CDS index option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** RTS23#26 — CDS index sub-class as specified for the sub-asset class of index credit default swap (CDS) **Segmentation criterion 2** RTS2#8 — time maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 6 months **Maturity bucket 2**: 6 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	a CDS index option whose underlying CDS index is a sub-class determined to have a liquid market and whose time to maturity bucket is 0-6 months is considered to have a liquid market a CDS index option whose underlying CDS index is a sub-class determined to have a liquid market and whose time to maturity bucket is not 0-6 months is not considered to have a liquid market a CDS index option whose underlying CDS index is a sub-class determined not to have a liquid market is not considered to have a liquid market for any given time to maturity bucket		

Single name CDS options an option whose underlying is a single name CDS **RTS2#3 = DERV** **RTS2#4 = CRDT**	a single name CDS option sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** RTS23#26 — single name CDS sub-class as specified for the sub-asset class of single name CDS **Segmentation criterion 2** RTS2#8— time maturity bucket of the option defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 6 months **Maturity bucket 2**: 6 months < time to maturity ≤ 1 year **Maturity bucket 3**: 1 year < time to maturity ≤ 2 years **Maturity bucket 4**: 2 years < time to maturity ≤ 3 years … **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	a single name CDS option whose underlying single name CDS is a sub-class determined to have a liquid market and whose time to maturity bucket is 0-6 months is considered to have a liquid market a single name CDS option whose underlying single name CDS is a sub-class determined to have a liquid market and whose time to maturity bucket is not 0-6 months is not considered to have a liquid market a single name CDS option whose underlying single name CDS is a sub-class determined not to have a liquid market is not considered to have a liquid market for any given time to maturity bucket
Asset class — Credit Derivatives		
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall apply**	
Other credit derivatives a credit derivative that does not belong to any of the above sub-asset classes **RTS2#3 = DERV** **RTS2#4 = CRDT** RTS2#5 = OTHR	any other credit derivatives is considered not to have a liquid market	

Table 9.2

Credit Derivatives – pre- and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Credit Derivatives									
Sub-asset class	**Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market**								
	Transactions to be considered for the calculations of the thresholds	**LIS pre-trade**		**SSTI post-trade**			**LIS post-trade**		
		Trade - percentile	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**
Index credit default swap (CDS)	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 7,500,000	90	70	EUR 10,000,000
Single name credit default swap (CDS)	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 7,500,000	90	70	EUR 10,000,000
CDS index options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 5,000,000	80	60	EUR 7,500,000	90	70	EUR 10,000,000
Single name CDS options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial	70	EUR 5,000,000	80	60	EUR 7,500,000	90	70	EUR 10,000,000

	instruments belonging to the sub-class								

Table 9.3

Credit derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Credit Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Index credit default swap (CDS)	EUR 5,000,000	EUR 7,500,000	EUR 10,000,000
Single name credit default swap (CDS)	EUR 5,000,000	EUR 7,500,000	EUR 10,000,000
CDS index options	EUR 5,000,000	EUR 7,500,000	EUR 10,000,000
Single name CDS options	EUR 5,000,000	EUR 7,500,000	EUR 10,000,000
Other credit derivatives	EUR 5,000,000	EUR 7,500,000	EUR 10,000,000

10. C10 derivatives

Table 10.1

C10 derivatives – classes not having a liquid market

Asset class — C10 Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria	
		Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]

Freight derivatives a financial instrument relating to freight rates as defined in Section C(10) of Annex I of Directive 2014/65/EU RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'FRGT'	a freight derivative sub-class is defined by the following segmentation criteria: **Segmentation criterion 1 (RTS2#5)** — contract type: futures or options **Segmentation criterion 2 (RTS23#36)** — freight type **Segmentation criterion 3 (RTS2#37)** — freight sub-type **Segmentation criterion 4 (RTS2#12)** — specification of the size related to the freight sub-type **Segmentation criterion 5 (RTS2#13)** — specific route or time charter average **Segmentation criterion 6 (RTS2#8)** — time maturity bucket of the derivative defined as follows: **Maturity bucket 1**: 0 < time to maturity ≤ 1 month **Maturity bucket 2**: 1 month < time to maturity ≤ 3 months **Maturity bucket 3**: 3 months < time to maturity ≤ 6 months **Maturity bucket 4**: 6 months < time to maturity ≤ 9 months **Maturity bucket 5**: 9 months < time to maturity ≤ 1 year **Maturity bucket 6**: 1 year < time to maturity ≤ 2 years **Maturity bucket 7**: 2 years < time to maturity ≤ 3 years ... **Maturity bucket m**: (n-1) years < time to maturity ≤ n years	EUR 10 000 000	10
Asset class — C10 Derivatives			

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied
Other C10 derivatives a financial instrument as defined in Section C(10) of Annex I of Directive 2014/65/EU which is not a 'Freight derivative', any of the following interest rate derivatives sub- asset classes: 'Inflation multi-currency swap or cross-currency swap', a 'Future/forward on inflation multi-currency swaps or cross-currency swaps', an 'Inflation single currency swap', a 'Fu ture/forward on inflation single currency swap' and any of the following equity derivatives sub-asset classes: a 'Volatility index option', a 'Volatil ity index future/forward', a swap with parameter return variance, a swap with parameter return volatility, a portfolio swap with parameter return variance, a portfolio swap with parameter return volatility	any other C10 derivatives is considered not to have a liquid market

Table 10.2

C10 derivatives - pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - C10 Derivatives									
Sub-asset class	**Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market**								
	Transactions to be considered for the calculations of the thresholds	**LIS pre-trade**		**SSTI post-trade**			**LIS post-trade**		
		Trade - percentile	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**
Freight derivatives	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	70	EUR 50,000	80	60	EUR 75,000	90	70	EUR 100,000

Table 10.3

C10 derivatives - pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - C10 Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Freight derivatives	EUR 50,000	EUR 75,000	EUR 100,000
Other C10 derivatives	EUR 50,000	EUR 75,000	EUR 100,000

11. Financial contracts for difference (CFDs)

Table 11.1

CFDs – classes not having a liquid market

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Qualitative liquidity criterion	Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]
Currency CFDs RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = CURR	a currency CFD sub-class is defined by the underlying currency pair defined as combination of the two currencies underlying the CFD/spread betting contract. RTS2#30 and RTS2#31		EUR 50 000 000	100
Commodity CFDs RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = COMM	a commodity CFD sub-class is defined by the underlying commodity of the CFD/spread betting contract RTS23#35 and RTS23#36 and RTS23#37		EUR 50 000 000	100
Equity CFDs RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = EQUI	an equity CFD sub-class is defined by the underlying equity security of the CFD/spread betting contract RTS23#26	an equity CFD sub-class is considered to have a liquid market if the underlying is an equity security for which there is a liquid market as determined in accordance with Article 2(1)(17)(b) of Regulation (EU) No 600/2014		

Bond CFDs RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = BOND	a bond CFD sub-class is defined by the underlying bond or bond future of the CFD/spread betting contract RTS23#26	a bond CFD sub-class is considered to have a liquid market if the underlying is a bond or bond future for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b).		
CFDs on an equity future/for ward RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = FTEQ	a CFD on an equity future/forward sub-class is defined by the underlying future/forward on an equity of the CFD/spread betting contract RTS23#26	a CFD on an equity future/forward sub-class is considered to have a liquid market if the underlying is an equity future/forward for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b).		
CFDs on an equity option RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = OPEQ	a CFD on an equity option sub-class is defined by the underlying option on an equity of the CFD/spread betting contract RTS23#26	a CFD on an equity option sub-class is considered to have a liquid market if the underlying is an equity option for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b).		

Asset class – Financial contracts for differences (CFDs)	
Sub-asset class	**For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied**
Other CFDs	
a CFD/spread betting that does not belong to any of the above sub-asset classes RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = OTHR	any other CFD/spread betting is considered not to have a liquid market

Table 11.2

CFDs – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Financial contracts for differences (CFDs)									
Sub-asset class	**Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market**								
	Transactions to be considered for the calculations of the thresholds	**LIS pre-trade**		**SSTI post-trade**			**LIS post-trade**		
		Trade - percentile	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**	**Trade - percentile**	**Volume - percentile**	**Threshold floor**
Currency CFDs	transactions executed on currency CFDs considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000
Commodity CFDs	transactions executed on commodity CFDs considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000
Equity CFDs	transactions executed on equity CFDs considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000
Bond CFDs	transactions executed on equity CFDs considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000
CFDs on an equity future/forward	transactions executed on CFDs on future on an equity considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000

CFDs on an equity option	transactions executed on CFDs on option on an equity considered to have a liquid market as per Articles 6 and 8(1)(b)	70	EUR 60,000	80	60	EUR 90,000	90	70	EUR 100,000

Table 11.3

CFDs – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Financial contracts for differences (CFDs)			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Currency CFDs	EUR 60,000	EUR 90,000	EUR 100,000
Commodity CFDs	EUR 60,000	EUR 90,000	EUR 100,000
Equity CFDs	EUR 60,000	EUR 90,000	EUR 100,000
Bond CFDs	EUR 60,000	EUR 90,000	EUR 100,000
CFDs on an equity future/forward	EUR 60,000	EUR 90,000	EUR 100,000

CFDs on an equity option	EUR 60,000	EUR 90,000	EUR 100,000
Other CFDs/ spread betting	EUR 60,000	EUR 90,000	EUR 100,000

12. Emission allowances

Table 12.1

Emission allowances — classes not having a liquid market

Asset class — Emission allowances	
Each sub-class shall be determined not to have a liquid market as per Articles 6a and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria	
Sub-asset class	**Liquidity determination**
European Union Allowances (EUA) any unit recognised for compliance with the requirements of Directive 2003/87/ EC of the European Parliament and of the Council[43] (Emissions Trading Scheme) which represents the right to emit the equivalent to 1 tonne of carbon dioxide equivalent (tCO2e) RTS2#3 = EMAL and RTS23#37 = EUAE	European Union Allowances (EUA) are considered to have a liquid market
Any other emission allowances RTS2#3 = EMAL and RTS23#37 <> EUAE	Any other emission allowances are considered not to have a liquid market

Table 12.2

Emission allowances — pre-trade LIS threshold and post-trade size threshold

Asset class — Emission allowances		
Sub-asset class	**Pre-trade LIS**	**Post-trade size threshold**

[43] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (JO L 275, 25.10.2003, p. 32).

European Union Allowances (EUA)	5 000 tons of Carbon Dioxide Equivalent	25 000 tons of Carbon Dioxide Equivalent
Any other emission allowances	Any size	Any size

13. Emission allowance derivatives

Table 13.1

Emission allowance derivatives — classes not having a liquid market

Sub-asset class	Asset class — Emission Allowance Derivatives	
	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria	
	Average Daily Amount (ADA) [quantitative liquidity criterion 1]	**Average daily number of trades** [quantitative liquidity criterion 2]
Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA) a financial instrument relating to emission allowances of the type European Union Allowances (EUA) as defined in Section C(4) of Annex I of Directive 2014/65/EU RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = EUAE	150 000 tons of Carbon Dioxide Equivalent	5
Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA) a financial instrument relating to emission allowances of the type European Union Aviation Allowances (EUAA) as defined in Section C(4) of Annex I of Directive 2014/65/EU RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = EUAA	150 000 tons of Carbon Dioxide Equivalent	5

Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER) a financial instrument relating to emission allowances of the type Certified Emission Reductions (CER) as defined in Section C(4) of Annex I of Directive 2014/65/EU RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = CERE	150 000 tons of Carbon Dioxide Equivalent	5
Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU) a financial instrument relating to emission allowances of the type Emission Reduction Units (ERU) as defined in Section C(4) of Annex I of Directive 2014/65/EU RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = ERUE	150 000 tons of Carbon Dioxide Equivalent	5
Other Emission allowance derivatives an emission allowance derivative whose underlying is an emission allowances recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) and is not a European Union Allowances (EUA), a European Union Aviation Allowances (EUAA), a Certified Emission Reductions (CER) and an Emission Reduction Units (ERU) RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = OTHR	any other emission allowance derivative is considered not to have a liquid market	

Table 13.2

Emission allowance derivatives – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class - Emission Allowance Derivatives				
Sub-asset class	**Transactions to be considered for the calculation of the thresholds**	**Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-asset classes determined to have a liquid market**		
		LIS pre-trade	**SSTI post-trade**	**LIS post-trade**

		Trade - percentile	Threshold floor	Trade - percentile	Threshold floor	Trade - percentile	Threshold floor
Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)	transactions executed on all emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)	70	50,000 tons of Carbon Dioxide	80	90,000 tons of Carbon Dioxide	90	100,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)	transactions executed on all emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)	70	25,000 tons of Carbon Dioxide	80	40,000 tons of Carbon Dioxide	90	50,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)	transactions executed on all emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)	70	25,000 tons of Carbon Dioxide	80	40,000 tons of Carbon Dioxide	90	50,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)	transactions executed on all emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)	70	25,000 tons of Carbon Dioxide	80	40,000 tons of Carbon Dioxide	90	50,000 tons of Carbon Dioxide

Table 13.3

Emission allowance derivatives – pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class - Emission Allowance Derivatives			
Sub-asset class	**Pre-trade and post-trade SSTI and LIS thresholds for the sub-asset classes determined not to have a liquid market**		
	LIS pre-trade	**SSTI post-trade**	**LIS post-trade**
	Threshold value	**Threshold value**	**Threshold value**
Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)	50,000 tons of Carbon Dioxide	90,000 tons of Carbon Dioxide	100,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)	25,000 tons of Carbon Dioxide	40,000 tons of Carbon Dioxide	50,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)	25,000 tons of Carbon Dioxide	40,000 tons of Carbon Dioxide	50,000 tons of Carbon Dioxide
Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)	25,000 tons of Carbon Dioxide	40,000 tons of Carbon Dioxide	50,000 tons of Carbon Dioxide
Other Emission allowance derivatives	25,000 tons of Carbon Dioxide	40,000 tons of Carbon Dioxide	50,000 tons of Carbon Dioxide

15.5 Annex V: Regulatory Technical Standards on Reasonable Commercial Basis

Draft technical standards

COMMISSION DELEGATED REGULATION (EU) XXXX/XX

of XXX

supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on market in financial instruments with regard to regulatory technical standards on the obligations relating to market data

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012[1], and in particular Article 13(5) thereof,

Whereas:

(1) This delegated Regulation further specifies the requirements laid down by Article 13 of Regulation (EU) No 600/2014 for market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers to make the pre-trade and post-trade information on transactions in financial instruments available to the public on a reasonable commercial basis ('RCB'), including unbiased and fair contractual terms, and to ensure non-discriminatory access to that information.

(2) In order to ensure that market data is provided on an RCB, with unbiased and fair contractual terms and in a uniform manner in the Union, this Regulation specifies the conditions that market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers must fulfil. These conditions are based on the objective to ensure that the obligation to provide market data on an RCB is sufficiently clear to allow for an effective and uniform application whilst taking into account different operating models and costs structures of market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers. The information provided by trading venues, APAs, CTPs and

[1] OJ L 173, 12.6.2014, p. 84.

systematic internalisers should enable clients to understand market data policies and how the level of fees for market data is set.

(3) The costs attributable to market data should be calculated by considering costs which are directly associated with the production and dissemination of market data. Costs should be categorised. Cost categories should differentiate between costs related to the infrastructure which is used for the purpose of producing and disseminating market data, the physical assets and software which are used for the purpose of enabling the connectivity necessary for the production and dissemination of market data, the cost of personnel, financial costs and other costs including administrative costs dedicated to producing and disseminating market data. Costs pertaining to market data production and dissemination should be allocated, on the basis of the nature of each cost factor, exclusively to one cost category to ensure no double counting of costs takes place. Audit costs should not be included in the allocation of costs of production and dissemination of market data as those costs should not be part of fees for market data.

(4) Market data providers, in particular trading venues, often offer a variety of services beyond the provision of market data. Those entities hence incur diverse costs which include broad categories such as technology and infrastructure, software development, sales and marketing, analytics, quantitative research, operations, or compliance. To establish fees for market data on an RCB, it is important to differentiate, for instance, the costs which are attributable to the primary business of trading venues of bringing together buyers and sellers from the costs directly attributable to the production and dissemination of market data.

(5) In some instances, physical assets, software, personnel, and administrative services might be partly deployed to the production of other services not directly related to the production and dissemination of market data. In this respect, it is necessary to appropriately apportion the costs attributable to shared resources based on a clear methodology, specifying how much each resource contributes towards the production and dissemination of market data. Financial costs stemming from shared resources should be also apportioned on the basis of the allocation of such resources to the production and dissemination of market data. The methodology used for apportioning costs should be reviewed annually to ensure its correctness. Data providers should provide supporting evidence for the chosen methodology and changes thereof, to the relevant competent authority.

(6) The margin included in the fees for market data should be set to strike a balance between the need to ensure the production and dissemination of market data remains commercially viable for market data providers and the need to ensure as wide as possible access to market data. For CTPs, which will be established over the coming years, the margin should be sufficient to support the set-up investment and the commercial viability over the period needed to mature their business.

(7) The margin included in the fees for market data should be the operating profit achieved by the market data provider after subtracting from its income all the expenses related to the production and dissemination of market data. Such expenses should include operational costs

such as infrastructure, assets used for the purpose of connectivity, personnel dedicated to the production and dissemination of market data and financial expenses. The margin should be expressed as a percentage of costs.

(8) The margin should not be disproportionate when compared to the cost sustained in the production and dissemination of market data. The margin should be aligned to margins applicable to the overall business that the market data provider undertakes.

(9) To ensure non-discrimination among clients, market data providers should have scalable capacities to grant timely access to market data to all clients.

(10) In the past years, the possibility to apply differentials in fees proportionate to the value which the market data represent to the client led to the creation of multiple customer categories which were applied simultaneously with consequent duplication of fees.

(11) To ensure market data is provided on an RCB, market data providers may set up categories of clients based on factual elements, e.g. usage or size of the client. Clients within a category should be clearly distinguishable from clients in other categories by one or more elements which set them apart from clients in other categories. A client can only belong to one category. For instance, market data providers could create a separate client category for data redistributors, professional, or non-professional clients. Categorisation should result in a limited number of categories.

(12) The fees charged to clients in such categories should be set on the basis of the costs sustained to provide data to these clients and a reasonable margin, expressed as a percentage of costs, which should be homogenous amongst clients belonging to the same category.

(13) In the last years, a series of issues have been identified in relation to terms and conditions inserted in market data agreements to the disadvantage of clients. Some of these issues concern the practice of market data providers to impose onerous administrative obligations on market data clients, for example through frequent and detailed requests on the use of market data. Other practices detrimental to the client include the use of ambiguous language in the agreement, or its frequent amendments which force the client to deploy resources to interpret or review the agreement. Sometimes, market data clients were obliged to delete historical data from their systems at contract termination, per-location fees were charged, or they were unnecessarily restricted in the way data could be used.

(14) Such practices appear to be unfair as they entail an unjustified cost to access market data. Therefore, for terms and conditions to be fair and unbiased, such type of practices should be excluded.

(15) To enhance transparency, market data providers should ensure that terms and conditions for the provision of market data are specified in a clear and concise manner. This entails terms

and conditions to be understandable by clients autonomously without referring to other documents with no clear link.

(16) To allow the client sufficient time to understand a change made to the market data agreement and compare and reflect on other offers available on the market, market data providers should notify the client of any unilateral amendments 90 days in advance. To avoid unilateral amendments that create onerous or burdensome outcomes for the market data client or result in an increase of fees without the client's consent, the agreement should provide the client with the right to terminate when unilateral changes occur without incurring any penalties.

(17) To enhance transparency and avoid hidden costs, clauses which result in a direct, or indirect raise of fees, such as double application of fees for the same market data, should be prohibited. Additionally, to avoid charging data clients multiple times for the same market data when buying them from different providers and vendors, market data should be offered on a per client basis.

(18) To allow market data clients to obtain market data without having to buy other services, market data should be offered unbundled from other services.

(19) Terms and conditions relating to penalties and audits have been also recognised as being excessively burdensome for market data clients and contributing to the increase of cost of market data beyond the cost of production and dissemination and reasonable margin.

(20) To avoid unjustified penalties, they should be imposed only on the basis of evidence of infringement of the market data agreement. Furthermore, they should not be onerous, and their amount should be based on what the client would have paid in case of compliance with the market data agreement. In addition, to enable the client to make timely arrangements to avoid the repetition of infringements of the market data agreement, the market data provider should impose the penalty only within a reasonable time from the infringement occurrence not exceeding 5 years in line with investment firms' record keeping obligations as per Article 16 of Directive 2014/65/EU.

(21) Currently, market data agreements foresee audits which are cumbersome for market data clients because of their frequency, time period covered, and burden of proof requested from the market data client. Therefore, to ensure market data agreements are fair and unbiased, it is necessary to define the scope of audits and their procedure. In particular, audits should start only on the basis of a notification to the client detailing the facts to be audited and documents that may be requested to the party should be identified in advance. Furthermore, the audit should base its findings on facts which the audited party had the opportunity to comment on. In addition, the audit should cover a reasonable period, not going back more than 5 years from the date of the notification of the audit, in line with investment firms' record keeping obligations as per Article 16 of Directive 2014/65/EU. Additionally, to mitigate the risks of partiality and enhance fairness, market data providers conducting an audit on a client should require only information necessary to collect evidence in respect of the alleged infringement.

(22) Applying the obligations of this Regulation 3 months after its entry into force would impose a disproportionate burden and likely prove insufficient for market participants. To ensure a smooth and efficient implementation process, it is necessary to allow market participants adequate time to redraft, negotiate, and conclude revised agreements, thereby minimising possible disruptions to market functioning. Consequently, a later application date is justified to accommodate the necessary adjustments.

(23) This Regulation is based on the draft regulatory technical standards developed by ESMA and submitted to the Commission.

(24) 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.

HAS ADOPTED THIS REGULATION:

Chapter I

GENERAL PROVISION

Article 1

Definitions

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

a) “market data client” means the natural and/or legal person who signs the market data agreement with the market data provider and is invoiced for the market data fees;

b) ‘market data’ means the information market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers have to make available to the public in accordance with Articles 3, 4, 6 to 11a, 14, 20, 21, 27g and 27h of Regulation (EU) 600/2014;

c) “delayed market data” means market data made available with a delay of 15 minutes after publication;

d) “market data provider” means a market operator or an investment firm operating a trading venue, an APA, a CTP or a systematic internaliser;

e) “total costs” means all the costs sustained by the market data provider for the production and dissemination of market data. Such expenses shall include operational costs and financial costs, including depreciation, amortization, and cost of capital;

f) “operating profit” means the income earned by the market data provider, subtracting from the revenues generated by the production and dissemination of market data the total costs sustained for the production and dissemination of market data;

g) “market data agreement” means any agreement between the market data provider and the market data client for the provision of data and reflecting the information and fees disclosed in the market data policy;

h) “market data policy” means one or more documents from the market data provider, listing relevant information on the provision of market data, including a fee schedule for both market data fees as well as indirect services to access and utilise market data, and the main terms and conditions of the market data agreement;

i) “per client model” means a model of charging fees for market data which enables clients to avoid multiple billing in case market data has been sourced through multiple market data providers or redistributors.

Chapter II

CALCULATION OF FEES, COST AND MARGINS OF MARKET DATA

Article 2

Cost of producing and disseminating market data

1. The cost of producing and disseminating market data shall be calculated by market data providers and only include costs that are directly associated with the production and dissemination of market data. The calculation of costs shall include the following cost categories:

    a. infrastructure costs, attributable to physical assets and software licenses and leased services or any other infrastructure necessary for the production and dissemination of market data;

    b. connectivity costs, attributable to any physical assets and software licenses and leased services which ensure the connectivity necessary for the production and dissemination of market data;

    c. costs attributable to personnel dedicated to the production and dissemination of market data;

    d. financial costs, including depreciation, amortization, and cost of capital financing market data services;

    e. other costs, including administrative costs necessary for the production and dissemination of market data.

2. Infrastructure costs which are shared with other services not directly related to the production and dissemination of market data shall be appropriately apportioned considering the usage of the relevant infrastructure by each service.

3. Connectivity costs which are shared with other services not directly related to the production and dissemination of market data shall be appropriately apportioned considering the usage of the relevant connectivity framework by each service.

4. Costs attributable to personnel dedicated to the production and dissemination of market data shall be appropriately allocated considering how much of the working activity of the relevant personnel is attributed to the production and dissemination of market data.

5. Financial costs resulting from infrastructure, connectivity and personnel which are shared with other services not directly related to the production and dissemination of market data shall be appropriately apportioned considering the usage of the relevant assets and services.

6. Market data providers shall be able to specify any further costs which they attribute to the production and dissemination of market data and provide a reasoning for the inclusion of such costs.

7. Market data providers shall calculate the costs of producing and disseminating market data over the accounting year of the market data provider and review on a yearly basis the methodology used for the apportioning of costs.

Article 3

Principles in setting a reasonable margin for market data

1. The margin attributable to the production and dissemination of market data shall be the operating profit generated from the production and dissemination of market data.

2. The margin attributable to the production and dissemination of market data shall:

    a. be set as a percentage of the costs of production and dissemination of market data;
    b. not exceed disproportionately the costs of market data production and dissemination;
    c. for market data providers who offer services other than the production and distribution of market data, be reasonable when compared to the operating profit attributable to the overall business conducted by the data provider.

3. The margin attributable to the production and dissemination of market data shall be achieved by setting fees for market data which enable data access to the maximum number of market data clients.

Chapter III

NON-DISCRIMINATORY ACCESS

Article 4

Obligation to provide market data on a non-discriminatory basis

1. Market data providers shall grant access to data on a non-discriminatory basis, as regards fees, terms and conditions related to access, technical arrangements, and distribution channels.

2. Market data providers shall apply the same schedule of fees and the same terms and conditions to access market data to all clients requesting access to market data.

3. Market data providers shall have scalable capacities in place to ensure that market data clients obtain timely access to market data at all times on a non-discriminatory basis.

4. Market data providers shall offer clients the same set of options with respect to technical arrangements and ensure that technical arrangements neither discriminate nor create any unfair advantage.

5. Market data providers shall be able to justify any divergence in the final solution arrangement adopted on the basis of valid technical constraints.

Article 5

Differentials in fees

1. When applying differentials in fees, market data providers may recur to categorisation of clients provided that all of the following conditions are met:

   (i) the criteria used to set forth categories are based on factual elements, easily verifiable and sufficiently general to be applicable to a group of clients;

   (ii) the margin, established in accordance with Article 3, is the same for all clients within a category;

   (iii) differences among categories are clear and clients are able to understand the category to which they belong;

   (iv) only one category is applicable per client.

2. Where there are multiple and significant different extra costs for the provision of the market data to the same client, market data providers may add an increment to the applicable fee determined by the extra costs incurred.

3. Discounts or any other temporary reduction of fees are allowed provided that they are based on factual elements, easily verifiable and sufficiently general to pertain to more than one client.

Article 6

Distribution Channels

Market data providers shall ensure that market data is sent through all distribution channels at the same time, including when market data is made public as close to real time as technically possible or 15 minutes after the first publication.

Chapter IV

UNBIASED AND FAIR CONTRACTUAL TERMS

Article 7

Provision of pre-contractual information preliminary to the agreement

1. Before the conclusion of the market data agreement, upon request of the market data client, market data providers shall provide clients with personalised information needed to compare the market data offers available on the market, assess their implications, and make an informed decision on whether to conclude the market data agreement.

2. The personalised information referred to in paragraph 1 shall be consistent with the fees displayed in the market data policy.

Article 8

Fair terms

1. Rights and obligations in the market data agreement shall be proportionate between parties, correspond to the legitimate interest of one party and shall not cause an unjustified detriment to the other.

2. Practices which result in unjustified additional costs for one of the parties, including extensive or frequent requests or provision of information not necessary for the correct execution of the contract, shall not be implemented by any party.

Article 9

Language

1. The market data agreement shall specify in a clear and concise manner the terms and conditions for the provision of market data to allow the client to easily understand the obligations and rights deriving from the agreement.

2. Contract definitions and terms shall be specific and in line with Article 18. Overly broad or general terms shall be avoided.

Article 10

Conformity with the market data policy

Market data providers shall ensure that the information in the market data agreement conform with the information provided in the published market data policy.

Article 11

Additional fees

1. Market data providers shall not add in the market data agreement or terminate and renew an agreement for the purpose of adding, any clause which results directly or indirectly in an increase of the fees for the same data. Additional fees shall only be admissible in case of infringements of the obligations and shall be clearly identified in the agreement.

2. Terms and conditions whose application may result in additional fees or fee increases, such as inflation-linked adjustments, shall be clearly disclosed in the market data agreement.

Article 12

Per client fees

1. Market data providers shall put arrangements in place to ensure that each provision of market data is charged only once.

2. To this aim, where market data has been sourced through multiple channels, market data providers shall offer the possibility to charge fees only once per client.

Article 13

Obligation to keep data unbundled

Market data providers shall make market data available without being bundled with other services.

Article 14

Penalties

1. Market data providers shall clearly indicate in the market data agreement the infringements to which penalties are applicable.

2. The amount of penalties shall not unreasonably exceed the fees the client would have paid in case of compliance with the market data agreement.

3. A penalty payment request shall be made only within a reasonable time from the infringement occurrence which shall not exceed 5 years and shall be based on clear evidence of the infringement occurrence.

Article 15

Audit

1. Audits may be requested by market data providers in case of indications of infringement of the market data agreement to ascertain whether a breach occurred. An infringement of the market data agreement cannot be presumed but needs to be established on the basis of reasonable belief, meaning that there must be specific and credible indications of a potential breach.

2. Market data providers shall provide in the market data agreements clear and comprehensive information on audits and, in particular, specify:

   (i) the infringements of the market data agreement for which an audit can be requested;

   (ii) the document and the information the client is requested to provide in case of an audit;

   (iii) the procedure foreseen for the audit;

   (iv) the notice period;

   (v) how data confidentiality would be ensured during the audit.

   Prior to initiating an audit, the market data provider shall notify the market data client of the alleged infringement and the grounds for suspecting its occurrence.

3. Market data providers conducting an audit shall request information limited to what is necessary to collect evidence in respect of the alleged infringement.

4. The audit shall base its findings only on facts on which the audited market data client had the opportunity to comment.

5. An audit shall cover a reasonable period of time not going back more than 5 years from the date the audit is notified.

Article 16

Market data agreement amendment

1. The market data provider shall give notice to the market data client of any unilateral change to the terms and conditions of the market data agreement, including terms and conditions relating to fees, at least three months in advance of the relevant amendment entering into force.

2. Where the amendment creates onerous or burdensome outcomes for the market data client or results in a change of fees, the market data agreement shall foresee the right of withdrawal for the client without incurring additional fees or penalties.

Chapter V

CONTENT, FORMAT AND TERMINOLOGY OF THE MARKET DATA POLICIES

Article 17

Information to be included in the market data policy

1. Market data providers shall disclose all information relevant to the offering of market data in clear and unambiguous terms. Such information shall include:

   (i) the fee schedule for market data provision;

   (ii) the terms and conditions of the market data provision, including any indirect service necessary for accessing the market data;

   (iii) the terms and conditions of the auditing practices.

2. The information on the offering of market data disclosed in the market data policy shall enable clients to understand the fees and the terms and conditions applicable to them, prior to the conclusion of a market data agreement.

Article 18

Key terminology of market data policies

1. In addition to the relevant terms defined in Article 1 of this Regulation, market data providers shall adopt the following terminology in their market data policy and fee schedules:

   (i) “Unit of Count” shall indicate the unit used to measure the level of market data to be invoiced to the market data client and that is applied for fee purposes;

   (ii) “Professional Client” shall indicate a client operating a regulated financial service or regulated financial activity or providing a service for third parties;

   (iii) “Non-Professional Client” shall indicate a client who does not meet the definition of Professional Client;

   (iv) “Display Data” shall indicate the market data provided through the support of a monitor or a screen and that is human readable;

   (iv) “Non-Display Data” shall indicate all the market data which does not meet the definition of Display Data.

   (v) “Historical data” shall indicate market data which relates to a period prior to the previous business day which is archived and stored by the market data provider;

2. When other terms are used by the market data provider, a clear definition of these terms shall be provided in the market data policy or fee schedule.

Article 19

Accessible format of market data policies

1. Market data providers shall make the market data policy available on their websites on a free, non-discriminatory and easily accessible basis. Where the market data policy consists of more than one document, market data providers shall clearly indicate this and make all documents of the market data policy accessible via a single location on their website.

2. Market data providers shall provide on their website market data policies of the previous 5 years and shall ensure that the market data policies clearly indicate the date and time of publication and application.

Article 20

Standardised unit of count

1. Market data providers shall display the fee of market data by unit of count to establish for the provision of market data in their market data policy and in the template.

2. The unit of count used by a market data provider for market data shall be unique and based on the costs of distributing the market data, meaning two or more units of count cannot be combined to count the extent of access.

Article 21

Format for publication for market data policy

1. Market data providers shall publish the market data required by Article 13(1) of Regulation (EU) 600/2014 by using the template provided in Annex I of this Regulation. Any information that is outside the scope of the transparency obligation shall not be provided in the template.

2. Market data providers shall provide the information in a consistent manner in terms of granularity to make the disclosure meaningful for clients to compare between offers. Information shall be provided separately for pre- and post-trade data.

Article 22

Cost disclosure

1. Market data providers shall publish a summary of how the level of fees was set and a more detailed explanation of the cost accounting methodology used.

2. The explanation shall provide at least the list of all the cost types included in the fees of market data with examples of such costs as well as the allocation principles and allocation keys for other costs that are shared with other services.

3. Market data providers shall disclose whether they include a margin in the fees of market data and explain how it is ensured that the margins are reasonable.

4. Market data providers shall provide clients with explanatory information on costs and margins to enable clients to understand how the level of fees for market data is set and to compare the methodologies of different market data providers.

5. Market data providers shall update such information immediately after the review as required by Article 2(7).

Chapter VI

DATA ACCESS, CONTENT AND FORMAT OF DELAYED MARKET DATA

Article 23

Access to delayed market data

1. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall provide access to delayed market data to any client on a non-discriminatory basis without requiring any type of registration.

Article 24

Content of delayed market data

1. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall make available to the public the delayed market data from all the systems operated, in accordance with the following criteria:

   (i) the delayed pre-trade market data shall contain the current best bid and offer prices available and the depth of trading interest at those best bid and offer prices;

   (ii) the delayed post-trade market data shall contain all the relevant fields for the purpose of post-trade transparency, as specified in Commission Delegated Regulation (EU) No 2017/587 and Commission Delegated Regulation (EU) No 2017/583, and no other field.

Article 25

Format of delayed market data

1. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall make available to the public the delayed market data in a format adapted to the clients' needs for a sufficient period of time, as follows:

   (i) the delayed pre-trade market data shall be made available in a machine-readable and human readable format, until and including the following business day;

   (ii) the delayed post-trade market data shall be provided in a machine-readable and human-readable format and available in commonly used programs to allow clients to automate data extraction. The data shall be available for all traded instruments (or for

a category of instruments) in the same file and shall include only the delayed market data as referred to in Article 13(2) of Regulation (EU) No 600/2014. The data for each trading day shall be available in the same file. Such daily file shall be updated every minute. If the time period between reported data exceeds one minute, the file shall be updated at the time the market data becomes eligible for delayed market data publication. The file shall be available at least until and including the next business day to allow for data extraction by a client.

Chapter VII

CONTENT, FORMAT AND TERMINOLOGY OF THE INFORMATION TO BE PROVIDED TO THE COMPETENT AUTHORITIES ON THE ACTUAL COSTS OF PRODUCING AND DISSEMINATING MARKET DATA, INCLUDING A REASONABLE MARGIN

Article 26

Information to be provided to the competent authority

1. Market data providers shall provide the competent authority, upon request, with the information on the cost of production and dissemination of market data, including a reasonable margin, as described in chapter II by means of the form set out in Annex II.

2. The information shall specify:

   (i) details for the purpose of identification of the market data provider and of the group of which the entity is part, where applicable;

   (ii) details on the type of market data offered;

   (iii) details on costs associated with the production and dissemination of market data, including a description of the key infrastructures characterising the market data provider operations and of the components of such infrastructure which are relevant to determine the cost of market data and a specification of cost figures attributable to market data production and dissemination;

   (iv) the reasonable margin applied to the cost of market data production and dissemination;

   (v) how the level of fees is set;

   (vi) where differentials in fees are applied, how costs and margin are allocated among the distinct categories of market data clients, if applicable;

   (vii) any other information and/or supporting documents which may be deemed relevant for the competent authority when considering the actual costs of producing and disseminating market data, including a reasonable margin.

Article 27

Entry into force

This Regulation shall enter into force nine months 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, xxx

ANNEX I

Template for publication for market data policy

<table>
<tr><th>Legal basis</th><th colspan="4">Contents</th></tr>
<tr><td rowspan="2">Article 17 of Delegated Regulation (EU) NoXX/XXX [RTS on RCB]</td><td colspan="4">Market data policy: year XXXX</td></tr>
<tr><td colspan="4">[Insert hyperlink to:

(i) the fee schedule for market data provision;
(ii) the terms and conditions of the market data provision, including any indirect service necessary for accessing and using the market data;
(i) the terms and conditions of the auditing practices.]</td></tr>
<tr><td>Article 5 and 20 of Delegated Regulation (EU) NoXX/XXX [RTS on RCB]</td><td colspan="4">[Insert a high-level summary of the fees offered in the fee schedule. The fee schedule should include the following items:

(i) fees per unit of count of pre-trade and post-trade market data;
(ii) categories of clients and the criteria used to set forth the categories;
(iii) discount policies;
(iv) fees for other subsets of information, including those required in accordance with the level of disaggregation of data pursuant to Commission Delegating Regulation (EU) 2017/572;
(v) other contractual terms and conditions.

Any changes to the price list should be clearly indicated and explained.]</td></tr>
<tr><td>Article 16 of Delegated Regulation (EU) NoXX/XXX [RTS on RCB]</td><td colspan="4">Advance disclosure with a minimum of 3 months' notice of future price change with entry into force on the DD/MM/YYYY [Insert the hyperlink to the future fee schedule with the date of entry into force]</td></tr>
<tr><td rowspan="3">Article 13(1) of Regulation (EU) 600/2014</td><td colspan="4">Market Data Content Information
Period covered: 01/01/yy - 31/12/yy</td></tr>
<tr><td><u>Asset Class</u></td><td>1) Number of instruments covered</td><td>2) Total turnover of instruments covered</td><td>3) Pre-trade/post-trade market data ratio</td></tr>
<tr><td>Equity instruments (shares, ETFs, DRs, certificates, other equity-like financial instruments)</td><td></td><td></td><td></td></tr>
</table>

	Bonds			
	ETCs ETNs			
	SFPs			
	Securitised derivatives			
	Interest Rate Derivatives			
	Credit Derivatives			
	Equity derivatives			
	FX derivatives			
	Emission allowances derivatives			
	C10 derivatives			
	Commodity derivatives			
	CFDs			
	Emission allowances			
Article 22 of Delegated Regulation (EU)	**Cost disclosure: year YYYY**			

NoXX/XXX [RTS on RCB]	**Information on how the level of fees is set**	*[Please, insert summary on how the level of fees is set]*
	Cost accounting methodologies	*[Please, insert hyperlink to the cost accounting methodology]*
		1) List of types of costs, according to Article 2 of Delegated Regulation (EU) NoXX/XXX [RTS on RCB]
		2) Allocation keys (%)
		3) Allocation principles
		4) Please explain whether a margin is included and how it is ensured to be reasonable

ANNEX II

Template for the information to be provided to the Competent Authority pursuant to Article 13(4) MIFIR

Section 1- MARKET DATA PROVIDER SUBMITTING THE INFORMATION

Table 1.A – General information

Entity name	Full name of the market data provider, including: — the legal form as provided for in the register of the country pursuant to the law of which it is incorporated, where applicable, and — the Legal Entity Identifier (LEI) code in accordance with ISO 17442 LEI code, where applicable.]
Address	[Full address (e.g. street, street number, postal code, city, state/province) and country.]
Contact for additional request for information	[Person to be contacted within the market data provider for information relating to this template (e.g. CFO) and relevant contact details: — first name(s) and surname(s), — position of the contact person within the market data provider, — professional e-mail address.]

Table 2.B – Information on the group

Is the entity part of a group?	□ yes □ no
If yes, is the entity the only entity in the group supporting cost for the production and dissemination of data?	□ yes □ no
If no, please specify which other entity within the group support the cost for the production and dissemination of data	Full name of the entity, including: — the legal form as provided for in the register of the country pursuant to the law of which it is incorporated, where applicable, and — the Legal Entity Identifier (LEI) code in accordance with ISO 17442 LEI

	code, where applicable.] — [Full address (e.g. street, street number, postal code, city, state/province) and country.]

Section 2- INFORMATION ON DATA PROVIDED

Data offered	Link to the data policy as displayed on the website pursuant to [Articles on data provided] [SECTION A of the market data policy]
What type of data is offered	Please specify the type of data offered □ full book □ top of book □ last sale □ auction imbalance □ other, please specify _____

Section 3 – COSTS

3.A General description of the system

Briefly illustrate the system and processes of the production and dissemination of market data. operations.

3.B Components taken into account to determine the cost of data

Taking into consideration the system as described, please indicate the **components** of that system that were taken into account to determine the cost of market data and the criteria used to identify these components.

3.C Costs of market data

Indicate below the cost necessary to produce data, calculated over the accounting year per component (category of article 2)	
NOT SHARED COST	
Infrastructure - including physical assets and software licenses and leased services necessary for the production and dissemination of market data	
Component (as in 3B)	Cost

Connectivity - including physical assets and software licenses and leased services which ensure the connectivity necessary for the production and dissemination of market data	
Component (as in 3B)	Cost
Costs attributable to personnel dedicated to the production and dissemination of market data	
Component (as in 3B)	Cost
Financial costs - including depreciation, amortization, and cost of capital	
Component (as in 3B)	Cost
Other	
Component (as in 3B)	Cost

SHARED COST			
Infrastructure - including physical assets and software licenses and leased services necessary for the production and dissemination of market data			
Component (as in 3B)	Total Cost	Percentage allocated for the purpose of market data	Reasoning for allocation
Connectivity - including physical assets and software licenses and leased services which ensure the connectivity necessary for the production and dissemination of market data			
Component (as in 3B)	Cost	Percentage allocated for the purpose of market data	Reasoning for allocation
Costs attributable to personnel dedicated to the production and dissemination of market data			
Component (as in 3B)	Cost	Percentage allocated for the purpose of market data	Reasoning for allocation
Financial costs resulting from the above categories - including depreciation, amortization, and cost of capital			

Component (as in 3B)	Cost	Percentage allocated for the purpose of market data	Reasoning for allocation
OTHER			
Component (as in 3B)	Cost	Percentage allocated for the purpose of market data	Reasoning for allocation

Table on resulting overall cost of data calculated over the accounting year of the data provider	
Type of costs	Value
Not shared costs	
Shared costs	
Total	

Section 4 CLIENT CATEGORIES

Fees as published	Please insert the link to the data policy as per market data provider website
Do you apply differentials in fees for the data offered, i.e. do you identify client categories?	□ yes □ no
If yes, what are the criteria for categorising clients?	
What is the number of client categories and how many clients are indicatively in each category?	# of categories: # in category 1: # in category 2: [add as needed]

Section 5 REASONABLE MARGIN

Margin per client category			
Client category	Margin expressed in absolute terms, calculated as operating profit	Margin expressed as a percentage of overall cost of data.	Reasonableness of the margin (please include an explanation of the elements taken into consideration to set the margin)

[add as needed]			
Total			NA

Percentage change in margin compared to previous year		
Client category	Percentage change	Reasoning
[add as needed]		

Section 6 ANNUAL COST, MARGIN AND PENALTIES

6.A Margin of market data

Accounting year	Total annual[2] cost	Total annual[1] margin	Total annual fees[3]	Average margin in %	Total penalties

6.B Market data compared to overall margin

Only for entities subject to Art 3.2.c

Accounting year	Total annual revenue of the group the data provider is part of.	Total annual margin of the group the data provider is part of.	Margin in %	Average market data margin in % (table 6A).

How does the margin set for the production and distribution of market data compares with the overall margin of your business?	

Section 7 ADDITIONAL INFORMATION

[2] Annual is to be intended as the accounting year.
[3] To be intended as the sum of all the invoices for market data issued over the accounting year.

Do you wish to add any additional information?	☐ yes ☐ no
If yes, please describe	
Please list any additional document attached to the present notification	