

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance)**

2021/0385(COD)

DRAFT 14.09.2023

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2021/0385 (COD)	2021/0385 (COD)	2021/0385 (COD)	2021/0385 (COD)
Proposal Title				
2	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance)</p>	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance)</p>	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and <del>prohibiting receiving payments for forwarding client orders</del> <u>amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012</u> (Text with EEA relevance)</p>	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing <del>market</del> data transparency, removing obstacles to the emergence of <del>a</del> consolidated tapes, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance)</p> <p>[07.08: CRR/D amendments to be discussed as part of the current review of these files]</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 1/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
Citation 4				
7	Having regard to the opinion of the European Central Bank <sup>1</sup> , <hr/> 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank <sup>1</sup> , <hr/> 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank <sup>1</sup> , <hr/> 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank <sup>1</sup> , <hr/> 1. OJ C [...], [...], p. [...].

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Citation 5				
8	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>1. OJ C [...], [...], p. [...].</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>1. OJ C [...], [...], p. [...].</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,</p> <p>2. OJ C [...], [...], p. [...].</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>1. OJ C [...], [...], p. [...].</p>
Citation 6				
9	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,
Formula				
10	Whereas:	Whereas:	Whereas:	Whereas:
Recital 1				
11	<p>(1) In its 2020 CMU Action Plan<sup>1</sup>, the Commission announced its intention to table a legislative proposal to create a centralised data base which was meant to provide a comprehensive view on prices and volume of equity and equity-like financial instruments traded throughout the Union across a multitude of trading venues ('consolidated tape'). On 2 December 2020, in its conclusion on the Commission's CMU Action</p>	<p>(1) In its 2020 CMU Action Plan<sup>1</sup>, the Commission announced its intention to table a legislative proposal to create a centralised data base which was meant to provide a comprehensive view on prices and volume of equity and equity-like financial instruments traded throughout the Union across a multitude of trading venues ('consolidated tape'). On 2 December 2020, in its conclusion on the Commission's CMU Action</p>	<p>(1) In its 2020 CMU Action Plan<sup>3</sup>, the Commission announced its intention to table a legislative proposal to create a <del>centralised</del> <b>centralized</b> data base which was meant to provide a comprehensive view on prices and volume of equity and equity-like financial instruments traded throughout the Union across a multitude of trading venues ('consolidated tape'). On 2 December 2020, in its conclusion on</p>	<p>(1) In its 2020 CMU Action Plan<sup>1</sup>, the Commission announced its intention to table a legislative proposal to create a centralised data base which was meant to provide a comprehensive view on prices and volume of equity and equity-like financial instruments traded throughout the Union across a multitude of trading venues ('consolidated tape'). On 2 December 2020, in its conclusion on the Commission's CMU Action</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>Plan<sup>2</sup>, the Council encouraged the Commission to stimulate more investment activity inside the Union by enhancing data availability and transparency by further assessing how to tackle the obstacles to establishing a consolidated tape in the Union.</p> <p>1. COM/2020/590 final. 2. Council Conclusions on the Commission's CMU Action Plan, 12898/1 of /20 REV 1 EF 286 ECOFIN 1023: <a href="https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf">https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf</a>;</p>	<p>Plan<sup>2</sup>, the Council encouraged the Commission to stimulate more investment activity inside the Union by enhancing data availability and transparency by further assessing how to tackle the obstacles to establishing a consolidated tape in the Union.</p> <p>1. COM/2020/590 final. 2. Council Conclusions on the Commission's CMU Action Plan, 12898/1 of /20 REV 1 EF 286 ECOFIN 1023: <a href="https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf">https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf</a>;</p>	<p>the Commission's CMU Action Plan<sup>4</sup>, the Council encouraged the Commission to stimulate more investment activity inside the Union by enhancing data availability and transparency by further assessing how to tackle the obstacles to establishing a consolidated tape in the Union.</p> <p>3. COM/2020/590 final. 4. Council Conclusions on the Commission's CMU Action Plan, 12898/1 of /20 REV 1 EF 286 ECOFIN 1023: <a href="https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf">https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf</a>;</p>	<p>Plan<sup>2</sup>, the Council encouraged the Commission to stimulate more investment activity inside the Union by enhancing data availability and transparency by further assessing how to tackle the obstacles to establishing a consolidated tape in the Union.</p> <p>1. COM/2020/590 final. 2. Council Conclusions on the Commission's CMU Action Plan, 12898/1 of /20 REV 1 EF 286 ECOFIN 1023: <a href="https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf">https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf</a>;</p>
Recital 2				
12	<p>(2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021<sup>1</sup>, the Commission confirmed its intention to improve, simplify and further harmonise capital markets' transparency, as part of the review of Directive 2014/65/EU of the European Parliament and of the Council<sup>2</sup> and of Regulation (EU) No 600/2014 the European Parliament and of the Council<sup>3</sup>. As part of efforts to strengthen the international role of the Euro, the Commission also announced that</p>	<p>(2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021<sup>1</sup>, the Commission confirmed its intention to improve, simplify and further harmonise capital markets' transparency, as part of the review of Directive 2014/65/EU of the European Parliament and of the Council<sup>2</sup> and of Regulation (EU) No 600/2014 the European Parliament and of the Council<sup>3</sup>. As part of efforts to strengthen the international role of the Euro, the Commission also announced that</p>	<p>(2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021<sup>5</sup>, the Commission confirmed its intention to improve, simplify and further <del>harmonise</del><u>harmonize</u> capital markets' transparency, as part of the review of Directive 2014/65/EU of the European Parliament and of the Council<sup>6</sup> and of Regulation (EU) No 600/2014 the European Parliament and of the Council<sup>7</sup>. As part of efforts to strengthen the international role of the Euro, the Commission also announced that</p>	<p>(2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021<sup>1</sup>, the Commission confirmed its intention to improve, simplify and further harmonise capital markets' transparency, as part of the review of Directive 2014/65/EU of the European Parliament and of the Council<sup>2</sup> and of Regulation (EU) No 600/2014 the European Parliament and of the Council<sup>3</sup>. As part of efforts to strengthen the international role of the Euro, the Commission also announced that</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>such reform would include the design and implementation of a consolidated tape, in particular for corporate bond issuances to increase the liquidity of secondary trading in euro-denominated debt instruments.</p> <p>1. COM/2021/32 final. 2. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349). 3. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>such reform would include the design and implementation of a consolidated tape, in particular for corporate bond issuances to increase the liquidity of secondary trading in euro-denominated debt instruments.</p> <p>1. COM/2021/32 final. 2. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349). 3. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>such reform would include the design and implementation of a consolidated tape, in particular for corporate bond issuances to increase the liquidity of secondary trading in euro-denominated debt instruments.</p> <p>5. COM/2021/32 final. 6. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349). 7. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>such reform would include the design and implementation of a consolidated tape, in particular for corporate bond issuances to increase the liquidity of secondary trading in euro-denominated debt instruments.</p> <p>1. COM/2021/32 final. 2. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349). 3. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>
Recital 3				
13	<p>(3) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>1</sup> provides for a legislative framework for ‘consolidated tape providers’ or ‘CTPs’, both for equity and non-equity. Those CTPs are currently responsible for collecting from trading venues and approved publication arrangements (‘APAs’) market data about financial instruments and consolidating those data into a continuous electronic live data stream, which provides</p>	<p>(3) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>1</sup> provides for a legislative framework for ‘consolidated tape providers’ or ‘CTPs’, both for equity and non-equity. Those CTPs are currently responsible for collecting from trading venues and approved publication arrangements (‘APAs’) market data about financial instruments and consolidating those data into a continuous electronic live data stream, which provides</p>	<p>(3) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>8</sup> provides for a legislative framework for ‘consolidated tape providers’ or ‘CTPs’, both for equity and non-equity <u>instruments</u>. Those CTPs are currently responsible for collecting from trading venues and approved publication arrangements (‘APAs’) market data about financial instruments and consolidating those data into a continuous electronic live data stream, which provides</p>	<p>(3) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>8</sup> provides for a legislative framework for ‘consolidated tape providers’ or ‘CTPs’, both for equity and non-equity <u>instruments</u>. Those CTPs are currently responsible for collecting from trading venues and approved publication arrangements (‘APAs’) market data about financial instruments and consolidating those data into a continuous electronic live data stream, which provides</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>market data per financial instrument. The idea behind the introduction of a CTP was that market data from trading venues and APAs would be made available to the public in a consolidated manner, including all of the Union's trading markets, using identical data tags, formats and user interfaces.</p> <p>1. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>market data per financial instrument. The idea behind the introduction of a CTP was that market data from trading venues and APAs would be made available to the public in a consolidated manner, including all of the Union's trading markets, using identical data tags, formats and user interfaces.</p> <p>1. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>market data per financial instrument. The idea behind the introduction of a CTP was that market data from trading venues and APAs would be made available to the public in a consolidated manner, including all of the Union's trading markets, using identical data tags, formats and user interfaces.</p> <p>8. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>	<p>market data per financial instrument. The idea behind the introduction of a CTP was that market data from trading venues and APAs would be made available to the public in a consolidated manner, including all of the Union's trading markets, using identical data tags, formats and user interfaces.</p> <p>8. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).</p>
Recital 4				
14	<p>(4) To date, however, no supervised entity has applied for authorisation to act as a CTP. ESMA has identified three main obstacles that have prevented supervised entities to apply for registration as a CTP<sup>1</sup>. First, a lack of clarity as to how the CTP is to procure market data from the various execution venues or from the data reporting service providers concerned. Second, insufficient quality in terms of harmonisation of the data reported by those execution venues to allow for a cost-efficient consolidation. Third, a lack of commercial incentives to apply for</p>	<p>(4) To date, however, no supervised entity has applied for authorisation to act as a CTP. ESMA has identified three main obstacles that have prevented supervised entities to apply for registration as a CTP<sup>1</sup>. First, a lack of clarity as to how the CTP is to procure market data from the various execution venues or from the data reporting service providers concerned. Second, insufficient quality in terms of harmonisation of the data reported by those execution venues to allow for a cost-efficient consolidation. Third, a lack of commercial incentives to apply for</p>	<p>(4) To date, however, no supervised entity has applied for authorisation to act as a CTP. ESMA has identified three main obstacles that have prevented supervised entities to apply for registration as a CTP<sup>9</sup>. First, a lack of clarity as to how the CTP is to procure market data from the various execution venues or from the data reporting service providers concerned. Second, insufficient quality in terms of harmonisation of the data reported by those execution venues to allow for a cost-efficient consolidation. Third, a lack of commercial incentives to apply for authorisation</p>	<p>(4) To date, however, no supervised entity has applied for authorisation to act as a CTP. <a href="#"><u>In its report of 5 December 2019 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments</u></a>, ESMA has identified three main obstacles that have prevented supervised entities to apply for registration as a CTP<sup>4</sup>. First, a lack of clarity as to how the CTP is to procure market data from the various execution venues or from the data reporting service providers concerned. Second, insufficient quality in terms of</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>authorisation as a CTP. It is therefore necessary to remove those obstacles. Such removal requires, first, that all trading venues and systematic internalisers ('SIs') provide CTPs with market data (provision rule). It secondly requires an improvement of the data quality by harmonising the data reports that trading venues and SIs should submit to the CTP.</p> <p>1. ESMA MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments.</p>	<p>authorisation as a CTP. It is therefore necessary to remove those obstacles. Such removal requires, first, that all trading venues and systematic internalisers ('SIs') provide CTPs with market data (provision rule). It secondly requires an improvement of the data quality by harmonising the data reports that trading venues and SIs should submit to the CTP. <u><i>It thirdly requires that market data contributors transmit to the CTP as close to real time as it is technically possible pre- and post-trade information for shares and ETFs and as close to real time as it is technically possible post-trade information for bonds and derivatives.</i></u></p> <p>1. ESMA MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments.</p>	<p>as a CTP. It is therefore necessary to remove those obstacles. Such removal requires, first, that all trading venues and systematic internalisers ('SIs') provide CTPs with market data (provision rule). It secondly requires an improvement of the data quality by harmonising the data reports that trading venues and SIs should submit to the CTP.</p> <p>9. ESMA MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments.</p>	<p>harmonisation of the data reported by those execution venues to allow for a cost-efficient consolidation. Third, a lack of commercial incentives to apply for authorisation as a CTP. It is therefore necessary to remove those obstacles. Such removal requires, first, that all trading venues <del><i>and APAs and systematic internalisers ('SIs')</i></del> provide CTPs with market data. <del><i>(provision rule)</i></del>. It secondly requires an improvement of the data quality by harmonising the data reports that trading venues <u><i>and APAs</i></u> should submit to the CTPs.</p> <p><del><i>1. ESMA MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments.</i></del></p>
Recital 5				
15	(5) Article 1(7) of Directive 2014/65/EU of the European Parliament and of the Council <sup>1</sup> requires operators of systems in which multiple third-party buying and selling trading interests in financial instruments are able to interact ('multilateral systems') to	(5) Article 1(7) of Directive 2014/65/EU of the European Parliament and of the Council <sup>1</sup> requires operators of systems in which multiple third-party buying and selling trading interests in financial instruments are able to interact ('multilateral systems') to	(5) Article 1(7) of Directive 2014/65/EU of the European Parliament and of the Council <sup>10</sup> requires operators of systems in which multiple third-party buying and selling trading interests in financial instruments are able to interact ('multilateral systems') to	[Article 1(7)]  (5) Article 1(7) of Directive 2014/65/EU of the European Parliament and of the Council <sup>10</sup> requires operators of systems in which multiple third-party buying and selling trading interests in

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 7/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>operate in accordance with the requirements concerning regulated markets ('RMs'), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). The placement of that requirement in Directive 2014/65/EU has left room for varying interpretations of that requirement, which has led to an uneven playing field between multilateral systems that are licensed as an RM, MTF or OTF, and multilateral systems that are not licensed as such. In order to ensure a uniform application of that requirement, it should be introduced in Regulation (EU) No 600/2014.</p> <p>1. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p>	<p>operate in accordance with the requirements concerning regulated markets ('RMs'), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). The placement of that requirement in Directive 2014/65/EU has left room for varying interpretations of that requirement, which has led to an uneven playing field between multilateral systems that are licensed as an RM, MTF or OTF, and multilateral systems that are not licensed as such. In order to ensure a uniform application of that requirement, it should be introduced in Regulation (EU) No 600/2014.</p> <p>1. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p>	<p>operate in accordance with the requirements concerning regulated markets ('RMs'), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). The placement of that requirement in Directive 2014/65/EU has left room for varying interpretations of that requirement, which has led to an uneven playing field between multilateral systems that are licensed as an RM, MTF or OTF, and multilateral systems that are not licensed as such. In order to ensure a uniform application of that requirement, it should be introduced in Regulation (EU) No 600/2014.</p> <p>10. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p>	<p>financial instruments are able to interact ('multilateral systems') to operate in accordance with the requirements concerning regulated markets, (<del>'RMs'</del>), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). The placement of that requirement in Directive 2014/65/EU has left room for varying interpretations of that requirement, which has led to an uneven playing field between multilateral systems that are licensed as a <u>regulated market</u> <del>RM</del>, MTF or OTF, and multilateral systems that are not licensed as such. In order to ensure a uniform application of that requirement, it should be introduced in Regulation (EU) No 600/2014.</p> <p>10. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p>
Recital 6				
16	(6) Article 4 of Regulation (EU) No 600/2014 allows competent authorities to waive the pre-trade transparency requirements for	(6) Article 4 of Regulation (EU) No 600/2014 allows competent authorities to waive the pre-trade transparency requirements for	(6) <del>Article 4 of Regulation (EU) No 600/2014 allows competent authorities to waive the pre-trade transparency requirements for</del>	[Article 4]  (6) <del>Article 4 of Regulation (EU) No 600/2014 allows competent authorities to waive the pre-trade</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>market operators and investment firms operating a trading venue who determine their prices by reference to the midpoint price of the primary market or the most relevant market in terms of liquidity. As there is no justification for excluding the smallest orders from a transparent order book and in order to increase pre-trade transparency and thereby reinforce the price formation process, that waiver should be applicable to orders with a size greater than or equal to twice the standard market size. Where the consolidated tape for shares and exchange-traded funds (ETFs) will provide bid and offer prices from which a midpoint can be derived, the reference price waiver should also be available for systems deriving the midpoint price from the consolidated tape.</p>	<p>market operators and investment firms operating a trading venue who determine their prices by reference to the midpoint price of the primary market or the most relevant market in terms of liquidity. <del>As there is no justification for excluding the smallest orders from a transparent order book and</del> In order to increase pre-trade transparency and thereby reinforce the price formation process, that waiver should <u>only</u> be applicable to orders with a size greater than or equal to <del>twice the standard</del> <u>size to be determined by ESMA. When defining the threshold, it is appropriate for ESMA to take into account the impact of that measure on market size equality, on the overall liquidity on Union trading venues, on end-investors' outcomes, and on the domestic and international attractiveness and competitiveness of Union capital markets and firms.</u> Where the consolidated tape for shares and exchange-traded funds (ETFs) will provide bid and offer prices from which a midpoint can be derived, the reference price waiver should also be available for systems deriving the midpoint price from the consolidated tape.</p>	<p><del>market operators and investment firms operating a trading venue who determine their prices by reference to the midpoint price of the primary market or the most relevant market in terms of liquidity. As there is no justification for excluding the smallest orders from a transparent order book and in order to increase pre-trade transparency and thereby reinforce the price formation process, that waiver should be applicable to orders with a size greater than or equal to twice the standard market size. Where the consolidated tape for shares and exchange-traded funds (ETFs) will provide bid and offer prices from which a midpoint can be derived, the reference price waiver should also be available for systems deriving the midpoint price from the consolidated tape.</del></p>	<p><del>transparency requirements for market operators and investment firms operating a trading venue who determine their prices by reference to the midpoint price of the primary market or the most relevant market in terms of liquidity. As there is no justification for excluding the smallest orders from a transparent order book and in order to increase pre-trade transparency and thereby reinforce the price formation process, that waiver should be applicable to orders with a size greater than or equal to twice the standard market size. Where the consolidated tape for shares and exchange-traded funds (ETFs) will provide bid and offer prices from which a midpoint can be derived, the reference price waiver should also be available for systems deriving the midpoint price from the consolidated tape.</del></p>
Recital 7				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
17	<p>(7) Dark trading is trading without pre-trade transparency, using the reference price waiver laid down in Article 4(1), point (a) of Regulation (EU) No 600/2014 and the negotiated trade waiver laid down in Article 4(a) point (a), point (i) of that Regulation. The use of both waivers is capped by the double volume cap ('DVC'). The DVC is a mechanism that limits the level of dark trading to a certain proportion of total trading in an equity instrument. The amount of dark trading in an equity instrument on an individual venue may not exceed 4% of total trading in that instrument in the Union. When this threshold is breached, dark trading in that instrument on that venue is suspended. Secondly the amount of dark trading in an equity instrument in the Union may not exceed 8% of total trading in that instrument in the Union. When this threshold is breached all dark trading in that instrument is suspended. The venue specific threshold leaves room for continued use of those waivers on other platforms on which trading in that equity instrument is not yet suspended, until the Union wide threshold is breached. This causes complexity in terms of monitoring the levels of dark trading and of</p>	<p>(7) Dark trading is trading without pre-trade transparency, using the reference price waiver laid down in Article 4(1), point (a) of Regulation (EU) No 600/2014 and the negotiated trade waiver laid down in Article 4(a) point (a), point (i) of that Regulation. The use of both waivers is capped by the double volume cap ('DVC'). The DVC is a mechanism that limits the level of dark trading to a certain proportion of total trading in an equity instrument. The amount of dark trading in an equity instrument on an individual venue may not exceed 4% of total trading in that instrument in the Union. When this threshold is breached, dark trading in that instrument on that venue is suspended. Secondly the amount of dark trading in an equity instrument in the Union may not exceed 8% of total trading in that instrument in the Union. When this threshold is breached all dark trading in that instrument is suspended. The venue specific threshold leaves room for continued use of those waivers on other platforms on which trading in that equity instrument is not yet suspended, until the Union wide threshold is breached. This causes complexity in terms of monitoring the levels of dark trading and of</p>	<p>(7) Dark trading is trading without pre-trade transparency, using the reference price waiver laid down in Article 4(1), point (a) of Regulation (EU) No 600/2014 and the negotiated trade waiver laid down in Article <del>4(a)</del><u>4(1)</u>, point (a); <u>and</u> point <del>(i)</del><u>(b)(i)</u> of that Regulation. The use of both waivers is capped by the double volume cap ('DVC'). The DVC is a mechanism that limits the level of dark trading to a certain proportion of total trading in an equity instrument. The amount of dark trading in an equity instrument on an individual venue may not exceed <del>4%</del><u>4 %</u> of total trading in that instrument in the Union. When this threshold is breached, dark trading in that instrument on that venue is suspended. Secondly the amount of dark trading in an equity instrument in the Union may not exceed <del>8%</del><u>8 %</u> of total trading in that instrument in the Union. When this threshold is breached all dark trading <u>under those waivers</u> in that instrument is suspended. The venue specific threshold leaves room for continued use of those waivers on other platforms on which trading in that equity instrument is not yet suspended, until the Union wide threshold is breached. This causes complexity in terms of monitoring</p>	<p>[Article 5 and 52]</p> <p>(7) Dark trading is trading without pre-trade transparency, using the reference price waiver laid down in Article 4(1), point (a) of Regulation (EU) No 600/2014 and the negotiated trade waiver laid down in Article <del>4(a)</del><u>4(1)</u>, <del>point (a)</del> point <del>(i)</del><u>(b)(i)</u> of that Regulation. The use of both waivers is capped by the double volume cap, <del>('DVC')</del>. <u>This DVC which is a mechanism that</u> limits the level of dark trading to a certain proportion of total trading in an equity instrument. The amount of dark trading in an equity instrument on an individual venue <u>is not to may</u> <del>not</del> exceed <del>4%</del><u>4 %</u> of total trading in that instrument in the Union. When this threshold is breached, dark trading in that instrument on that venue is suspended. Secondly, the amount of dark trading in an equity instrument in the Union <u>is may</u> not <u>to</u> exceed <del>8%</del><u>8 %</u> of total trading in that instrument in the Union. When this threshold is <u>exceeded, breached</u> all dark trading <u>under those waivers</u> in that instrument is suspended. The venue specific threshold leaves room for continued use of those waivers on other platforms on which trading in that equity instrument is not yet suspended, until the Union wide</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>enforcing the suspension. To simplify the double volume cap while keeping its effectiveness, the new single volume cap should rely solely on the EU-wide threshold. That threshold should be lowered to 7 % to compensate for a potential increase of trading under those waivers as a consequence of abolishing the venue specific threshold.</p>	<p>enforcing the suspension. To simplify the double volume cap while keeping its effectiveness, <del>the</del><i><u>this Regulation introduces a new single volume cap <del>should</del> <del>rely</del>relying solely on the EU-wide threshold. That threshold should be lowered to 7 % to compensate for a potential increase of trading under those waivers as a consequence of abolishing the venue specific threshold. <u>Utilising all the available and relevant market data, ESMA should regularly assess the calibration of the threshold of the single volume cap, its scope, its effects on the competitiveness of Union firms and the significance of the market impact and the efficiency of the price formation process in the Union. ESMA could also consider ways to thoroughly improve the limitations that are currently in place to limit dark trading, including further intervention on any trading system, as opposed to only a subset thereof, to ensure that these are effective in their aim to safeguard the price formation process without unduly affecting the global competitiveness of Union firms and the attractiveness of the Union's markets. Taking into account financial stability considerations, international best practices and</u></u></i></p>	<p>the levels of dark trading and of enforcing the suspension. To simplify the double volume cap while keeping its effectiveness, the new single volume cap should rely solely on the EU-wide threshold-<del>That threshold should be lowered to 7% to compensate for a potential increase of</del><i><u>set at 10 % in respect of the reference price waiver. Thus, the limitation on the dark</u></i> trading <del>under those waivers as a consequence of abolishing the venue specific threshold</del><i><u>remains yet the complexity and the burden of the system would be lifted.</u></i></p>	<p>threshold is <del>exceeded</del> <i><u>breached</u></i>. This causes complexity in terms of monitoring the levels of dark trading and of enforcing the suspension. To simplify the double volume cap while keeping its effectiveness, the new single volume cap should rely solely on the EU-wide threshold-<del>That threshold should be lowered to 7% to compensate for a potential increase of</del><i><u>set at 7 % in respect of the reference price waiver. Thus, the dark</u></i> trading <del>under those waivers as a consequence of abolishing the venue specific threshold</del><i><u>would continue to be limited, while the complexity of the mechanism would be reduced. ESMA should assess the volume cap threshold, taking into account financial stability considerations, international best practices, the competitiveness of the Union firms, the significance of the market impact and the efficiency of the price formation, and formulate its suggestions in a report to the Commission. On that basis, the Commission should have the power to adjust the volume cap threshold through a delegated act. ESMA should also assess the appropriateness of the volume cap and the necessity to remove or to extend it to other trading systems</u></i></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 11/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><i><u>developments, ESMA should formulate its suggestions in a report to the Commission by ... [three years after the entry into force of this amending Regulation], and every two years thereafter.</u></i></p>		<p><i><u>or execution venues which derive their prices from a reference price.</u></i></p>
17a			<p><i><u>(7a) Article 8 of Regulation (EU) No 600/2014 introduced the pre-trade transparency requirement in respect of non-equity instrument imposed on MTFs, OTFs or RMs, regardless of the trading system applied by the trading venue. This provision has provided benefits for trading venues that operate a central limit order book or periodic auction systems, since the bids and offers provided by such trading systems are anonymous, firm and truly multilateral thus independent of the individual qualities of the parties. Other trading systems, notably voice trading and request for quote systems, provide tailor-made quotes to requestors, which have marginal informational value to other market participants. To reduce the regulatory burden imposed on trading venues and to reduce number of waivers, the requirement to publish firm or</u></i></p>	<p>[Article 8]</p> <p><i><u>(7a) Article 8 of Regulation (EU) No 600/2014 introduced the pre-trade transparency requirement in respect of non-equity instrument imposed on MTFs, OTFs or regulated markets, regardless of the trading system applied by the trading venue. This provision has provided benefits for trading venues that operate a central limit order book or periodic auction systems, since the bids and offers provided by such trading systems are anonymous, firm and truly multilateral thus independent of the individual qualities of the parties. Other trading systems, notably voice trading and request for quote systems, provide tailor-made quotes to requestors, which have marginal informational value to other market participants. To reduce the regulatory burden imposed on trading venues and to</u></i></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>indicative quotes while operating request for quotes trading protocols should be removed.</u>	<u>reduce the number of waivers, the requirement to publish firm or indicative quotes should be removed when operating request-for-quote and voice trading systems.</u>
17b			<u>(7b) In addition, the pre-trade transparency requirements set out in Article 18 and 19 of Regulation (EU) No 600/2014 imposed on systematic internalisers operating quote-driven systems in respect of non-equity instruments on bilateral basis when providing firm or indicative quotes to their clients should be removed as well. Those quotes are tailored to individual clients, so they have marginal informational value to other clients. Nevertheless, systematic internalisers may fulfil pre-trade transparency requirements on a voluntary basis, for example to address needs of their retail clients.</u>	<u>(7b) Articles 18 and 19 of Regulation (EU) No 600/2014 set out pre-trade transparency requirements applicable to systematic internalisers in respect of non-equity instruments when providing firm or indicative quotes to their clients. Those quotes are tailored to individual clients and have marginal informational value to other clients. Therefore those requirements should be removed. Nevertheless, systematic internalisers may fulfil pre-trade transparency requirements on a voluntary basis, for example to address needs of their retail clients.</u>  [TM 13.09: text reworked for clarity]
17c			<u>(7c) Transparency regime for derivatives is part of the broader non-equities category commingling together securities (bonds) and contracts (derivatives). Many of the</u>	<u>(7c) Currently, the transparency regime for derivatives is part of the broader non-equity category commingling together very different types of financial</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 13/317

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

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 14/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><i>is why a different concept than "TOTV" should be used to define the scope of transparency of derivatives.</i></u></p>
17d			<p><u><i>(7d) Pre-trade transparency of derivatives should focus on derivative contracts concluded on trading venues applying a central limit order book or a periodic auction system where the users of transparency information would actually obtain useful information from looking at this data. Therefore the scope of transparency requirements should be limited to the most liquid and standardized derivatives, such as exchange-traded derivatives and a subset of benchmark OTC derivatives where real liquidity is apparent. For this purpose, a new definition of OTC derivatives is introduced. OTC derivatives are defined by reference to Article 2(7) of Regulation (EU) No 648/2012 (in line with the last sentence of the</i></u></p>	<p><u><i>(7d) Therefore, the scope of transparency requirements, both pre-trade and post-trade, should be limited to the most liquid and standardized derivatives, such as exchange-traded derivatives and a subset of benchmark OTC derivatives where real liquidity is apparent. For this purpose, a new definition of OTC derivatives should be introduced. OTC derivatives should be defined by reference to Article 2(7) of Regulation (EU) No 648/2012 (in line with the last sentence of the definition of exchange-traded derivatives thus the definition of OTC derivatives covers all derivatives which are not exchange-traded derivatives) to ensure that under the scope of this category of derivatives are all OTC</i></u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 15/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>definition of exchange-traded derivatives thus the definition of OTC derivatives covers all derivatives which are not exchange-traded derivatives) to ensure that under the scope of this category of derivatives are all OTC derivatives which may be subject to clearing obligation in accordance with Article 5(2) of Regulation (EU) No 648/2012. The OTC derivatives, which would be in the scope of pre-trade transparency and post-trade transparency, must fulfil cumulatively all conditions set out in the new Article 8a of Regulation (EU) No 600/2014 so they should be denominated in G4 currencies (Dollar, Euro, Sterling, Yen), and subject to the clearing obligation under Regulation (EU) No 648/2012 and be actually centrally cleared, and, where relevant, only to include (actually) liquid benchmark tenors in full year tenors so bespoke broken date tenors (e.g., 9 years, 2 months, 14 days) would not be included. Pre-trade and post-trade transparency requirements should not apply on transactions in derivatives that are part of portfolio compression or post-trade risk reduction services, or which are exempted from or not subject to the clearing obligation, or which are objectively</u></p>	<p><u>derivatives which may be subject to clearing obligation in accordance with Article 5(2) of Regulation (EU) No 648/2012. The OTC derivatives subject to both pre-trade and post-trade transparency requirements should be defined according to clear conditions set out in the new Article 8a of Regulation (EU) No 600/2014 and should only be denominated in G4 currencies (Dollar, Euro, Sterling, Yen). Transparency requirements should apply to OTC derivatives that are subject to the clearing obligation under Regulation (EU) No 648/2012 and be actually centrally cleared, and, for interest rate swaps, they should be subject to the derivatives trading obligation.for .</u>  <u>In addition, transparency requirements should also apply to single-name credit default swaps, referencing a global systemically important bank and credit default swaps referencing an index comprising such banks.</u>  <u>With regards to pre-trade transparency for derivatives, the requirements should apply only on derivative contracts concluded on trading venues applying a central limit order book or a periodic auction system where the users of</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 16/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty.</u>	<u>transparency information would actually obtain useful information from looking at this data.</u>  [18.07: last sentence deleted as agreed by emails in the context of Art 31]  [TM 13.09: 7c and 7d recitals to be redrafted - COM to propose a new text]
Recital 8				
18	(8) Article 10 of Regulation (EU) No 600/2014 contains requirements for trading venues to publish information related to transactions in non-equity instruments, including the price and the volume. Article 11 of that Regulation contains the grounds for national competent authorities to allow for delayed publication of those details. Deferred publication of those details is allowed where a transaction is above the large in scale ('LIS') size threshold and is in an instrument for which there is no liquid market, or where that transaction is above the size specific to the instrument threshold in case the transaction involves liquidity providers. National competent authorities have discretion in the duration of the deferred period and in the details of the transactions that may be	(8) Article 10 of Regulation (EU) No 600/2014 contains requirements for trading venues to publish information related to transactions in non-equity instruments, including the price and the volume. Article 11 of that Regulation contains the grounds for national competent authorities to allow for delayed publication of those details. Deferred publication of those details is allowed where a transaction is above the large in scale ('LIS') size threshold and is in an instrument for which there is no liquid market, or where that transaction is above the size specific to the instrument threshold in case the transaction involves liquidity providers. National competent authorities have discretion in the duration of the deferred period and in the details of the transactions that may be	(8) Article 10 of Regulation (EU) No 600/2014 contains requirements for trading venues to publish information related to transactions in non-equity instruments, including the price and the volume. Article 11 of that Regulation contains the grounds for national competent authorities to allow for delayed publication of those details. Deferred publication of those details <del>is</del> <u>was</u> allowed where a transaction <del>is</del> <u>was</u> above the large in scale ('LIS') size threshold and <del>is</del> <u>was</u> in an instrument for which there <del>is</del> <u>was</u> no liquid market, or where that transaction <del>is</del> <u>was</u> above the size specific to the instrument threshold in case the transaction involves liquidity providers. National competent authorities <del>have had</del>	[Article 11]  (8) Article 10 of Regulation (EU) No 600/2014 contains requirements for trading venues to publish information related to transactions in non-equity instruments, including the price and the volume. Article 11 of that Regulation contains the grounds for national competent authorities to allow for delayed publication of those details. Deferred publication of those details is allowed where a transaction is above the large in scale ( <del>LIS</del> ) size threshold and is in an instrument for which there is no liquid market, or where that transaction is above the size specific to the instrument threshold in case the transaction involves liquidity providers. National competent authorities have discretion in the duration of the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>deferred. That discretion has led to differing practices among the member states and to ineffective post-trade transparency publications. To ensure transparency towards all types of investors, it is necessary to harmonise the deferral regime at the level of the European Union, remove discretion at national level and facilitate market data consolidation. It is therefore appropriate to reinforce post-trade transparency requirements by removing the discretion for competent authorities.</p>	<p>deferred. That discretion has led to differing practices among the member states and to ineffective post-trade transparency publications. To ensure transparency towards all types of investors, it is necessary to harmonise the deferral regime at the level of the European Union, remove discretion at national level and facilitate market data consolidation. It is therefore appropriate to reinforce post-trade transparency requirements by removing the discretion for <u><i>national competent authorities and setting out the categories of transactions for which deferral is allowed, taking into account the size of the transactions and the liquidity of the financial instruments concerned.</i></u></p>	<p>the transactions that may <i>behave been</i> deferred. That discretion has led to differing practices among the member states and to ineffective post-trade transparency publications. To ensure transparency towards all types of investors, it is necessary to harmonise the deferral regime at the level of the European Union, remove discretion at national level and facilitate market data consolidation. It is therefore appropriate to reinforce post-trade transparency requirements by removing the discretion for <u><i>national competent authorities and setting out the categories of transactions for which deferrals are allowed, considering the size of the transactions and the liquidity of the financial instruments concerned.</i></u></p>	<p>deferred period and in the details of the transactions that may be deferred.</p> <p>That discretion has led to differing practices among the Member States and to ineffective post-trade transparency publications. To ensure transparency towards all types of investors, it is necessary to harmonise the deferral regime at the level of the European Union, remove discretion at national level and facilitate market data consolidation. It is therefore appropriate to reinforce post-trade transparency requirements by removing the discretion for competent authorities <u><i>and setting out the categories of transactions for which deferrals are allowed, considering the size of the transactions and the liquidity of the financial instruments concerned.</i></u></p> <p><u><i>Competent authorities should have the power to extend the period of deferred publication of the details of transactions executed in respect of the sovereign debt instruments issued by their respective Member State. It is appropriate for such an extension to be applicable throughout the Union.</i></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u><i>With regards to transactions in sovereign debt instruments not issued by Members States, such extensions should be established by ESMA.</i></u>
Recital 9				
19	<p>(9) To ensure an adequate level of transparency, the price of a non-equity transaction should be published as close to real time as possible and only be delayed until maximally the end of the trading day. However, in order not to expose liquidity providers in non-equity instruments to undue risk, it should be possible to mask volumes of transactions for a short period of time, which should not be longer than two weeks. The exact calibration of the various buckets corresponding to different time deferrals should be left to ESMA due to the technical expertise required to specify the calibration as well as due to the need to allow for the flexibility to amend the calibration. Those deferrals should be based on the liquidity of the non-equity instrument, the size of the transaction and, for bonds, the credit rating and it should no longer include the size specific to the instrument concerned.</p>	<p>(9) To ensure an adequate level of transparency, the price <u>and the volume</u> of a non-equity transaction should be published as close to real time as possible and <u>the price should</u> only be delayed until maximally the end of the trading day. However, in order not to expose liquidity providers in non-equity instruments to undue risk, it should be possible to mask <del>volumes</del> <u>of the price and volume of very large</u> transactions for a <del>short</del><u>longer</u> period of time, which should not <del>be longer than two</del><u>exceed four</u> weeks. The exact calibration of the various buckets corresponding to different time deferrals should be left to ESMA due to the technical expertise required to specify the calibration as well as due to the need to allow for the flexibility to amend the calibration. Those deferrals should be based on the liquidity of the non-equity instrument, <u>using the issuance size as a proxy, and</u> the size of the transaction <del>and</del><u>(trade size) only. In</u></p>	<p>(9) To ensure an adequate level of transparency, the price <u>and the volume of bond, structured finance product and emission allowance</u> of <del>a non-equity</del> transaction should be published as close to real time as possible <del>and only be delayed until maximally the end of the trading day</del><u>otherwise published with appropriate deferral for the size and liquidity profile of transaction.</u> <del>However,</del> In order not to expose liquidity providers in <del>non-equity instruments</del><u>bonds, structured finance products and emission allowances</u> to undue risk, it should be possible to mask <u>price and</u> volumes of transactions for a <del>short</del><u>short</u> period <del>of time</del>, which should not <del>be longer than two</del><u>in any case exceed four</u> weeks <u>for the very large trades</u>. The exact calibration of the various buckets corresponding to different time deferrals should be left to ESMA due to the technical expertise required to specify the calibration as well as due to the need to allow for the flexibility to</p>	<p>[Article 11]</p> <p>(9) To ensure an adequate level of transparency, the price <u>and the volume of bond, structured finance product and emission allowance</u> of <del>a non-equity</del> transaction should be published as close to real time as possible. In order not to expose liquidity providers in <del>non-equity instruments</del><u>bonds, structured finance products and emission allowances</u> to undue risk, it should be possible to defer the publication of certain details of the transactions according to the size of the transaction and liquidity of the class of the financial instrument. The exact details of the deferral regime should be determined by means of regulatory technical standards and be <u>regularly reviewed in order to gradually decrease the applicable deferral duration.</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>order to simplify the pre-trade transparency regime for bonds and derivatives, the size specific to the instrument, the credit rating and it should no longer include the size specific be removed, and the large in scale size should be lowered so that only one threshold remains at an adequate level. ESMA should regularly review the calibrations of the deferrals applicable to the instrument concerned various buckets, with the goal to gradually decrease them should the qualitative and quantitative evidence allow it.</u></p>	<p>amend the calibration. Those deferrals should be based on the liquidity of the <del>non-equity instrument, the size of the transaction and, for bonds, the credit rating</del> <u>bond, structured finance product and emission allowance (e.g., proxied by the issuance size for bonds, with exception of covered bonds, or frequency of transactions), the size of transactions (trade sizes)</u> and it should no longer include the size specific to the instrument concerned <u>nor the large in scale size.</u></p>	
19a			<p><u>(9a) OTC derivatives are contracts and as (non-fungible) contracts (where both counterparties must agree on terms included in the contract), they are traded in a very different way to bonds. Significant differences exist between the characteristics of the bond market and the very heterogeneous OTC derivative markets and even within different derivatives classes regarding liquidity, transaction sizes and the trade out period needed. To address the difference between mainly the bond market and the very heterogeneous OTC</u></p>	<p>[Article 11a]</p> <p><u>(9a) Derivatives are contracts, where both counterparties must agree on terms included in the contract, as opposed to bonds, where the issuer establishes the relevant terms. Therefore, the bond market is very different to the heterogeneous derivative markets, within which differences also exist between derivatives classes as regards liquidity and, transaction sizes.</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 20/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>derivative markets, the system of deferrals applicable to transactions in derivatives concluded on trading venues should be singled out in the new Article 11a of Regulation (EU) No 600/2014. The duration of deferrals should be calibrated based on the size and liquidity of derivative contracts and on a more flexible basis, because only adequate market data can determine the suitability of the various deferral periods per each category. Nevertheless, the maximum deferral periods should be defined in Regulation (EU) No 600/2014 and ESMA should be given greater flexibility to combine categories based on the size and liquidity of transactions and to develop a properly calibrated deferral regime compared to the regime for bonds, structured finance products and emission allowances.</i></u>	<u><i>For this reason, the transactions on derivatives concluded on trading venues should be subject to specific deferral regime. The duration of deferrals should be determined, by means of regulatory technical standards, based on the size of the transaction and liquidity of the class of derivatives.</i></u>
Recital 10				
20	(10) Article 13 of Regulation (EU) No 600/2014 requires market operators and investment firms operating a trading venue to make the pre-trade and post-trade information on transactions in financial instruments available to	(10) Article 13 of Regulation (EU) No 600/2014 requires market operators and investment firms operating a trading venue to make the pre-trade and post-trade information on transactions in financial instruments available to	(10) Article 13 of Regulation (EU) No 600/2014 requires market operators and investment firms operating a trading venue to make the pre-trade and post-trade information on transactions in financial instruments available to	(10) Article 13 of Regulation (EU) No 600/2014 requires market operators and investment firms operating a trading venue to make the pre-trade and post-trade information on transactions in financial instruments available to

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 21/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>the public on a reasonable commercial basis ('RCB'), and to ensure non-discriminatory access to that information. That Article has, however, not delivered on its objectives. The information provided by trading venues, APAs and systematic internalisers on a reasonable commercial basis does not enable users to understand market data policies and how the price for market data is set. ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the fast changing data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014.</p>	<p>the public on a reasonable commercial basis ('RCB'), and to ensure non-discriminatory access to that information. That Article has, however, not delivered on its objectives. The information provided by trading venues, APAs and systematic internalisers on a reasonable commercial basis does not enable users to understand market data policies and how the price for market data is set. ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the fast changing data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying <u>what constitutes a reasonable commercial basis and</u> how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014.</p>	<p>the public on a reasonable commercial basis ('RCB'), and to ensure non-discriminatory access to that information. That Article has, however, not delivered on its objectives. The information provided by trading venues, APAs and systematic internalisers on a reasonable commercial basis does not enable users to understand market data policies and how the price for market data is set. ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the <i>fast changing</i> data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014.</p>	<p>the public on a reasonable commercial basis ('RCB'), and to ensure non-discriminatory access to that information. That Article has, however, not delivered on its objectives. The information provided by trading venues, APAs and systematic internalisers on a reasonable commercial basis does not enable users to understand market data policies and how the price for market data is set. ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the <i>fast changing</i> data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014. <b>Furthermore, ESMA should monitor and assess developments in market data policies and price-setting of market but also compliance with the rules. ESMA should provide the necessary updates based on the assessment.</b></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 22/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 11				
21	<p>(11) In order to reinforce the price formation process and to maintain a level playing field between trading venues and systematic internalisers, Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers to make public all quotes in equity instruments placed by that systematic internaliser below the standard market size. Systematic internalisers are free to decide which sizes they quote, as long as they quote at a minimum size of 10% of the standard market size. That possibility, however, has led to very low levels of pre-trade transparency provided by systematic internalisers in equity instruments, and has hampered the achievement of a level playing field. It is therefore necessary to require systematic internalisers to publish firm quotes relating to a minimum of twice the standard market size.</p>	<p>(11) In order to reinforce the price formation process and to maintain a level playing field between trading venues and systematic internalisers, Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers to make public all quotes in equity instruments placed by that systematic internaliser below the standard market size. Systematic internalisers are free to decide which sizes they quote, as long as they quote at a minimum size of 10% of the standard market size. That possibility, however, has led to very low levels of pre-trade transparency provided by systematic internalisers in equity instruments, and has hampered the achievement of a level playing field. It is therefore necessary to require systematic internalisers to publish firm quotes relating to a minimum <u>size to be determined by ESMA.</u> <u>When determining the minimum size, it is appropriate for ESMA to consider the following objectives: increasing pre-trade transparency of equity instruments for the benefit of end-investors; maintaining a level playing field between trading venues and</u></p>	<p>(11) <del>In order to reinforce the price formation process and to maintain a level playing field between trading venues and systematic internalisers, Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers to make public all quotes in equity instruments placed by that systematic internaliser below the standard market size. Systematic internalisers are free to decide which sizes they quote, as long as they quote at a minimum size of 10% of the standard market size. That possibility, however, has led to very low levels of pre-trade transparency provided by systematic internalisers in equity instruments, and has hampered the achievement of a level playing field. It is therefore necessary to require systematic internalisers to publish firm quotes relating to a minimum of twice the standard market size.</del></p>	<p>(11) In order to reinforce the price formation process and to maintain a level playing field between trading venues and systematic internalisers, Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers to make public all quotes in equity instruments placed by that systematic internaliser below the standard market size. Systematic internalisers are free to decide which sizes they quote, as long as they quote at a minimum size of 10% of the standard market size. That possibility, however, has led to very low levels of pre-trade transparency provided by systematic internalisers in equity instruments, and has hampered the achievement of a level playing field. It is therefore necessary to require systematic internalisers to publish firm quotes relating to a minimum <u>size to be determined by ESMA.</u> <u>When determining the minimum size, it is appropriate for ESMA to consider the following objectives: increasing pre-trade transparency of equity instruments for the benefit of end-investors; maintaining a level playing field between trading venues and</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>systematic internalisers; providing end investors with an adequate choice of trading options; and ensuring that the trading landscape in the Union remains attractive and competitive both domestically and internationally</u> of twice the standard market size.</p>		<p><u>systematic internalisers; providing end investors with an adequate choice of trading options; and ensuring that the trading landscape in the Union remains attractive and competitive both domestically and internationally</u> of twice the standard market size.</p>
Recital 12				
22	<p>(12) In order to create a level playing field, in addition to the obligation to publish firm quotes relating to a minimum of twice the standard market size, systematic internalisers should also no longer be allowed to match at midpoint below twice the standard market size. It should furthermore be clarified that systematic internalisers should be allowed to match at midpoint in so far as they comply with the tick-size rules in accordance with Article 49 of Directive 2014/65/EU when they trade above twice the standard market size but below the large in-scale threshold. When systematic internalisers trade above a large in-scale threshold, they should continue to be allowed to match at midpoint without complying with the tick-size regime.</p>	<p>(12) In order to create a level playing field, in addition to the obligation to publish firm quotes <del>relating to a minimum of twice the standard market size, systematic internalisers should also no longer be allowed to match at midpoint below twice the standard market size</del> <u>systematic internalisers should also not be allowed to match at midpoint below a size to be determined by ESMA and aligned with the size below which systematic internalisers' pre-trade transparency requirements apply.</u> It should furthermore be clarified that systematic internalisers should be allowed to match at midpoint <del>in so far as they comply</del> <u>above this size without complying</u> with the tick-size <del>rules in accordance with Article 49 of Directive 2014/65/EU when they trade above twice the standard market size but below the</del></p>	<p>(12) In order to create a level playing field, in addition to the obligation to publish firm quotes <del>relating to a minimum of twice the standard market size, systematic internalisers should also no longer be allowed to match at midpoint below twice the standard market</del> <u>at any size.</u> <del>#ESMA should furthermore be clarified that systematic internalisers should be allowed to match at midpoint in so far as they comply with the tick-size rules in accordance with Article 49 of Directive 2014/65/EU when they trade above twice the standard market size but below the large in-scale threshold. When systematic internalisers trade above a large in-scale threshold, they should continue to be allowed</del> <u>assess every two years the effects of all types of trading protocols and systems on the quality of price formation and</u></p>	<p>(12) In order to create a level playing field, in addition to the obligation to publish firm quotes <del>relating to a minimum of twice the standard market size, systematic internalisers should also no longer be allowed to match at midpoint below twice the standard market</del> <u>at any size.</u> <del>#ESMA should furthermore be clarified that systematic internalisers should be allowed to match at midpoint in so far as they comply with the tick-size rules in accordance with Article 49 of Directive 2014/65/EU when they trade above twice the standard market size but below the large in-scale threshold. When systematic internalisers trade above a large in-scale threshold, they should continue to be allowed</del> <u>assess every two years the effects of all types of trading protocols and systems on the quality of price formation and</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><i>large in scale threshold. When systematic internalisers trade above a large in scale threshold, they should continue to be allowed to match at midpoint without complying with the tick size regime. That would bring the Union in line with the prevalent international market practices.</i></p>	<p><u>advise the Commission on possible measures for specific types of protocols or systems to improve price formation, including the ability for systematic internalisers to match at midpoint without complying with the tick size regime.</u></p>	<p><u>advise the Commission on possible measures for specific types of protocols or systems to improve price formation, including the ability for systematic internalisers to match at midpoint without complying with the tick size regime.</u></p>
22a			<p><u>(12a) To ensure meaningful transparency in connection with OTC transactions in derivatives, without jeopardizing efficient price discovery or a transparency level playing field between means of trading, appropriate post-trade transparency requirements set out in Article 21 of Regulation (EU) No 600/2014 should apply to investment firms in respect of OTC derivatives which are subject to transparency under Article 11a of Regulation (EU) No 600/2014, so those OTC derivatives should cumulatively fulfil conditions that they should be denominated in the currencies of G4 jurisdictions, and subject to the clearing obligation specified in Article 5(2) of Regulation (EU) No 648/2012, and actually centrally cleared, and for</u></p>	<p><u>(12a) To ensure meaningful transparency in connection with OTC transactions in derivatives, without jeopardizing efficient price discovery or a transparency level playing field between means of trading, appropriate post-trade transparency requirements set out in Article 21 of Regulation (EU) No 600/2014 should apply to investment firms in respect of OTC derivatives which are subject to transparency under Article 11a of Regulation (EU) No 600/2014. .</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 25/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>interest rate swaps they should be limited to contracts with full year benchmark tenors (i.e., 1, 2, 3, 5, 7, 10, 12, 15 20, 25 and 30 years). Transparency requirements should not apply to transactions in OTC derivatives that are part of portfolio compression or post-trade risk reduction services, or which are exempted from or not subject to clearing obligation, or which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty.</u></p>	
22b			<p><u>(12b) Under Commission Delegated Regulation (EU) No 2017/587 and Commission Delegated Regulation (EU) No 2017/583, when one of the two parties to a transaction is a systematic internaliser, the systematic internaliser is required to report a trade to an APA, while its counterparty is not required to do so. This has led many investment firms to opt in for the status of systematic internaliser only for the purpose of reporting the trades for their clients, while the firms were not dealing on own</u></p>	<p><u>(12b) Under Commission Delegated Regulation (EU) No 2017/587 and Commission Delegated Regulation (EU) No 2017/583, when one of the two parties to a transaction is a systematic internaliser, the systematic internaliser is required to report a trade to an APA, while its counterparty is not required to do so. This has led many investment firms to opt in for the status of systematic internaliser only for the purpose of reporting the trades for their clients, while the firms were not dealing on own</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 26/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>account on a systematic basis, thereby adding disproportionate transparency requirements to these firms. Therefore, it is appropriate to introduce a status of a designated publishing entity that would allow an investment firm to be responsible for making a transaction public through an APA without having the need to take the status of systematic internaliser. Furthermore, the designated publishing entities should notify themselves to the competent authorities and ESMA should maintain a public register of such designated publishing entities by financial instrument or class of financial instruments so that market participants have a capacity to identify them.</u></p>	<p><u>account on a systematic basis, thereby adding disproportionate transparency requirements to these firms. Therefore, it is appropriate to introduce a status of a designated publishing entity that would allow an investment firm to be responsible for making a transaction public through an APA without having the need to take the status of systematic internaliser. Furthermore, the designated publishing entities should notify themselves to the competent authorities and ESMA should maintain a public register of such designated publishing entities by class of financial instruments so that market participants have a capacity to identify them.</u></p>
Recital 13				
23	<p>(13) Market participants need core market data to be able to make informed investment decisions. Pursuant to the current Article 27h of Regulation (EU) 600/2014, sourcing core market data about certain financial instruments directly from trading venues and APAs requires that consolidated tape providers enter into separate licensing agreements with all those</p>	<p>(13) Market participants need core market data to be able to make informed investment decisions. Pursuant to the current Article 27h of Regulation (EU) 600/2014, sourcing core market data about certain financial instruments directly from trading venues and APAs requires that consolidated tape providers enter into separate licensing agreements with all those</p>	<p>(13) Market participants need core market data to be able to make informed investment decisions. Pursuant to the current Article 27h of Regulation (EU) 600/2014, sourcing core market data about certain financial instruments directly from trading venues and APAs requires that consolidated tape providers enter into separate licensing agreements with all those</p>	<p>(13) Market participants need core market data to be able to make informed investment decisions. Pursuant to the current Article 27h of Regulation (EU) 600/2014, sourcing core market data about certain financial instruments directly from trading venues and APAs requires that consolidated tape providers enter into separate licensing agreements with all those</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>data contributors. That process is burdensome, costly and time consuming. It has been one of the obstacles to consolidated tape providers emerging on a cross market basis. This obstacle should be removed in order to enable consolidated tape providers to obtain the market data and to overcome licencing issues. Trading venues and APAs, or investment firms and systematic internalisers without intervention of APAs ('market data contributors') should be required to submit their market data to consolidated tape providers, and to use harmonised templates respecting high-quality data standards to do so. Only CTPs selected and authorised by ESMA should be able to collect harmonised market data from the individual data sources in accordance with the mandatory contribution rule. To make the market data useful for investors, market data contributors should be required to provide the CTP with market data as close as technically possible to real time.</p>	<p>data contributors. That process is burdensome, costly and time consuming. It has been one of the obstacles to consolidated tape providers emerging on a cross market basis. This obstacle should be removed in order to enable consolidated tape providers to obtain the market data and to overcome licencing issues. Trading venues and APAs, or investment firms and systematic internalisers without intervention of APAs ('market data contributors') should be required to submit their market data to consolidated tape providers, and to use harmonised templates respecting high-quality data standards to do so. Only CTPs selected and authorised by ESMA should be able to collect harmonised market data from the individual data sources in accordance with the mandatory contribution rule. To make the market data useful for investors, market data contributors should be required to provide the CTP with market data as close as technically possible to real time.</p>	<p>data contributors. That process is burdensome, costly and time consuming. It has been one of the obstacles to consolidated tape providers emerging on a cross market basis. This obstacle should be removed in order to enable consolidated tape providers to obtain the market data and to overcome <del>licencing</del><u>licensing</u> issues. Trading venues and APAs, <del>or investment firms and systematic internalisers without intervention of APAs</del> ('market data contributors') should be required to submit their market data to consolidated tape providers, and to use harmonised templates respecting high-quality data standards to do so. <u>The systematic internalisers would provide to CTP only post-trade data and thus the direct link between SI and CTP is not necessary as the data stream should be built on the current structure, where the APAs are the entity responsible for applying deferrals for SIs and publication of post-trade data.</u> Only CTPs selected and authorised by ESMA should be able to collect harmonised market data from the individual data sources in accordance with the mandatory contribution rule. To make the market data useful for investors, market data contributors should be</p>	<p>data contributors. That process is burdensome, costly and time consuming. It has been one of the obstacles to consolidated tape providers emerging on a cross market basis. This obstacle should be removed in order to enable consolidated tape providers to obtain the market data and to overcome licencing issues. Trading venues and APAs without intervention of APAs ('data contributors') should be required to submit their market data to consolidated tape providers, and to use harmonised templates respecting high-quality data standards to do so. Only CTPs selected and authorised by ESMA should be able to collect harmonised market data from the individual data sources in accordance with the mandatory contribution rule. To make the market data useful for investors, market data contributors should be required to provide the CTP with market data as close as technically possible to real time.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			required to provide the CTP with market data as close as technically possible to real time.	
23a			<u><i>(13a) The definition of core market data should further specify what pre-trade data should be provided by trading venues and APAs with mentioning of best bid and offer spread. The best bid and offer data would be sent only by trading venues operating a central limit order book or a periodic auction system, while trading venues or systematic internaliser using request for quotes protocols or other trading protocols which do not constitute a central limit order book or periodic auction would provide post-trade data only.</i></u>	COM: proposal to drop
Recital 14				
24	(14) Title II and III of Regulation (EU) 600/2014 require trading venues, APAs, investment firms and systematic internalisers ('market data contributors') to publish pre-trade data on financial instruments, including bid and offer prices and post-trade data on transactions, including the price and volume at	(14) Title II and III of Regulation (EU) 600/2014 require trading venues, APAs, investment firms and systematic internalisers ('market data contributors') to publish pre-trade data on financial instruments, including bid and offer prices and post-trade data on transactions, including the price and volume at	(14) Title II and III of Regulation (EU) <del>600/2014</del> <b>No 600/2014</b> require trading venues, APAs, investment firms and systematic internalisers ( <del>'market data contributors'</del> ) to publish pre-trade data on financial instruments, including bid and offer prices and post-trade data on transactions, including the price and	(14) Title II and III of Regulation (EU) <del>600/2014</del> <b>No 600/2014</b> require trading venues, APAs, investment firms and systematic internalisers ( <del>'market data contributors'</del> ) to publish pre-trade data on financial instruments, including bid and offer prices and post-trade data on transactions, including the price and

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 29/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>which a transaction in a specific instrument has been concluded. Market participants are not obliged to use the consolidated core market data provided by the CTP. The requirement to publish those pre-trade and post-trade data should therefore remain applicable to enable market participants to access market data. However, to avoid undue burden on market data contributors, it is appropriate to align the requirement for market data contributors to publish data as much as possible with the requirement to contribute data to the CTP.</p>	<p>which a transaction in a specific instrument has been concluded. Market participants are not obliged to use the consolidated core market data provided by the CTP. The requirement to publish those pre-trade and post-trade data should therefore remain applicable to enable market participants to access market data. However, to avoid undue burden on market data contributors, it is appropriate to align the requirement for market data contributors to publish data as much as possible with the requirement to contribute data to the CTP.</p>	<p>volume at which a transaction in a specific instrument has been concluded. Market participants are not obliged to use the consolidated core market data provided by the CTP. The requirement to publish those pre-trade and post-trade data should therefore remain applicable to enable market participants to access market data. However, to avoid undue burden on market data contributors, it is appropriate to align the requirement for market data contributors to publish data as much as possible with the requirement to contribute data to the CTP.</p>	<p>volume at which a transaction in a specific instrument has been concluded. Market participants are not obliged to use the consolidated core market data provided by the CTP. The requirement to publish those pre-trade and post-trade data should therefore remain applicable to enable market participants to access market data. However, to avoid undue burden on market data contributors, it is appropriate to align the requirement for market data contributors to publish data as much as possible with the requirement to contribute data to the CTP.</p>
Recital 15				
25	<p>(15) Due to the disparate quality of market data, it is difficult for market participants to compare those data, which devoids data consolidation of much added-value. It is of the utmost importance for the proper functioning of the transparency regime set out in Title II and III of Regulation (EU) 600/2014 and for the consolidation of data by consolidated tape providers that market data are of high quality. It is therefore appropriate to require that those market data comply with high quality standards in terms of both</p>	<p>(15) Due to the disparate quality of market data, it is difficult for market participants to compare those data, which devoids data consolidation of much added-value. It is of the utmost importance for the proper functioning of the transparency regime set out in Title II and III of Regulation <u>No</u> (EU) 600/2014 and for the consolidation of data by consolidated tape providers that market data are of high quality. It is therefore appropriate to require that those market data comply with high quality standards in terms of both</p>	<p>(15) Due to the disparate quality of market data, it is difficult for market participants to compare those data, which <del>devoids</del><u>devoid</u> data consolidation of much <del>added-</del><u>value added value</u>. It is of the utmost importance for the proper functioning of the transparency regime set out in Title II and III of Regulation (EU) 600/2014 and for the consolidation of data by consolidated tape providers that market data are of high quality. It is therefore appropriate to require that those market data comply with high</p>	<p>(15) Due to the disparate quality of market data, it is difficult for market participants to compare those data, which devoid data consolidation of much added value. It is of the utmost importance for the proper functioning of the transparency regime set out in Title II and III of Regulation <u>No</u> (EU) 600/2014 and for the consolidation of data by consolidated tape providers that market data are of high quality. It is therefore appropriate to require that those market data comply with high quality standards in terms of both</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>substance and format. It should be possible to change the substance and the format of the data within a short time to allow for changing market practices and insights. Therefore the requirements for the quality of data should be specified by the Commission in a Delegated Act and should take into account the advice of a dedicated consultative group, composed of experts from the industry and from public authorities.</p>	<p>substance and format. It should be possible to change the substance and the format of the data within a short time to allow for changing market practices and insights. Therefore the requirements for the quality of data should <u>be</u> specified by <del>the Commission in a Delegated Act</del> <u>ESMA in draft regulatory technical standards</u> and should take into account <u>prevailing industry standards and practices, international developments and standards agreed at the Union or international level, as well as</u> the advice of a dedicated consultative group, <del>composed of experts from the industry and from public authorities</del> <u>established by the Commission and tasked with providing indications limited to the output of the consolidated tape. ESMA should be closely involved in the work of that consultative group.</u></p>	<p>quality standards in terms of both substance and format. It should be possible to change the substance and the format of the data within a short time to allow for changing market practices and insights. Therefore, the requirements for the quality of data should <u>be</u> specified by the Commission in a Delegated Act and should <del>take into account</del> <u>consider</u> the advice of a dedicated consultative group, composed of experts from the industry and from public authorities. <u>ESMA will be closely involved in this consultative group.</u></p>	<p>substance and format. It should be possible to change the substance and the format of the data within a short time to allow for changing market practices and insights. Therefore the requirements for the quality of data should <u>be</u> specified by <del>the Commission in a Delegated Act</del> <u>ESMA in draft regulatory technical standards</u> and should take into account <u>prevailing industry standards and practices, international developments and standards agreed at the Union or international level, as well as</u> the advice of a dedicated consultative group, <del>composed of experts from the industry and from public authorities</del> <u>established by the Commission and tasked with providing indications limited to the output of the consolidated tape. ESMA should be closely involved in the work of that consultative group.</u></p>
Recital 16				
26	<p>(16) To better monitor reportable events, Directive 2014/65/EU harmonised the synchronisation of business clocks for trading venues and their members. To ensure that, in the context of the consolidation of market data, timestamps reported</p>	<p>(16) To better monitor reportable events, Directive 2014/65/EU harmonised the synchronisation of business clocks for trading venues and their members. To ensure that, in the context of the consolidation of market data, timestamps reported</p>	<p>(16) To better monitor reportable events, Directive 2014/65/EU harmonised the synchronisation of business clocks for trading venues and their members. To ensure that, in the context of the consolidation of market data, timestamps reported</p>	<p>(16) To better monitor reportable events, Directive 2014/65/EU harmonised the synchronisation of business clocks for trading venues and their members. To ensure that, in the context of the consolidation of market data, timestamps reported</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	by different entities can be compared meaningfully, it is appropriate to extend the requirements for harmonisation of the synchronisation of business clocks to systematic internalisers, APAs and consolidated tape providers. Due to the level of technical expertise required to specify the requirements for application of a synchronized business clock, ESMA should be empowered to develop draft regulatory technical standards to specify the accuracy with which the clocks should be synchronized.	by different entities can be compared meaningfully, it is appropriate to extend the requirements for harmonisation of the synchronisation of business clocks to systematic internalisers, APAs and consolidated tape providers. Due to the level of technical expertise required to specify the requirements for application of a synchronized business clock, ESMA should be empowered to develop draft regulatory technical standards to specify the accuracy with which the clocks should be synchronized.	by different entities can be compared meaningfully, it is appropriate to extend the requirements for harmonisation of the synchronisation of business clocks to <u>designated publishing entities which include</u> systematic internalisers, <u>and also extend to</u> APAs and consolidated tape providers. Due to the level of technical expertise required to specify the requirements for application of a synchronized business clock, ESMA should be empowered to develop draft regulatory technical standards to specify the accuracy with which the clocks should be synchronized.	by different entities can be compared meaningfully, it is appropriate to extend the requirements for harmonisation of the synchronisation of business clocks to <u>designated publishing entities</u> , systematic internalisers, APAs and consolidated tape providers. Due to the level of technical expertise required to specify the requirements for application of a synchronized business clock, ESMA should be empowered to develop draft regulatory technical standards to specify the accuracy with which the clocks should be synchronized.
Recital 17				
27	(17) Article 23 of Regulation (EU) No 600/2014 requires that the majority of trading in shares takes place on trading venues or systematic internalisers ('share trading obligation'). This requirement does not apply to trades in shares which are non-systematic, ad hoc or irregular and infrequent. It is not clear when this exemption applies. ESMA therefore clarified this by making a distinction between shares on the basis of their International Securities	(17) Article 23 of Regulation (EU) No 600/2014 requires that the majority of trading in shares takes place on trading venues or systematic internalisers ('share trading obligation'). This requirement does not apply to trades in shares which are non-systematic, ad hoc or irregular and infrequent. It is not clear when this exemption applies. ESMA therefore clarified this by making a distinction between shares on the basis of their International Securities	(17) Article 23 of Regulation (EU) No 600/2014 requires that <del>the</del> <u>majority of most of the</u> trading in shares takes place on trading venues or systematic internalisers ('share trading obligation'). This requirement does not apply to trades in shares which are non-systematic, ad hoc, or irregular and infrequent. It is <u>currently not sufficiently not</u> clear when this exemption applies. ESMA therefore clarified this by making a distinction between shares on the basis of their International	(17) Article 23 of Regulation (EU) No 600/2014 requires that <del>the</del> <u>majority of most of the</u> trading in shares takes place on trading venues or systematic internalisers ('share trading obligation'). This requirement does not apply to trades in shares which are non-systematic, ad hoc, or irregular and infrequent. It is <u>currently not sufficiently not</u> clear when this exemption applies. ESMA therefore clarified this by making a distinction between shares on the basis of their International

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>Identification Number (ISIN). Pursuant to that distinction, only shares with an EEA ISIN are subject to the share trading obligation. That approach provides clarity to market participants trading in shares. It is therefore appropriate to incorporate ESMA's current practice in Regulation (EU) No 600/2014, while simultaneously removing the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent. In order to provide market participants with certainty on which instruments fall under the share-trading obligation, ESMA should be empowered to publish and maintain a list containing all the shares subject to that obligation.</p>	<p>Identification Number (ISIN). Pursuant to that distinction, only shares with an EEA ISIN are subject to the share trading obligation. That approach provides clarity to market participants trading in shares. It is therefore appropriate to incorporate ESMA's current practice in Regulation (EU) No 600/2014, while simultaneously removing the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent. <del>In order to provide market participants with certainty on which instruments fall under the share-trading obligation, ESMA should be empowered to publish and maintain a list containing all the shares subject to that obligation.</del></p>	<p>Securities Identification Number (ISIN). Pursuant to that distinction, only shares with an EEA ISIN <u>and which are admitted to trading on a regulated market or traded on a trading venue</u> are subject to the share trading obligation. That approach provides clarity to market participants trading in shares. It is therefore appropriate to incorporate ESMA's current practice in Regulation (EU) No 600/2014, while simultaneously removing the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent. <del>In order to provide market participants with certainty on which instruments fall under the share-trading obligation, ESMA should be empowered to publish and maintain a list containing all the shares subject to that obligation.</del></p>	<p>Securities Identification Number (ISIN). Pursuant to that distinction, only shares with an EEA ISIN <u>and which are traded on a trading venue</u> are subject to the share trading obligation. That approach provides clarity to market participants trading in shares. It is therefore appropriate to incorporate ESMA's current practice in Regulation (EU) No 600/2014, while simultaneously removing the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent. <del>In order to provide market participants with certainty on which instruments fall under the share-trading obligation, ESMA should be empowered to publish and maintain a list containing all the shares subject to that obligation.</del></p>
Recital 18				
28	<p>(18) Determination of the date by which transactions are reported is important to ensure sufficient preparedness by both supervisors and reporting entities. It is also crucial to align the timing of changes in different reporting frameworks. Setting this date in a delegated act will provide the</p>	<p>(18) Determination of the date by which transactions are reported is important to ensure sufficient preparedness by both supervisors and reporting entities. It is also crucial to align the timing of changes in different reporting frameworks. Setting this date in a delegated act will provide the</p>	<p>(18) Determination of the date by which transactions are reported is important to ensure sufficient preparedness by both supervisors and reporting entities. It is also crucial to align the timing of changes in different reporting frameworks. Setting this date in a delegated act will provide the</p>	<p>(18) Determination of the date by which transactions are reported is important to ensure sufficient preparedness by both supervisors and reporting entities. It is also crucial to align the timing of changes in different reporting frameworks. Setting this date in a delegated act will provide the</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	necessary flexibility and aligns ESMA's empowerments with those laid down in Regulation (EU) 2019/834. To increase overall market reporting consistency, ESMA should also take account of international developments and standards agreed upon at Union or global level when developing relevant draft regulatory technical standards.	necessary flexibility and aligns ESMA's empowerments with those laid down in Regulation (EU) 2019/834. To increase overall market reporting consistency, ESMA should also take account of international developments and standards agreed upon at Union or global level when developing relevant draft regulatory technical standards.	necessary flexibility and aligns ESMA's empowerments with those laid down in Regulation (EU) 2019/834. To increase overall market reporting consistency, ESMA should also take account of international developments and standards agreed upon at Union or global level when developing relevant draft regulatory technical standards.	necessary flexibility and aligns ESMA's empowerments with those laid down in Regulation (EU) 2019/834. To increase overall market reporting consistency, ESMA should also take account of international developments and standards agreed upon at Union or global level when developing relevant draft regulatory technical standards.
28a			<u><i>(18a) The problem with the concept of "traded on a trading venue" which was applied to derivatives should be addressed not only in case of transparency requirements, but also in transaction reporting so the concept of "concluded on a trading venue" is introduced for derivatives. If a derivative contract is concluded outside the trading venue and does not belong to financial instruments where the underlying is a financial instrument traded on a trading venue, or to financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue, then only the OTC derivative contract which is in the</i></u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>scope of transparency requirements should be reported. Reporting under Regulation (EU) No 600/2014 should cover financial instruments subject to transparency requirements or related to financial instruments which are subject to transparency requirements, thus there is no need to report derivatives concluded outside trading venues which have no impact on financial instruments traded on trading venues. Moreover, it would be desirable to align all types of reporting to avoid inconsistencies so for example, reporting of derivatives under Regulation (EU) No 600/2014 might be fulfilled by means of reporting under Regulation (EU) No 648/2012 to avoid unnecessary double reporting of the same transactions in derivatives.</u></p>	
Recital 19				
29	(19) Reporting in financial markets – in particular transaction reporting – is already highly automated and data is more standardised. Some inconsistencies between frameworks have already been resolved in the European Market Infrastructure Regulation (EMIR) Refit and Securities Financing	(19) Reporting in financial markets – in particular transaction reporting – is already highly automated and data is more standardised. Some inconsistencies between frameworks have already been resolved in the European Market Infrastructure Regulation (EMIR) Refit and Securities Financing	(19) Reporting in financial markets – in particular transaction reporting – is already highly automated and data is more standardised. Some inconsistencies between frameworks have already been resolved in the European Market Infrastructure Regulation (EMIR), Refit and Securities Financing Transactions	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>Transactions Regulation (SFTR). The empowerments for ESMA should be aligned to adopt technical standards and ensure greater consistency in transaction reporting between the EMIR, SFTR and MiFIR frameworks. This will improve transaction data quality and avoid unnecessary additional costs for the industry.</p>	<p>Transactions Regulation (SFTR). The empowerments for ESMA should be aligned to adopt technical standards and ensure greater consistency in transaction reporting between the EMIR, SFTR and MiFIR frameworks. This will improve transaction data quality and avoid unnecessary additional costs for the industry. <u><i>In addition, the transaction reporting should allow for a broad exchange of transaction data between national competent authorities to adequately reflect the latter's evolving supervisory needs to monitor the most recent market developments and potential related risks. This should address, for instance, the need for any national competent authority to obtain a comprehensive overview of the investment made by clients residing, domiciled or established in its jurisdiction, including where such investments are made through investment firms authorised in another Member State or financial instruments for which it is not the competent authority of the most relevant market in terms of liquidity.</i></u></p>	<p>Regulation (SFTR). The empowerments for ESMA should be aligned to adopt technical standards and ensure greater consistency in transaction reporting between the EMIR, SFTR and MiFIR frameworks. This will improve transaction data quality and avoid unnecessary additional costs for the industry. <u><i>Furthermore, the transaction reporting should allow for a broad exchange of transaction data among national competent authorities, in order to adequately reflect the latter's evolving supervisory needs to monitor the most recent market developments and potential related risks. This should address for instance the need of any national competent authority to gain a comprehensive view of the investments and it should be build up on the current routing practice that is set in delegated act.</i></u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
29a		<p><u>(19a) Market participants and ESMA have shown that the existing reporting regime can create uncertainty about who should report transactions and can lead to double reporting. The problem is particularly acute when investment firms trading with each other do not know whether their counterparty is a systematic internaliser for the traded financial instrument, and as such should report transactions to the approved publication arrangement. In addition, the link between the reporting obligation and the status of systematic internaliser has led to an inflated number of systematic internalisers in the Union, distorting the picture of market participants. The link between the systematic internaliser status and the post-trade transparency and reporting requirements should be removed, introducing instead the possibility for market participants to register as a designated reporting entity. In addition, ESMA should establish a register of all designated reporting entities, specifying their identity as well as the instruments or classes of</u></p>		COM: proposal to drop (designated reporting entity already in recital 12b)

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 37/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>instruments for which they are designated reporting entities. That would eliminate uncertainty about who should report a transaction and reduce the regulatory burden on investment firms, particularly smaller ones. Such an approach would also have the advantage that only those firms that qualify or have opted in as systematic internalisers will act as liquidity providers, providing further clarity to the overall structure of the equity market.</i></u>		
Recital 20				
30	(20) Competition among consolidated tape providers ensures that the consolidated tape is provided in the most efficient way and under the best conditions for users. However, no entity has, up until now, applied to act as a consolidated tape provider. It is therefore considered appropriate to empower ESMA to periodically organise a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class. Taking into account the novelty of the proposed scheme, ESMA should only mandate the provision of post-trade transparency	(20) Competition among consolidated tape providers ensures that the consolidated tape is provided in the most efficient way and under the best conditions for users. However, no entity has, up until now, applied to act as a consolidated tape provider. It is therefore considered appropriate to empower ESMA to periodically organise a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class. <del>Taking into account the novelty of the proposed scheme, ESMA should only mandate the provision of post-trade</del>	(20) Competition among consolidated tape providers ensures that the consolidated tape is provided in the most efficient way and under the best conditions for users. However, no entity has, up until now, applied to act as a consolidated tape provider. It is therefore considered appropriate to empower ESMA to periodically <del>organise</del> <u>organize</u> a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class. <del>Taking into account the novelty of the proposed scheme, ESMA should only mandate the provision of post-</del>	(20) Competition among consolidated tape providers ensures that the consolidated tape is provided in the most efficient way and under the best conditions for users. However, no entity has, up until now, applied to act as a consolidated tape provider. It is therefore considered appropriate to empower ESMA to periodically <del>organise</del> <u>organize</u> a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class. <del>Taking into account the novelty of the proposed scheme, ESMA should</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>data for the first selection procedure that it runs in relation to shares. At least 18 months before the launch of the second selection procedure, ESMA should submit a report to the Commission assessing whether there is market demand for extending the data contributed to the tape to pre-trade data. On the basis of such a report, the Commission should be empowered, by way of a delegated act, to further specify the depth of pre-trade data to the tape.</p>	<p><del>transparency data for the first selection procedure that it runs in relation to shares. At least 18</del> <u>ESMA should prioritise the selection and authorisation of a consolidated tape provider for bonds, followed by shares and ETFs and finally by derivatives. The selection processes for each CTP should be staggered at regular intervals, with each selection process starting no later than six months before the launch following the initiation of the second selection procedure preceding one. Given the similarities between shares and ETFs, ESMA should submit a report to the Commission assessing whether there is market demand for extending the data contributed to the tape to pre-trade data. On the basis of such a report, the Commission should be empowered, by way of a delegated act, to further specify the depth of</u> <u>conduct a parallel process for those two financial instruments, accepting proposals for either a single consolidated tape comprising both shares and ETFs, or two separate tapes. For both shares and ETFs the market data that data contributors are required to send to the relevant CTP should contain pre-trade and post-trade market</u></p>	<p><del>trade transparency data for the first</del> <u>Initially, ESMA should start the selection procedure concerning the consolidated tape for bonds. Within 6 months of the start of that selection ESMA should start the selection procedure that it runs in relation to shares. At least 18 months before the launch of the second selection procedure, ESMA should submit a report to the Commission assessing whether there is market demand for extending the data contributed to the tape to pre-trade data. On the basis of such a report, the Commission for a CTP for shares and ETFs. ESMA should require the CTP for shares and ETFs to be able to consolidate and display the best bid and offer spread of each trading venue in time of executed trade as well as the European best bid and offer spread that would be derived from those data. ESMA should be empowered, by way of a delegated act, to further specify the depth of pre-trade data to the tape</u> <u>thirdly start the selection procedure for OTC derivatives CTP once technical issues hampering the setup of the CT, such as those concerning ISINs, are resolved.</u></p>	<p><del>only mandate the provision of post-trade transparency data for the first</del> <u>Initially, ESMA should start the selection procedure concerning the consolidated tape for bonds. Within 6 months of the start of that selection ESMA should start the selection procedure that it runs in relation to shares. At least 18 months before the launch of the second selection procedure, ESMA should submit a report to the Commission assessing whether there is market demand for extending the data contributed to the tape to pre-trade data. On the basis of such a report, the Commission for a CTP for shares and ETFs. Thirdly ESMA should start the selection procedure for OTC derivatives CTP once the main technical issue hampering the setup of the CT, namely implementing the appropriate identifier to replace the ISIN, is resolved. ESMA may choose among the classes or subclasses of OTC derivatives for which public transparency requirements apply, for which classes or subclasses they will launch the selection procedure. ESMA may decide to select a CTP which consolidated and disseminates more classes or subclasses of OTC derivatives for which public transparency</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 39/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>data related</u><del>data</del> to the <del>tape</del><u>first five layers of the order books</u>.</p>		<p><u>requirements apply then for which the selection procedure was launched.</u></p>
Recital 20a				
31				<p><u>The selection procedure is a concession procedure in accordance with the Financial Regulation (EU 2018/1046). ESMA should apply the relevant procedural rules on the basis of that Regulation. ESMA should for all classes select a candidate based on its technical abilities to operate a CTP, including its ability to ensure business continuity and resilience, as well as its use of modern interfaces, the organisation of its management and decision making processes, its methods for ensuring data quality, the costs required for developing and operating a CTP, the simplicity of the licenses that users have to enter into in order to receive the consolidated data, including the amount of licensing types for various use cases or users, the level of fees charged to users and its processes for mitigating energy consumption. Specifically for the CTP for shares and ETFs ESMA should require the CTP to be able to display the European best bid</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 40/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>and offer spread. with no dissemination of the market identifier code of the venue. By July 2026, the European Commission should make an assessment of this level of pre-trade information for the functioning and competitiveness of the Union markets and may accompany this assessment, where appropriate, with a legislative proposal on the design of the consolidated tape.</u>
Recital 20b				
31				<u>A selected CTP should without undue delay apply for authorisation. Within 20 working days of such application ESMA should assess if the application is complete and notify the applicant accordingly. Within three months of reception of a complete application ESMA should either authorise or refuse authorisation. ESMA should base its decision to authorise or to refuse authorisation on its assessment on whether or not the applicant will be able to operate a CTP in compliance with all requirements within a reasonable time. ESMA may allow the applicant a reasonable period after</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 41/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>authorisation to complete the development of the CT.</u>
Recital 21				
31	<p>(21) According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool.</p>	<p>(21) According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool. <u>The market data contributor should at least receive a remuneration based on the costs it has incurred in generating the data and providing it to the CTP. Retail investors should have access to the consolidated tape, either free of charge or for a nominal annual fee, and the tape provider should ensure that the information</u></p>	<p>(21) According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool.</p>	<p>(21) According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool. <u>Retail investors, academics and civil society organisations using the data for research purposes as well as public authorities for the execution of regulatory and supervisory competences, should have free access to the consolidated tape, either free of charge or for a nominal annual fee, and <del>The</del></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u><i>provided to retail investors is easily accessible and displayed in a user-friendly and understandable format.</i></u></p>		<p><u><i>tape provider should ensure that the information provided to retail investors is easily accessible and displayed in a user-friendly and understandable format.</i></u></p>
Recital 22				
32	<p>(22) There is an objective difference between a venue of primary admission and other trading venues that serve as secondary trading markets. A venue of primary admission admits companies to the public markets, playing a crucial role in the life of a share and for the share's liquidity. This is particularly true in the case of shares listed on smaller regulated markets which remain typically traded mostly on the venue of primary admission. When the pre-trade transparent trading of a certain share takes place exclusively or predominantly on the venue of primary admission, such smaller venue plays a more important role in the price formation for that share. The core market data a smaller regulated market contributes to the consolidated tape therefore plays a more determining role in the price formation for the shares this venue admits to trading. A preferential treatment in the revenue participation scheme is therefore considered appropriate to</p>	<p>(22) There is an objective difference between a venue of primary admission and other trading venues that serve as secondary trading markets. A venue of primary admission admits companies to the public markets, playing a crucial role in the life of a share and for the share's liquidity. This is particularly true in the case of shares listed on smaller regulated markets which remain typically traded mostly on the venue of primary admission. <i>When the pre-trade transparent trading of a certain share takes place exclusively or predominantly on</i><u><i>In smaller regulated markets and SME growth markets the level of concentration of trading in shares, for which they are also</i></u> the venue of primary admission, <i>such smaller venue plays a more important role</i><u><i>means that their relative contribution to the fragmentation of trading in the price formation for that share. The core market data a</i></u><u><i>Union is less significant compared to that of</i></u></p>	<p>(22) <i>There is an objective difference between a venue of primary admission and other</i> Trading venues <i>that serve as secondary</i><u><i>facilitating the</i></u> trading markets. <i>A venue of primary admission admits companies to the public markets, playing a crucial</i> <u><i>of shares via a pre-trade transparent order book play a key</i></u> role in the <i>life of a share and for the share's liquidity</i><u><i>price formation process.</i></u> This is particularly true <i>in the case of shares listed on</i><u><i>for</i></u> smaller regulated markets <i>which remain typically traded mostly on the venue of primary admission. When the pre-trade transparent trading of a certain share takes place exclusively or predominantly on the venue of primary admission, such smaller venue plays a more important role in the price formation for that share</i><u><i>and SME Growth Markets ("smaller trading venues") which are generally the main centre of liquidity for the securities they offer for trading.</i></u> The core market</p>	<p>(22) <i>There is an objective difference between a venue of primary admission and other</i> Trading venues <i>that serve as secondary</i><u><i>facilitating the</i></u> trading markets. <i>A venue of primary admission admits companies to the public markets, playing a crucial</i> <u><i>of shares via a pre-trade transparent order book play a key</i></u> role in the <i>life of a share and for the share's liquidity</i><u><i>price formation process.</i></u> This is particularly true <i>in the case of shares listed on</i><u><i>for</i></u> smaller regulated markets <i>which remain typically traded mostly on the venue of primary admission. When the pre-trade transparent trading of a certain share takes place exclusively or predominantly on the venue of primary admission, such smaller venue plays a more important role in the price formation for that share</i><u><i>and SME Growth Markets ("smaller trading venues") which are generally the main centre of liquidity for the securities they offer for trading.</i></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>allow these smaller exchanges to maintain their local admissions and safeguard a rich and vibrant ecosystem in line with the objectives of the Capital Markets Union.</p>	<p><u>larger regulated markets. The average daily trading volume of shares in the</u> smaller regulated <del>market contributes to the consolidated tape therefore plays a more determining role in the price formation for the</del> <u>markets is relatively low, often accounting for less than 1 % of the average daily trading volume of the Union as a whole. Smaller regulated markets and SME growth markets are, on average, less diversified and more dependent on data revenues, and the mandatory contribution to the consolidated tape for</u> shares <del>this venue admits to trading. A preferential treatment in the revenue participation scheme is therefore could deprive them of their most important source of income. Therefore, given the lower levels of fragmentation of smaller markets, their relative share of the overall trading landscape and legitimate concerns about the viability of their business, an exclusion from the mandatory contributions to the consolidated tape should be</del> considered appropriate to allow <del>these smaller exchanges</del> <u>them</u> to maintain their local admissions and safeguard a rich and vibrant ecosystem in line with the objectives of the Capital Markets Union. <u>From a procedural</u></p>	<p>data <del>at that such</del> smaller <del>regulated market</del> <u>trading venues</u> contributes to the consolidated tape therefore plays a more determining role in the price formation for the shares <del>this venue admits</del> <u>these trading venues admit</u> to trading. A preferential treatment in the revenue participation scheme <u>of the post-trade feed</u> is therefore considered appropriate to allow these smaller <del>exchanges</del> <u>trading venues</u> to maintain their local admissions and safeguard a rich and vibrant ecosystem in line with the objectives of the Capital Markets Union.</p>	<p>The core market data <del>at that such</del> smaller <del>regulated market</del> <u>trading venues</u> contributes to the consolidated tape therefore plays a more determining role in the price formation for the shares <del>this venue admits</del> <u>these trading venues admit</u> to trading. A preferential treatment in the revenue participation scheme is therefore considered appropriate to allow these smaller <del>exchanges</del> <u>trading venues</u> to maintain their local admissions and safeguard a rich and vibrant ecosystem in line with the objectives of the Capital Markets Union.</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 44/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>perspective, the first exclusion criterion should be market share; if the market share at any future point exceeds the threshold set out in this Regulation, fragmentation criteria should apply as alternative exemption criteria.</u></p> <p><u>Notwithstanding the mandatory contribution exemption, smaller regulated markets that wish to be included in the consolidated view provided by the consolidated tape should be able to opt in to the mandatory contribution scheme by notifying ESMA of their intent.</u></p> <p><u>Nevertheless, the development of a consolidated tape should aim to eventually attain a complete representation of the Union's trading venues, to achieve the full benefits of an integrated capital markets union.</u></p>		
Recital 23				
33	<p>(23) Small regulated markets are regulated markets which admit shares of issuers for which trading in the secondary market tends to be less liquid than the trading of shares admitted to trading on larger regulated markets. In order to avoid that lower trading volumes (or nominal values) penalise smaller exchanges in the revenue</p>	<p>(23) <del>Small regulated markets are regulated markets which admit shares of issuers for which</del> <u>The desired outcome of the consolidated tape would be to provide end investors with a truly consolidated overview of the trading opportunities available</u> in the <del>secondary market tends to be less liquid than the trading of</del></p>	<p>(23) Small regulated markets <u>and SME Growth Markets are trading venues</u> <del>are regulated markets</del> which admit shares of issuers for which trading in the secondary market tends to be less liquid than the trading of shares admitted to trading on larger regulated markets. In order to avoid <del>that lower trading volumes (or nominal values) penalise</del> <u>the</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>participation scheme designed for the consolidated tape for shares, data from trades in these less liquid shares should attract a higher remuneration than their notional trading value would indicate. Whether a share is less liquid should be determined on the basis of the proportion of pre-trade transparent liquidity displayed by the regulated market that admits the less liquid share, relative to the average daily trading turnover in that share.</p>	<p><del>shares admitted to trading on larger regulated</del> <u>Union, including small regulated markets and lower trading costs through increased cross-border competition, thereby increasing the overall domestic and international attractiveness of Union capital markets, and fostering their growth, in line with the objectives of the capital markets union. Regardless of the exemption granted to smaller regulated markets under this Regulation from the mandatory contribution of market data to the consolidated tape, a dedicated</u> <del>in order to avoid that lower trading volumes (or nominal values) penalise smaller exchanges in the</del> <u>revenue participation scheme designed for the consolidated tape for shares and ETFs should be established, in order to incentivise their opt-in to the mandatory contribution scheme, which should remain nonetheless entirely voluntary. In particular,</u> data from trades in <del>these</del> <u>the</u> less liquid shares should attract a higher remuneration than their notional trading value would indicate. Whether a share is less liquid should be determined on the basis of the proportion of pre-trade transparent liquidity displayed by the regulated market that admits the less liquid share, relative to the</p>	<p><u>negative impact the CT might have on these</u> smaller <del>exchanges</del> <u>trading venues, even though inclusion</u> in the <del>revenue participation scheme designed for the consolidated tape for shares, data from trades in these less liquid</del> <u>CT might have positive effects on the viability of these venues and liquidity of the securities traded on the venues, an opt-in mechanism for the trading venues where trading volume of shares should attract a higher remuneration than their notional is equal or below 1 % of the annual trading value</u> <del>volume of shares traded in the Union</del> would <del>indicate</del>. <del>Whether a share is less liquid should be determined on the basis</del> <u>be established. There are two alternative conditions following on the first one, either there is no big (over the 1 % of the annual trading volume of shares) trading venue in the group, or the concentration of the proportion of pre-trade transparent liquidity displayed by the regulated market that admits the less liquid share, relative to the average daily trading is very high (85 % of the shares that have initially been admitted to the trading at that trading venues are traded there). Only a few trading venues fulfil this criterion, therefore, only a small percentage</u></p>	

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 46/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		average daily trading turnover in that share.	<u>of trading in the Union would not be compulsorily included in the CTP. The trading turnover in that share revenues benefiting from the opt-in would have an opportunity to join in, and if they decide to join, they should notify the CTP as well as ESMA about this decision. This decision is irrevocable and all the data – for shares as well as ETF – will be part of the CT afterwards.</u>	
Recital 24				
34	(24) Given the novelty of the consolidated tape in the context of the EU financial markets, ESMA should be entrusted with providing the European Commission with an assessment of the revenue participation scheme designed for regulated markets in the context of the consolidated tape for shares. This report should be prepared on the basis of at least 12 months of operation of the CTP and subsequently at the request of the Commission, where deemed necessary or appropriate. The assessment should focus in particular on whether the participation of small regulated markets in the revenue of the CTP is fair and effective in safeguarding the role that these markets play in	(24) Given the novelty of the consolidated tape in the context of the EU financial markets, ESMA should be entrusted with providing the European Commission with an assessment of the revenue participation scheme designed <del>for to</del> <u>incentivise smaller</u> regulated markets <u>to opt in to the mandatory contribution of market data</u> in the context of the consolidated tape for shares <u>and ETFs</u> . This report should be prepared on the basis of at least <del>12</del> <u>18</u> months of operation of the CTP and subsequently at the request of the Commission, where deemed necessary or appropriate. The assessment should focus in particular on whether the participation of small regulated markets in the revenue of the CTP is	(24) <del>Given the novelty of the consolidated tape in the context of the EU financial markets, ESMA should be entrusted with providing the European Commission with an assessment</del> <u>The CTPs should redistribute the revenue based on the data contributed, by allocating revenue according to the preferential treatment of certain trading venues, to their functions and to informational value of the data. Furthermore, the</u> <del>revenue participation scheme designed for regulated markets in the context of the consolidated tape for shares. This report should be prepared on the basis of at least 12 months of operation of the CTP and subsequently at the request of the Commission, where deemed</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>their local financial ecosystem. The Commission should be empowered to revise the mechanism of allocation by way of a delegated act, where necessary or appropriate.</p>	<p>fair and effective in <u>inducing those markets to contributing to the consolidated tape and in safeguarding the role that these markets play in their local financial ecosystem. <i>It is appropriate for that assessment to establish whether the inclusion of those smaller regulated markets in the consolidated tape resulted in an increase in the trading volumes of shares in those regulated markets, a positive effect on the participation of professional and retail investors in the market, and an improvement of the trading conditions for end-investors.</i></u> The Commission should be empowered to revise the mechanism of allocation by way of a delegated act, where necessary or appropriate.</p>	<p><del>necessary or appropriate. The assessment should focus in particular on whether the participation of small regulated markets in the revenue of the CTP is fair and effective in safeguarding the role that these markets play in their local financial ecosystem. The Commission</del> <u>redistribution model should make use of weight models where certain trading venues should have preferential treatment that by three cumulative factors that multiply the assigned revenue based on three criteria: first and foremost, the greatest weight, therefore the most preferred treatment, is to be given to smaller trading venues, than to trading venues that provide the best bid and offer spread as they contribute to price formation and provide pre-trade data to the CTP, and subsequently fulfilling the function of initial admission of shares or ETF. The weight</u> should be <del>empowered to revise the mechanism of allocation by way of a delegated act, where necessary or appropriate</del> <u>the highest for smaller trading venues that have below 1 % of annual trading volume of shares traded in the Union, which is broader than the size condition for the opt-in. The difference between</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>each weights should be at least 7 points.</i></u>	
Recital 25				
35	<p>(25) It is necessary to ensure that consolidated tape providers remedy information asymmetries in the capital markets in a sustainable manner, and to ensure that consolidated tape providers provide consolidated data that are reliable. Consolidated tape providers should therefore be obliged to adhere to organisational requirements and quality of service standards that must be met at all times once they have been authorised by ESMA. Quality standards should cover aspects related to the collection of consolidated core market data, accurate time-stamping of such data at various stages in the delivery chain, collection and administration of market data subscription fees, and allocation of revenue to market data contributors.</p>	<p>(25) It is necessary to ensure that consolidated tape providers remedy information asymmetries in the capital markets in a sustainable manner, and to ensure that consolidated tape providers provide consolidated data that are reliable. Consolidated tape providers should therefore be obliged to adhere to organisational requirements and quality of service standards that must be met at all times once they have been authorised by ESMA. Quality standards should cover aspects related to the collection of consolidated core market data, accurate time-stamping of such data at various stages in the delivery chain, collection and administration of market data subscription fees, and allocation of revenue to market data contributors.</p>	<p>(25) It is necessary to ensure that consolidated tape providers remedy information asymmetries in the capital markets in a sustainable manner, and to ensure that consolidated tape providers provide consolidated data that are reliable. Consolidated tape providers should therefore be obliged to adhere to organisational requirements and quality of service standards that must be <del>met at all times</del><u>always met</u> once they have been authorised by ESMA. Quality standards should cover aspects related to the collection of consolidated core market data, accurate <del>time-stamping</del><u>timestamping</u> of such data at various stages in the delivery chain, collection and administration of market data subscription fees, and allocation of revenue to market data contributors. <u>The consolidated tape should be accessible for the competent authorities free of charge.</u></p>	<p>(25) It is necessary to ensure that consolidated tape providers remedy information asymmetries in the capital markets in a sustainable manner, and to ensure that consolidated tape providers provide consolidated data that are reliable. Consolidated tape providers should therefore be obliged to adhere to organisational requirements and quality of service standards that must be <del>met at all times</del><u>always met</u> once they have been authorised by ESMA. Quality standards should cover aspects related to the collection of consolidated core market data, accurate <del>time-stamping</del><u>timestamping</u> of such data at various stages in the delivery chain, collection and administration of market data subscription fees, and allocation of revenue to market data contributors.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 26				
36	(26) In order to safeguard market participants' continued trust in the operation of a consolidated tape provider, such entities should periodically make a series of public reports concerning compliance with their obligations under this Regulation, in particular on performance statistics and incident reports relating to data quality and systems. Due to the highly technical nature of the substance of the report, ESMA should be empowered to specify the substance, format and timing.	(26) In order to safeguard market participants' continued trust in the operation of a consolidated tape provider, such entities should periodically make a series of public reports concerning compliance with their obligations under this Regulation, in particular on performance statistics and incident reports relating to data quality and systems. Due to the highly technical nature of the substance of the report, ESMA should be empowered to specify the substance, format and timing.	(26) In order to safeguard market participants' continued trust in the operation of a consolidated tape provider, such entities should periodically make a series of public reports concerning compliance with their obligations under this Regulation, in particular on performance statistics and incident reports relating to data quality and systems. Due to the highly technical nature of the substance of the report, ESMA should be empowered to specify the substance, format and timing.	(26) In order to safeguard market participants' continued trust in the operation of a consolidated tape provider, such entities should periodically make a series of public reports concerning compliance with their obligations under this Regulation, in particular on performance statistics and incident reports relating to data quality and systems. Due to the highly technical nature of the substance of the report, ESMA should be empowered to specify the substance, format and timing.
Recital 27				
37	(27) The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of commercialising the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer waiting for the consolidated free data rather than	(27) The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of commercialising the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer waiting for the consolidated free data rather than	(27) The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of <del>commercialising</del> <u>commercializing</u> the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer waiting for the	(27) The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of <del>commercialising</del> <u>commercializing</u> the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer waiting for the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>subscribing to the consolidated tape. This is in particular the case for bonds and derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its potential business model.</p>	<p>subscribing to the consolidated tape. This is in particular the case for bonds and derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its potential business model.</p>	<p>consolidated free data rather than subscribing to the consolidated tape. This is in particular the case for bonds and <i>OTC</i> derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its <i>potential</i> business model.</p>	<p>consolidated free data rather than subscribing to the consolidated tape. This is in particular the case for bonds and <i>OTC</i> derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its <i>potential</i> business model.</p>
37a			<p><u>(27a) The CTP should receive core market data as well as reported data, but it should not report all the data it receives. This is true especially for reported data where the CTP should publish the closing and opening price, but not other information that is needed for the operation of the CTP, but should not be made public. Data originating from systematic internalisers should be published on more anonymous basis so the unique identifier should not be published to protect systematic internalisers from undue risk. Additional data, including pre-trade data and</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>depth of order book data, may be published subject to the specific agreement between market data contributor and CTP.</u>	
37b			<u>(27b) The CTP should publish the CT of executed trade together with best bids and offers available at the time of the trade as well as European best bid and offer available at the time of the trade. The European best bid and offer (EBBO) should be derived from the data provided by systems operating a central limit order book or periodic auction systems for all the shares and ETFs traded at those trading venues.</u>	COM: proposal to drop (description of pre-trade delivered by the CT in recital 20)
Recital 28				
38	(28) Article 28 of Regulation (EU) No 600/2014 requires that OTC derivatives that are subject to the clearing obligation are traded on trading venues. Regulation (EU) 2019/834 of the European Parliament and of the Council <sup>1</sup>	(28) Article 28 of Regulation (EU) No 600/2014 requires that OTC derivatives that are subject to the clearing obligation are traded on trading venues. Regulation (EU) 2019/834 of the European Parliament and of the Council <sup>1</sup>	(28) Article 28 of Regulation (EU) No 600/2014 requires that OTC derivatives that are subject to the clearing obligation are traded on trading venues. Regulation (EU) 2019/834 of the European Parliament and of the Council <sup>11</sup>	(28) Article 28 of Regulation (EU) No 600/2014 requires that OTC derivatives that are subject to the clearing obligation are traded on trading venues. Regulation (EU) 2019/834 of the European Parliament and of the Council <sup>11</sup>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 52/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>amended Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>2</sup> to reduce the scope of the entities that are subject to the clearing obligation. In light of the close interconnection between the clearing obligation under Regulation (EU) 648/2012 and the derivatives trading obligation under Regulation (EU) 600/2014, and to ensure greater legal coherence and to simplify the legal framework, it is necessary and appropriate to re-align the derivatives trading obligation with the clearing obligation for derivatives. Without that alignment, certain smaller financial counterparties and non-financial counterparties would no longer be captured by the clearing obligation but continue to be captured by the trading obligation.</p> <p>1. Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42). 2. Regulation (EU) No 648/2012 of the European Parliament and of the Council of</p>	<p>amended Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>2</sup> to reduce the scope of the entities that are subject to the clearing obligation. In light of the close interconnection between the clearing obligation under Regulation (EU) 648/2012 and the derivatives trading obligation under Regulation (EU) 600/2014, and to ensure greater legal coherence and to simplify the legal framework, it is necessary and appropriate to re-align the derivatives trading obligation with the clearing obligation for derivatives. Without that alignment, certain smaller financial counterparties and non-financial counterparties would no longer be captured by the clearing obligation but continue to be captured by the trading obligation.</p> <p>1. Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42). 2. Regulation (EU) No 648/2012 of the European Parliament and of the Council of</p>	<p>amended Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>12</sup> to reduce the scope of the entities that are subject to the clearing obligation. In light of the close interconnection between the clearing obligation under Regulation (EU) <del>648/2012</del><a href="#">No 648/2012</a> and the derivatives trading obligation under Regulation (EU) <del>600/2014</del><a href="#">No 600/2014</a>, and to ensure greater legal coherence and to simplify the legal framework, it is necessary and appropriate to re-align the derivatives trading obligation with the clearing obligation for derivatives. Without that alignment, certain smaller financial counterparties and non-financial counterparties would no longer be captured by the clearing obligation but continue to be captured by the trading obligation.</p> <p>11. Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42). 12. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4</p>	<p>amended Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>12</sup> to reduce the scope of the entities that are subject to the clearing obligation. In light of the close interconnection between the clearing obligation under Regulation (EU) <del>648/2012</del><a href="#">No 648/2012</a> and the derivatives trading obligation under Regulation (EU) <del>600/2014</del><a href="#">No 600/2014</a>, and to ensure greater legal coherence and to simplify the legal framework, it is necessary and appropriate to re-align the derivatives trading obligation with the clearing obligation for derivatives. Without that alignment, certain smaller financial counterparties and non-financial counterparties would no longer be captured by the clearing obligation but continue to be captured by the trading obligation.</p> <p>11. Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42).</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 53/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	12. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).
Recital 29				
39	(29) Article 6a of Regulation (EU) No 648/2012 provides for a mechanism to temporarily suspend the clearing obligation where the criteria on the basis of which specific classes of OTC derivatives have been made subject to the clearing obligation are no longer met, or where such suspension is considered necessary to avoid a serious threat to financial stability in the Union. Such suspension may, however, prevent counterparties from being able to comply with their trading obligation, laid down in Regulation (EU) 600/2014 because the clearing obligation is a pre-requisite to the trading obligation. It is therefore necessary to lay down that, where the suspension of the clearing obligation would lead to a material change in the criteria for the trading obligation, it should be possible to concurrently suspend the trading obligation for the same class or classes of OTC derivatives that are	(29) Article 6a of Regulation (EU) No 648/2012 provides for a mechanism to temporarily suspend the clearing obligation where the criteria on the basis of which specific classes of OTC derivatives have been made subject to the clearing obligation are no longer met, or where such suspension is considered necessary to avoid a serious threat to financial stability in the Union. Such suspension may, however, prevent counterparties from being able to comply with their trading obligation, laid down in Regulation (EU) 600/2014 because the clearing obligation is a pre-requisite to the trading obligation. It is therefore necessary to lay down that, where the suspension of the clearing obligation would lead to a material change in the criteria for the trading obligation, it should be possible to concurrently suspend the trading obligation for the same class or classes of OTC derivatives that are	(29) Article 6a of Regulation (EU) No 648/2012 provides for a mechanism to temporarily suspend the clearing obligation where the criteria on the basis of which specific classes of OTC derivatives have been made subject to the clearing obligation are no longer met, or where such suspension is considered necessary to avoid a serious threat to financial stability in the Union. Such suspension may, however, prevent counterparties from being able to comply with their trading obligation, laid down in Regulation (EU) <del>600/2014</del> <u>No 600/2014</u> because the clearing obligation is a pre-requisite to the trading obligation. It is therefore necessary to lay down that, where the suspension of the clearing obligation would lead to a material change in the criteria for the trading obligation, it should be possible to concurrently suspend the trading obligation for the same class or classes of OTC derivatives that	(29) Article 6a of Regulation (EU) No 648/2012 provides for a mechanism to temporarily suspend the clearing obligation where the criteria on the basis of which specific classes of OTC derivatives have been made subject to the clearing obligation are no longer met, or where such suspension is considered necessary to avoid a serious threat to financial stability in the Union. Such suspension may, however, prevent counterparties from being able to comply with their trading obligation, laid down in Regulation (EU) <del>600/2014</del> <u>No 600/2014</u> because the clearing obligation is a pre-requisite to the trading obligation. It is therefore necessary to lay down that, where the suspension of the clearing obligation would lead to a material change in the criteria for the trading obligation, it should be possible to concurrently suspend the trading obligation for the same class or classes of OTC derivatives that

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	subject to the suspension of the clearing obligation.	subject to the suspension of the clearing obligation.	are subject to the suspension of the clearing obligation.	are subject to the suspension of the clearing obligation.
39a			<p><u>(29a) Article 31 of Regulation (EU) No 600/2014 exempts investment firms and market operators from best execution requirements and transparency requirements for as far as they provide portfolio compression services. Transactions resulting from portfolio compression services, but also from other post-trade risk reduction services, provide no meaningful information to the market since they are not based on market conditions. Therefore, not just portfolio compression, but also other post-trade risk reduction services should be exempted from best execution and transparency requirements, as well as from the derivatives trading obligation.</u></p> <p><u>The Commission should be empowered to specify the post-trade risk reduction services in scope of the exemption. In addition, although the inclusion of a financial instrument in the scope of the clearing obligation is a prerequisite to the application of the derivatives trading</u></p>	<p><u>(29a) Post trade risk reduction services (PTRRs) are an essential tool of risk management with respect to OTC derivatives. PTRRs are technical transactions that are pre-arranged, non-price forming, market risk neutral, non-continuous and are not carried out in real-time. They are transactions arranged by a third party PRR service provider that, in the EU, is regulated as an investment firm. In light of their technical nature, PTRRs do not involve price formation and should therefore not be carried out on trading platforms such as MTFs or OTFs. They should, therefore, also not be subject to the derivatives trading obligation. In light of their technical nature these transactions do not entail price formation, in consequence there is no rationale for making them pre- or post-trade transparent or to verify best execution. The Commission should be empowered to specify the features of post-trade risk reduction services that are in scope of the exemption.</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 55/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>obligation, it is possible that in a concrete situation the clearing obligation does not apply, because for example the transaction is concluded between two members of the same group, but the derivatives trading does still apply. Therefore, it should be provided that transactions that are out of scope of the clearing obligation are also not in scope of those obligations.</i></u>	[18 July: Agreed by email with Art 31]
Recital 30				
40	(30) An ad-hoc suspension mechanism is necessary to ensure that the Commission may swiftly react to significant changes in market conditions that may have a material effect on the trading of derivatives and their counterparties. Where such market conditions are present, and upon the request of the competent authority of a Member state, the Commission should be able to suspend the trading obligation, independently from any suspension of the clearing obligation. Such a suspension of the trading obligation should be possible where the activities of an EU investment firm with a non-EEA counterparty are unduly affected by the scope of the EU trading obligation on derivatives	(30) An ad-hoc suspension mechanism is necessary to ensure that the Commission may swiftly react to significant changes in market conditions that may have a material effect on the trading of derivatives and their counterparties. Where such market conditions are present, and upon the request of the competent authority of a Member state, the Commission should be able to suspend the trading obligation, independently from any suspension of the clearing obligation. Such a suspension of the trading obligation should be possible where the activities of an EU investment firm with a non-EEA counterparty are unduly affected by the scope of the EU trading obligation on derivatives	(30) An ad-hoc suspension mechanism is necessary to ensure that the Commission may swiftly react to significant changes in market conditions that may have a material effect on the trading of derivatives and their counterparties. Where such market conditions are present, and upon the request of the competent authority of a Member State, the Commission should be able to suspend the trading obligation, independently from any suspension of the clearing obligation. Such a suspension of the trading obligation should be possible where the activities of an EU investment firm with a non-EEA counterparty are unduly affected by the scope of the EU trading obligation on derivatives	(30) An ad-hoc suspension mechanism is necessary to ensure that the Commission may swiftly react to significant changes in market conditions that may have a material effect on the trading of derivatives and their counterparties. Where such market conditions are present, and upon the request of the competent authority of a Member State, the Commission should be able to suspend the trading obligation, independently from any suspension of the clearing obligation. Such a suspension of the trading obligation should be possible where the activities of an EU investment firm with a non-EEA counterparty are unduly affected by the scope of the EU trading obligation on derivatives

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and where that investment firm acts as a market-maker in the category of derivatives subject to the trading obligation. The issue of overlapping DTOs is particularly acute when trading with counterparties domiciled in a third-country jurisdiction that applies its own DTO. This suspension would also help EU counterparties remaining competitive on global markets. When deciding upon the suspension of the trading obligation, the Commission should take into consideration the impact of such suspension on the clearing obligation laid down in Regulation (EU) No 648/2012.	and where that investment firm acts as a market-maker in the category of derivatives subject to the trading obligation. The issue of overlapping DTOs is particularly acute when trading with counterparties domiciled in a third-country jurisdiction that applies its own DTO. This suspension would also help EU counterparties remaining competitive on global markets. When deciding upon the suspension of the trading obligation, the Commission should take into consideration the impact of such suspension on the clearing obligation laid down in Regulation (EU) No 648/2012.	and where that investment firm acts as a market-maker in the category of derivatives subject to the trading obligation. The issue of overlapping DTOs is particularly acute when trading with counterparties domiciled in a third-country jurisdiction that applies its own DTO. This suspension would also help EU counterparties remaining competitive on global markets. When deciding upon the suspension of the trading obligation, the Commission should take into consideration the impact of such suspension on the clearing obligation laid down in Regulation (EU) No 648/2012.	and where that investment firm acts as a market-maker in the category of derivatives subject to the trading obligation. The issue of overlapping DTOs is particularly acute when trading with counterparties domiciled in a third-country jurisdiction that applies its own DTO. This suspension would also help EU counterparties remaining competitive on global markets. When deciding upon the suspension of the trading obligation, the Commission should take into consideration the impact of such suspension on the clearing obligation laid down in Regulation (EU) No 648/2012.
Recital 31				
41	(31) Open access provisions for exchange-traded derivatives reduce attractiveness to invest in new products as competitors may be able to get access without the upfront investment. The application of the open access regime for exchange-traded derivatives, laid down in Article 35 and 36 of Regulation (EU) No 600/2014, may thus limit competitiveness in these products, by removing incentives for regulated markets to create new exchange-traded derivatives. It	(31) Open access provisions for exchange-traded derivatives reduce attractiveness to invest in new products as competitors may be able to get access without the upfront investment. The application of the open access regime for exchange-traded derivatives, laid down in Article 35 and 36 of Regulation (EU) No 600/2014, may thus limit competitiveness in these products, by removing incentives for regulated markets to create new exchange-traded derivatives. It	(31) Open access provisions for exchange-traded derivatives <u>may</u> reduce attractiveness to invest in new products as competitors may be able to get access without the upfront investment. The application of the open access regime for exchange-traded derivatives, laid down in Article 35 and 36 of Regulation (EU) No 600/2014, may thus limit <u>competitivenessinvestment</u> in these products, by removing incentives for regulated markets to create new	(31) Open access provisions for exchange-traded derivatives <u>may</u> reduce attractiveness to invest in new products as competitors may be able to get access without the upfront investment. The application of the open access regime for exchange-traded derivatives, laid down in Article 35 and 36 of Regulation (EU) No 600/2014, may thus limit <u>competitivenessinvestment</u> in these products, by removing incentives for regulated markets to create new

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	should therefore be laid down that that regime should not apply to the CCP or trading venue concerned in respect of exchange-traded derivatives, thus fostering innovation and the development of exchange-traded derivatives in the Union.	should therefore be laid down that that regime should not apply to the CCP or trading venue concerned in respect of exchange-traded derivatives, thus fostering innovation and the development of exchange-traded derivatives in the Union.	exchange-traded derivatives. It should therefore be laid down that <del>that</del> <u>the</u> regime should not apply to the CCP or trading venue concerned in respect of exchange-traded derivatives, thus fostering innovation and the development of exchange-traded derivatives in the Union.	exchange-traded derivatives. It should therefore be laid down that <del>that</del> <u>the</u> regime should not apply to the CCP or trading venue concerned in respect of exchange-traded derivatives, thus fostering innovation and the development of exchange-traded derivatives in the Union.
Recital 32				
42	(32) Financial intermediaries should strive to achieve the best possible price and the highest possible likelihood of execution for trades that they execute on behalf of their clients. To that end, financial intermediaries should select the trading venue or counterparty for executing their client trades solely on the basis of achieving best execution for their clients. It should be incompatible with that principle of best execution that a financial intermediary receives a payment from a trading counterpart in exchange for ensuring the execution of client trades. Investment firms should be therefore be prohibited from receiving such payment.	(32) Financial intermediaries should strive to achieve the best possible price and the highest possible likelihood of execution for trades that they execute on behalf of their clients. To that end, financial intermediaries should select the trading venue or counterparty for executing their client trades solely on the basis of achieving best execution for their clients. It should be incompatible with that principle of best execution that a financial intermediary, <u>when acting on behalf of its clients</u> , receives a <del>payment</del> <u>fee, a commission or any non-monetary benefit</u> from a <del>trading counterpart</del> <u>third party</u> in exchange for <del>ensuring the</del> <u>routing of client orders for</u> execution <del>of client</del>	(32) <del>Financial intermediaries</del> <u>Regulation (EU) XX/XXXX</u> should <del>strive to achieve the best possible price and the highest possible likelihood of execution for trades that they execute on behalf of their clients</del> <u>amend Regulation (EU) No 600/2014 and introduce new Article 39a which should introduce a direct ban of the practice of receiving fees or commissions or non-monetary benefits from any third party for forwarding clients orders to any third party for execution to generally enhance harmonization of rules in the Union.</u>	(32) Financial intermediaries should strive to achieve the best possible price and the highest possible likelihood of execution for trades that they execute on behalf of their clients. To that end, financial intermediaries should select the trading venue or counterparty for executing their client trades solely on the basis of achieving best execution for their clients. It should be incompatible with that principle of best execution that a financial intermediary, <u>when acting on behalf of its clients</u> , receives a <del>payment</del> <u>fee, a commission or any non-monetary benefit</u> from a <del>trading counterpart</del> <u>third party</u> in exchange for <del>ensuring the</del> <u>routing</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><del>trades</del>by that third party.</p> <p>Investment firms should be therefore be prohibited from receiving such payment <u>or any other non-monetary benefit. This prohibition is rendered necessary in light of the divergent practices by national competent authorities across the Union in their application and supervision of best execution requirements as laid out in Article 27 of Directive 2014/65/EU. For this reason, no further national discretions should be considered acceptable with respect to the rules applicable to the routing of client orders for execution.</u></p>	<p><u>Member States may allow investment firms to receive fees, commissions, rebates, discounts or non-monetary benefits from any third party for forwarding clients orders to any third party for execution in respect of clients domiciled or established in</u> <del>To that end, financial intermediaries should select the trading venue or counterparty for executing their client trades solely on the basis of achieving best execution for their clients. It should be incompatible with that principle of best execution that a financial intermediary receives a payment from a trading counterpart in exchange for ensuring the execution of client trades. Investment firms</del> <u>territory. Those Member States may impose, in their national law, additional conditions to those set out in Article 27(1) and (2) of Directive 2014/65/EU, such as to limit the price of financial instrument in the spread of EBBO. Those Member States should inform ESMA that they should</u> <del>be therefore be prohibited from receiving such payment</del> <u>make use of this discretion and ESMA should maintain a list of those Member States.</u></p>	<p><u>client orders for</u> execution <del>of client</del> <del>trades</del> <u>by that third party.</u></p> <p>Investment firms should be therefore be prohibited from receiving such payment.</p> <p><u>However, this prohibition should not apply to rebates or discounts on the transaction fees of execution venues, where permitted under the approved and public tariff structure of a trading venue, where they exclusively benefit the client. Such discounts or rebates shall not result in a monetary benefit to the investment firm.</u></p> <p><u>This prohibition is rendered necessary in light of the divergent practices by national competent authorities across the Union in their application and supervision of best execution requirements as laid out in Article 27 of Directive 2014/65/EU.</u></p> <p><u>A Member State in which before the date of entry into force of this review, investment firms carry out such activity, could exempt</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 59/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>investment firms under its jurisdiction from this prohibition only until 30 June 2026 when those investment firms provide these services to clients domiciled or established in that Member State, and should notify ESMA about the use of this discretion no later than six months after the entry into force of this text.</u></p>
42a		<p><u>(32a) The energy crisis of 2022 has brought to light that the regulatory framework for commodity derivatives trading as set out in Directive 2014/65/EU could be further improved. In particular, the impact of higher and more frequent margin calls and the regulatory status of market participants, the impact of extreme volatility and prices and the impact of third country trade companies are elements that could warrant a review of the commodity derivatives framework. In particular, the impact and the consequences of introducing minimum holding periods for commodity derivatives is an element that deserves further consideration. ESMA should</u></p>		<p>[TM 8 June: EP amendments dropped]</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 60/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>therefore carry out an analysis on whether such minimum holding period could effectively limit the volatility on derivatives markets without negatively impacting the functioning of those markets.</u>		
42b			<u>(32a) Investment firms trading on their own account are crucial to the well-functioning of the capital market as they provide liquidity to the market even during market stress conditions when other liquidity providers usually leave the market as it has happened during COVID 19 liquidity shortage on the trading venues. To ensure legal certainty for these liquidity providers, there should be clarity about calculation of the threshold from which they should be required to apply for credit institution license and what assets should be included in the calculation.</u>	COM: proposal to drop
Recital 33				
43	(33) The Commission should adopt the draft regulatory technical standards developed by ESMA	(33) The Commission should adopt the draft regulatory technical standards developed by ESMA	(33) The Commission should adopt the draft regulatory technical standards developed by ESMA	(33) The Commission should adopt the draft regulatory technical standards developed by ESMA

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 61/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	regarding the precise characteristics of the deferral regime for non-equity transactions, regarding the provision of information on a reasonable commercial basis, regarding the application of the synchronised business clocks by trading venues, systematic internalisers, APAs and CTPs and regarding characteristics of the public reporting obligation of the CTP. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	regarding the precise characteristics of the deferral regime for non-equity transactions, regarding the provision of information on a reasonable commercial basis, regarding the application of the synchronised business clocks by trading venues, systematic internalisers, APAs and CTPs and regarding characteristics of the public reporting obligation of the CTP. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	regarding the precise characteristics of the deferral regime for non-equity transactions, regarding the provision of information on a reasonable commercial basis, regarding the application of the synchronised business clocks by trading venues, systematic internalisers, APAs and CTPs and regarding characteristics of the public reporting obligation of the CTP. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	regarding the precise characteristics of the deferral regime for non-equity transactions, regarding the provision of information on a reasonable commercial basis, regarding the application of the synchronised business clocks by trading venues, systematic internalisers, APAs and CTPs and regarding characteristics of the public reporting obligation of the CTP. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.
43a			<u><i>(33a) The application of certain provisions in the Regulation would be postponed. This applies mostly to the deferral regime for non-equities as this new regime is dependent on the delegated act that would require the proposal on RTS from ESMA. Therefore, the current existing deferral regime should continue to apply until relevant RTS are adopted and the new deferral regime can apply. It applies also to the ban on the client</i></u>	COM: proposal to drop

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>order routing practice as there should be possibility for Member States to assess the application of discretion.</i></u>	
Recital 34				
44	<p>(34) Since the objectives of this Regulation, namely to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, measure should be adopted at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. This Regulation furthermore respects the fundamental rights and observes the principles recognised in the Charter,</p>	<p>(34) Since the objectives of this Regulation, namely to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, <u><i>as well as enhance the international competitiveness of the Union's capital markets,</i></u> cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, measure should be adopted at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. This Regulation</p>	<p>(34) Since the objectives of this Regulation, namely to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, measure should be adopted at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. This Regulation furthermore respects the fundamental rights and observes the principles recognised in the Charter,</p>	<p>(34) Since the objectives of this Regulation, namely to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, <u><i>as well as enhance the international competitiveness of the Union's capital markets,</i></u> cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, measure should be adopted at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. This Regulation</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	in particular the freedom to conduct a business and the right to consumer protection,	furthermore respects the fundamental rights and observes the principles recognised in the Charter, in particular the freedom to conduct a business and the right to consumer protection,	in particular the freedom to conduct a business and the right to consumer protection,	furthermore respects the fundamental rights and observes the principles recognised in the Charter, in particular the freedom to conduct a business and the right to consumer protection,
Formula				
45	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:
Article 1				
46	Article 1 Amendments to Regulation (EU) No 600/2014	Article 1 Amendments to Regulation (EU) No 600/2014	Article 1 Amendments to Regulation (EU) No 600/2014	Article 1 Amendments to Regulation (EU) No 600/2014
Article 1(1)				
47	(1) Article 1 is amended as follows:	(1) Article 1 is amended as follows:	(1) Article 1 is amended as follows:	(1) Article 1 is amended as follows:
Article 1(1), point (a)				
48	(a) in paragraph 1, the following point (i) is added:	(a) in paragraph 1, the following point (i) is added:	(a) in paragraph 1, the following point <del>(i)</del> (h) is added:	(a) in paragraph 1, the following point is added:
Article 1(1), point (a), amending provision, first subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
49	'(h) the scope of multilateral trading.;	'(h) the scope of multilateral trading.;	'(h) the scope of multilateral trading.;	<del>'(h) the scope of multilateral trading.;</del>  [TM 06.09: the addition on para 1 might not be relevant as per the new para 7a - COM to check the potential consequences of deleting point h]
Article 1(1), point (b), introductory part				
50	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:
Article 1(1), point (b), amending provision, numbered paragraph (3)				
51	'3. Title V of this Regulation shall also apply to all financial counterparties referred to in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012 and to all non-financial counterparties referred to in Article 10(1), second subparagraph, of that Regulation.;	'3. Title V of this Regulation shall also apply to all financial counterparties referred to in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012 and to all non-financial counterparties referred to in Article 10(1), second subparagraph, of that Regulation.;	'3. Title V of this Regulation shall also apply to <del>all financial</del> counterparties referred to in Article <del>4a(1), second subparagraph,</del> <u>4(1)(a)</u> of Regulation (EU) No 648/2012 <del>and to all non-financial counterparties referred to in Article 10(1), second subparagraph, of that Regulation.;</del>	'3. Title V of this Regulation <del>shall</del> also <del>applies</del> to all financial <u>counterparties and non-financial counterparties that are subject to the clearing obligation under Title II referred to in Article 4a(1), second subparagraph,</u> of Regulation (EU) No 648/2012 <del>and to all non-financial counterparties referred to in Article 10(1), second subparagraph, of that Regulation.;</del>  [TM 06.09: text reworked as per the changes on the relevant articles about clearing obligation]
Article 1(1), point (ba), introductory part				
51a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(ba) paragraph 6 is replaced by the following:</u>	<u>(ba) paragraphs 6, 7 and 8 are replaced by the following:</u>
Article 1(1), amending provision, numbered paragraph (6)				
51b			<u>6. Articles 8, 10 and 21 shall not apply to regulated markets, market operators and investment firms in respect of a transaction where the counterparty is a member of the European System of Central Banks (ESCB) and where that transaction is entered into in performance of monetary, foreign exchange and financial stability policy which that member of the ESCB is legally empowered to pursue and where that member has given prior notification to its counterparty that the transaction is exempt.;</u>	<u>6. Articles 8, 10 and 21 shall not apply to regulated markets, market operators and investment firms in respect of a transaction entered into by a member of the European System of Central Banks (ESCB), where that member has given prior notification to its counterparty that the transaction is exempt, and where any of the following applies:</u>  <u>(a) the member of the ESCB is a member of the Eurosystem acting under Chapter IV of Protocol (No 4) on the Statute of the European System of Central Banks, with the exception of Article 24 of that Statute;</u>  <u>(b) the member of the ESCB is not a member of the Eurosystem and the transaction is entered into in performance of monetary or foreign exchange policy, including operations carried out to hold or manage official foreign reserves, which that member of the ESCB is legally empowered to pursue; or</u>  <u>(c) the transaction is entered into in performance of financial stability</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>policy, which that member of the ESCB is legally empowered to pursue.</u></p> <p>[TM3: to discuss whether to include the suggestion made by the ECB]</p> <p>[TM 20.07: drafting suggested by the COM accepted]</p> <p>[07.08: further adjustments provided by the COM on 20.07 (mail of 17h40) have been inserted]</p>
Article 1(1), point (c), introductory part				
51c				<p><u>7. Paragraph 6 shall not apply in respect of transactions entered into by a member of the ESCB which is not a member of the Eurosystem, in performance of their investment operations.</u></p> <p><u>8. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify the monetary, foreign exchange and financial stability policy operations and the types of transactions to which paragraphs 6 and 7 apply with regard to members of the ESCB which are not members of the Eurosystem.</u></p> <p><u>ESMA shall submit those draft regulatory technical standards to</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 67/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><i>the Commission by ... [24 months after the date of entry into force of this amending Regulation].</i></u></p> <p><u><i>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i></u></p> <p><i>[TM 20.07: COM wording agreed]</i></p> <p><i>[ECON Secr to check the presentation - 07.08 intro part adapted in line 51b]</i></p> <p><i>[07.08: further adjustments provided by the COM on 20.07 (mail of 17h40) have been inserted]</i></p>
52	(c) the following paragraph 7a is inserted:	(c) the following paragraph 7a is inserted:	(c) the following paragraph 7a is inserted:	(c) the following paragraph 7a is inserted:
Article 1(1), point (c), amending provision, numbered paragraph (7a), first paragraph				
53	‘7a. All multilateral systems shall operate either in accordance with the provisions of Title II of Directive 2014/65/EU concerning	‘7a. All multilateral systems shall operate either in accordance with the provisions of Title II of Directive 2014/65/EU concerning	‘7a. All multilateral systems shall operate either in accordance with the provisions of Title II of	‘7a. All multilateral systems shall operate either in accordance with the provisions of Title II of

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	MTFs or OTFs, or the provisions of Title III of that Directive concerning regulated markets.	MTFs or OTFs, or the provisions of Title III of that Directive concerning regulated markets.	Directive 2014/65/EU concerning MTFs or OTFs, or the provisions of Title III of that Directive concerning regulated markets.	Directive 2014/65/EU concerning MTFs or OTFs, or the provisions of Title III of that Directive concerning regulated markets.
Article 1(1), point (c), amending provision, numbered paragraph (7a), second paragraph				
54	All investment firms which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of this Regulation.	All investment firms which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of this Regulation.	All investment firms which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of this Regulation.	All investment firms which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of this Regulation.
Article 1(1), point (c), amending provision, numbered paragraph (7a), third paragraph				
55	Without prejudice to Articles 23 and 28, all investment firms concluding transactions in financial instruments which are not concluded on multilateral systems or systematic internalisers shall comply with Articles 20, 21, 22, 22a, 22b and 22c, of this Regulation.;	Without prejudice to Articles 23 and 28, all investment firms concluding transactions in financial instruments which are not concluded on multilateral systems or systematic internalisers shall comply with Articles 20, 21, 22, 22a, 22b and 22c, of this Regulation.;	Without prejudice to Articles 23 and 28, all investment firms concluding transactions in financial instruments which are not concluded on multilateral systems or systematic internalisers shall comply with Articles 20, 21, 22, 22a, 22b and 22c, of this Regulation.;	Without prejudice to Articles 23 and 28, all investment firms concluding transactions in financial instruments which are not concluded on multilateral systems or systematic internalisers shall comply with Articles 20 <del>and 21, 22, 22a, 22b and 22c</del> of this Regulation.;
				[TM 06.09: para 7a to be re-enumerated as para 5a and move accordingly before 6 - to be done when consolidating]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 06.09: articles list checked according to the changes on 22 and CTPs articles]
Article 1(2)				
56	(2) in Article 2, paragraph 1 is amended as follows:	(2) in Article 2, paragraph 1 is amended as follows:	(2) in Article 2, paragraph 1 is amended as follows:	(2) in Article 2, paragraph 1 is amended as follows:
Article 1(2), point (a)				
57	(a) point (11) is replaced by the following:	(a) point (11) is replaced by the following:	(a) point (11) is replaced by the following:	(a) point (11) is replaced by the following:
Article 1(2), point (a), amending provision, numbered paragraph (11)				
58	‘(11) ‘multilateral system’ means any system or facility in which multiple third-party buying and selling trading interest in financial instruments are able to interact in the system;;	‘(11) ‘multilateral system’ means any system or facility in which multiple third-party buying and selling trading interest in financial instruments are able to interact in the system;;	‘(11) ‘multilateral system’ means any system or facility in which multiple third-party buying and selling trading interest in financial instruments are able to interact in the system;’;	‘(11) ‘multilateral system’ means any system or facility in which multiple third-party buying and selling trading interests in financial instruments are able to interact in the system;’;
Article 1(2), point (aa), introductory part				
58a		<u>(aa) the following point (16a) is inserted:</u>	<u>(aa) the following point (16a) is inserted:</u>	<u>(aa) the following point (16a) is inserted:</u>
Article 1(2), point (aa), amending provision, numbered paragraph (16a)				
58b		<u>"16a. ‘designated reporting entity’ means an investment firm responsible for making</u>	<u>"16a. ‘designated publishing entity’ means an investment firm</u>	<u>"16a. ‘designated publishing entity’ means an investment firm</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>information on transactions public through an APA in accordance with Articles 20(1) and 21(1);</u> "	<u>responsible for making transactions public through an APA in accordance with Articles 20(1) and 21(1);</u> "	<u>responsible for making transactions public through an APA in accordance with Articles 20(1) and 21(1);</u> "
Article 1(2), point (ab), introductory part				
58c		<u>(ab) point (17) is amended as follows:</u>	<u>(ab) point (17) is replaced by the following:</u>	<u>(ab) point (17) is replaced by the following:</u>
Article 1(2), point (ab), amending provision, numbered paragraph (17), introductory part				
58d		<u>(a) in point (a), the following point is added:</u>	<u>"(17) 'liquid market' means:</u>	<u>(17) 'liquid market' means:</u>
Article 1(2), point (ab), amending provision, numbered paragraph (17)(a), introductory part				
58e			<u>(a) for the purposes of Articles 9, 11 and 11a a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the</u>	<u>(a) for the purposes of Articles 9, 11 and 11a:</u> <u>(i) as regards bonds, other than covered bonds as defined in Article 3, point (1), of Directive (EU) 2019/2162, a market where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed taking into consideration the issuance size of the bond;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>particular class of financial instruments:</u>	<u>(ii) as regards a financial instrument or a class of financial instruments other than those referred to in point (i), a market where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:</u>
Article 1(2), point (ab)				
58f			<u>(i) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;</u>	<u>- the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;</u>
Article 1(2)				
58g			<u>(ii) the number and type of market participants, including the ratio of market participants to traded financial instruments in a particular product;</u>	<u>- the number and type of market participants, including the ratio of market participants to traded financial instruments in a particular product;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(2)				
58h			<u>(iii) the average size of spreads, where available;</u>	<u>- the average size of spreads, where available;</u>
Article 1(2)				
58i		<u>(iiia) the issuance size for corporate bonds;';</u>	<u>(iv) the issuance size, which shall be used to define a liquid market for bonds, with the exception of covered bonds, and may be used to define a liquid market for non-equity instruments other than derivatives;</u>	<u>- the issuance size, where appropriate.</u>
Article 1(2)				
58j		<u>(b) point (b) is replaced by the following:</u>		N/a
Article 1(2)				
58k		<u>(b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is assessed according to the following criteria:</u>	<u>(b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is assessed according to the following criteria</u>	<u>(b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is traded daily where the market is assessed according to the following criteria:</u>
Article 1(2), point (ab), amending provision, numbered paragraph (17), point (a), second indent				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
58l		<u>(i) the market capitalisation;</u>	<u>(i) traded daily (notwithstanding regulatory suspensions or technical disruptions that may affect a trading venue, such as an outage);</u>	n/a moved to line above
Article 1(2), point (ab), amending provision, numbered paragraph (17), point (a), third indent				
58m		<u>(ii) the average daily number of transactions in those financial instruments, in particular, the fact that a financial instrument is traded daily;</u>	<u>(ii) market capitalisation;</u>	<u>(ii) market capitalisation of the issuer of that financial instrument;</u>
Article 1(2), point (ab), amending provision, numbered paragraph (17), point (a), fourth indent				
58n		<u>(iii) the average daily turnover for those financial instruments;';</u>	<u>(iii) the average daily number of transactions in those financial instruments;</u>	<u>(iii) the average daily number of transactions in that financial instrument;</u>
Article 1(2), point (ab), amending provision, numbered paragraph (17), point (b)				
58o			<u>(iv) the average daily turnover for those financial instruments;';</u>	<u>(iv) the average daily turnover for that financial instrument;';</u>
58p			<u>(ac) the following point (32a) is inserted:</u>	<u>(ac) the following point (32a) is inserted:</u>
Article 1(2), point (ac) amending provision, numbered paragraph (32a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
58q			<a href="#">(32a) ‘OTC derivative’ means an OTC derivative as defined in Article 2(7) of Regulation (EU) No 648/2012;’;</a>	<a href="#">(32a) ‘OTC derivative’ means an OTC derivative as defined in Article 2(7) of Regulation (EU) No 648/2012;’;</a>
Article 1(2), point (b)				
59	(b) the following point (34a) is inserted:	(b) the following point (34a) is inserted:	(b) the following point (34a) is inserted:	(b) the following point (34a) is inserted:
Article 1(2), point (b), amending provision, first paragraph				
60	‘(34a) ‘market data contributor’ means a trading venue, an investment firm, including systematic internalisers, or an APA;’	‘(34a) ‘market data contributor’ means a trading venue, an <del>investment firm, including systematic internalisers, or an APA</del> <a href="#">APA, or, for the purpose of pre-trade transparency for shares, an investment firm, operating a systematic internaliser;</a> ’	‘(34a) ‘market data contributor’ means a trading venue, <del>an investment firm, including systematic internalisers,</del> or an APA;’	<del>‘(34a) ‘market data contributor’ means a trading venue, an investment firm, including systematic internalisers, or an APA;’</del> [TM 29.08: definition deleted as per the clarification made in Article 22a]
Article 1(2), point (c)				
61	(c) point (35) is replaced by the following:	(c) point (35) is replaced by the following:	(c) point (35) is replaced by the following:	(c) point (35) is replaced by the following:
Article 1(2), point (c), amending provision, numbered paragraph (35)				
62	‘(35) ‘consolidated tape provider’ or ‘CTP’ means a person authorised in accordance with Title IVa,	‘(35) ‘consolidated tape provider’ or ‘CTP’ means a person authorised in accordance with Title IVa,	‘(35) ‘consolidated tape provider’ or ‘CTP’ means a person authorised in accordance with Title IVa,	‘(35) ‘consolidated tape provider’ or ‘CTP’ means a person authorised in accordance with Title IVa,

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Chapter 1 of this Regulation to provide the service of collecting market data for shares, ETFs, bonds or derivatives, from market data contributors, and of consolidating those data into a continuous electronic live data stream providing core market data per share, ETF, bond or derivatives and of providing them to user of market data;;	Chapter 1 of this Regulation to provide the service of collecting market data <del>for shares, ETFs, bonds or derivatives</del> , from market data contributors, and of consolidating those data into a continuous electronic live data stream providing <del>core market data per share, ETF, bond or derivatives</del> <u>regulatory data and core market data</u> and of providing them to user of market data;;	Chapter 1 of this Regulation to provide the service of collecting market data for shares, ETFs, bonds or derivatives, from market data contributors, and of consolidating those data into a continuous electronic live data stream providing core market data per share, ETF, bond or derivatives and of providing them to user of market data;;	Chapter 1 of this Regulation to provide the service of collecting <del>market data for shares, ETFs, bonds or derivatives</del> , from <del>market trading venues and APAs, data contributors</del> , and of consolidating those data into a continuous electronic live data stream providing <del>core market data per share, ETF, bond or derivatives</del> <u>regulatory data and core market data</u> <del>and of providing them to user of market data;</del> ;  [29.08: data providers replaced by trading venues and APAs]
62a		<u>(ca) point (36a) is replaced by the following:</u>	<u>(ca) point (36a) is replaced by the following:</u>	<u>(ca) point (36a) is replaced by the following:</u>
Article 1(2), point (ca) amending provision, numbered paragraph (36a)				
62b		<u>(36a) 'data reporting services provider' means a person referred to in points (34), (35) and (36) and a person referred to in Article 27b(2);;</u>	<u>(36a) 'data reporting services provider' means a person referred to in points (34), (35) and (36) and a person referred to in Article 27b(2);;</u>	<u>(36a) 'data reporting services provider' means a person referred to in points (34), (35) and (36) of this paragraph and a person referred to in Article 27b(2);;</u>
Article 1(2), point (d)				
63	(d) the following points (36b) and (36c) are inserted:	(d) the following points (36b) <del>and (36c)</del> , <u>(36c) and (36d)</u> are inserted:	(d) the following points (36b) and (36c) are inserted:	(d) the following points are inserted:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(2), point (d), amending provision, first subparagraph				
64	'(36b) 'core market data' means:	'(36b) 'core market data' means:	'(36b) 'core market data' means:	'(36b) 'core market data' means:
Article 1(2), point (d), amending provision, first subparagraph, point (a)				
65	(a) all of the following data on equities:	(a) all of the following data on equities:	(a) all of the following data on equities:	(a) all of the following data on <u>shares and ETFs</u> <del>equities</del> :
Article 1(2), point (d), amending provision, first subparagraph, point (a)(i)				
66	(i) the best bids and offers with corresponding volumes;	(i) <u>for lit continuous trading protocols, the prices of the five</u> <del>the</del> best bids and offers with corresponding volumes <u>available at those prices</u> ;	(i) the best bids and offers with corresponding volumes; <u>and timestamps, including for auction systems, the price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price by participants in that system</u> ;	(i) <u>for continuous order books</u> , the European best bids and offers with corresponding volumes;
Article 1(2), point (d), amending provision, first subparagraph, point (a)(ia)				
66a		<u>(ia) for auction systems, the price at which the trading algorithm would be best satisfied and the volume potentially executed at that price by participants in that system</u> ;		<u>(ia) for auction systems, the price at which the trading algorithm would be best satisfied and the volume potentially executed at that price by participants in that system</u> ;
Article 1(2), point (d), amending provision, first subparagraph, point (a)(ii)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
67	(ii) the transaction price and volume executed at the stated price;	(ii) <u>for all price-forming trades across all trading mechanisms</u> , the transaction price and volume executed, <u>the transaction time, the trading protocol, applicable waivers and deferrals</u> <del>at the stated price</del> ;	(ii) the transaction price and volume executed at the stated price;	<u>(ii) the transaction price and volume executed at that price;</u>  <u>(iii) the type of trading system, and the applicable waivers and deferrals;</u>
Article 1(2), point (d), amending provision, first subparagraph, point (a)(iii)				
68	(iii) the intra-day auction information;	(iii) the intra-day auction information;	(iii) <del>the intra-day auction information;</del>	<u>(iii) the intra-day auction information;</u>  [TM 06.09: to be clarified in recitals that auction information is covered by EBBO]
Article 1(2), point (d), amending provision, first subparagraph, point (a)(iv)				
69	(iv) the end-of-day auction information;	(iv) the end-of-day auction information;	(iv) <del>the end-of-day auction information;</del>	<u>(iv) the closing auction information;</u>  [TM 06.09: end of day reference replaced by closing in order to align with existing language]
Article 1(2), point (d), amending provision, first subparagraph, point (a)(v)				
70	(v) the market identifier code identifying the execution venue;	(v) the market identifier code identifying the execution venue;	(v) the market identifier code identifying the execution venue;	(v) <u>except for the information referred to in point (i)</u> , the <del>market</del> identifier code uniquely identifying <u>the trading venue and, for other execution venues, the identifier code identifying the type of execution venue;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vi)				
71	(vi) the standardised instrument identifier that applies across venues;	(vi) the standardised instrument identifier that applies across venues;	(vi) the standardised instrument identifier that applies across venues;	(vi) the standardised instrument identifier that applies across venues;
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii)				
72	(vii) the timestamp information on all of the following:	(vii) the timestamp information on all of the following:	(vii) the timestamp information on all of the following:	(vii) the timestamp information on all of the following:
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii), first indent				
73	- the time of execution of the trade;	- the <u>venue's</u> time of execution of the trade <u>or of an amendment to the best bid or offer price or volume, an amendment to the indicative price or volume, and amendment to the trading status of an instrument;</u>	- the time of execution of the trade;	- the execution of the <u>transaction and any amendment thereto;</u> - <u>the entry of the best bids and offers into the order book;</u> <i>[TM. 06.09: added European]</i> <u>- the indication, in an auction protocol, of the prices or volumes;</u>  <i>[TM 12.07: last element of the EP position added in the definition of regulated data, line 90]</i>
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii), second indent				
74	- the time of publication of the trade;	- the <u>venue's</u> time of publication of the <u>trade elements listed in the first indent;</u>	- the time of publication of the trade;	- <del>the time</del> the publication <u>by the trading venues</u> of the <del>trade</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>elements listed in the first, second and third indents;</u>
74a		- <u>any change to the trading status of an instrument or segment;</u>		N/A  [covered by the definition of regulatory data in line 90]
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii), third indent				
75	- the receipt of market data from the market data contributors;	deleted	- <del>the receipt of market data from the market data contributors;</del>	n/a  [TM 14.09: eventually deleted - no relevant for publication]
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii), fourth indent				
76	- the receipt of market data by the consolidated tape provider;	- the receipt of market data by the consolidated tape provider;	- the receipt of market data by the consolidated tape provider;	n/a  [TM 14.09: eventually deleted - no relevant for publication]
Article 1(2), point (d), amending provision, first subparagraph, point (a)(vii), fifth indent				
77	- the dissemination of consolidated market data to subscribers;	- the dissemination of consolidated market data to subscribers <u>by the consolidated tape provider;</u>	- the dissemination of consolidated market data to subscribers;	- the dissemination of <u>core</u> <del>onsolidated</del> market data <del>to subscribers;</del>
Article 1(2), point (d), amending provision, first subparagraph, point (a)(viii)				
78	(viii) the trading protocols and the applicable waivers or deferrals;	(viii) the trading protocols and the applicable waivers or deferrals;	(viii) the trading protocols and the applicable waivers or deferrals;	N/A  [covered by point (i)]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(2), point (d), amending provision, first subparagraph, point (b)				
79	(b) all of the following data on non-equities:	(b) all of the following data on <del>non-</del> <u>equities non-equity instruments</u> :	(b) all of the following data on non-equities:	(b) all of the following data on <del>non-</del> <u>equities bonds and OTC derivatives</u> :
Article 1(2), point (d), amending provision, first subparagraph, point (b)(i)				
80	(i) the transaction price and quantity/size executed at the stated price;	(i) the transaction price and quantity/size executed at the stated price;	(i) the transaction price and quantity/size executed at the stated price;	(i) the transaction price and quantity <u>or</u> size executed at <u>that</u> <del>the</del> <del>stated</del> price;
Article 1(2), point (d), amending provision, first subparagraph, point (b)(ii)				
81	(ii) the market identifier code identifying the execution venue;	(ii) the market identifier code identifying the execution venue;	(ii) the market identifier code identifying the execution venue;	(ii) the <del>market</del> -identifier code uniquely identifying <u>the trading venue and, for other execution venues, the identifier code identifying the type of execution venue</u> ;  [TM 06.09: as per the adjustments made in point a]
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iii)				
82	(iii) standardised instrument identifier that applies across venues;	(iii) standardised instrument identifier that applies across venues;	(iii) <u>for bonds the</u> standardised instrument identifier that applies across venues;	(iii) <u>for bonds, the</u> standardised instrument identifier that applies across venues;
82a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(iia) for OTC derivatives, the product identifier used as part of reference data as referred to in Article 27(1);</u>	<u>(iia) for OTC derivatives, the identifying reference data as referred to in Article 27(1), second subparagraph;</u>  [TM 06.09: to be adjusted as per the decision to take regarding UPI]
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv)				
83	(iv) the timestamp information on all of the following:	(iv) the timestamp information on all of the following:	(iv) the timestamp information on all of the following:	(iv) the timestamp information on all of the following:
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv), first indent				
84	- the time of execution of the trade;	- the time of execution of the trade;	- the time of execution of the trade;	- the <del>time of</del> execution of the <u>transaction and any amendment thereto;</u> <del>trade;</del>
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv), second indent				
85	- the time of publication of the trade;	- the time of publication of the trade;	- the time of publication of the trade;	- the <del>time of</del> publication of the <u>transaction;</u> <del>trade;</del>
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv), third indent				
86	- the receipt of market data from the market data contributors;	- the receipt of market data from the market data contributors;	- the receipt of market data <del>from the market data contributors</del> <u>by the consolidated tape provider;</u>	n/a  [TM 14.09: deleted]
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv), fourth indent				
87				n/a

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	- the receipt of market data at the consolidator's aggregation/consolidation mechanism;	- the receipt of market data at the consolidator's aggregation/consolidation mechanism;	- <del>the receipt of market data at the consolidator's aggregation/consolidation mechanism;</del>	[TM 14.09: deleted]  [TM 12.07: COM to check whether the element is needed]  [TM 06.09: submission timestamp added as it was inserted for equity]
Article 1(2), point (d), amending provision, first subparagraph, point (b)(iv), fifth indent				
88	- the dissemination of consolidated market data to subscribers;	- the dissemination of consolidated market data to subscribers;	- the dissemination of consolidated market data to subscribers;	- the dissemination of <del>consolidated</del> <u>core</u> market data <del>to subscribers;</del>
Article 1(2), point (d), amending provision, first subparagraph, point (b)(v)				
89	(v) the trading protocols and the applicable waivers or deferrals;	(v) the trading protocols and the applicable waivers or deferrals;	(v) the trading protocols and the applicable waivers or deferrals;	(v) the <u>type of</u> trading <del>protocols</del> <u>systems</u> and the applicable waivers or deferrals;
Article 1(2), point (d), amending provision, second subparagraph				
90	(36c) 'regulatory data' means data related to the status of systems matching orders in financial instruments, including information about circuit breakers, trading halts, and opening and closing prices of those financial instruments;	(36c) 'regulatory data' means data related to the status of systems matching orders in financial instruments, including information about circuit breakers, trading halts, and opening and closing prices of those financial instruments;	(36c) 'regulatory data' means data related to the status of systems matching orders in financial instruments, including information about circuit breakers, trading halts, and opening and closing prices of those financial instruments;';	(36c) 'regulatory data' means data related to the status of systems matching orders in financial instruments, <del>including information about circuit breakers, trading halts, and opening and closing prices of those financial instruments</del> <u>and data related to the trading status of individual financial instruments;';</u>
Article 1(2), point (d), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
90a		<u>(36d) 'market operator group' means an undertaking or a group that owns or controls two or more market operators within the Union;';</u>		n/a  [TM 06.09: term not eventually used]
Article 1(3)				
91	(3) Article 4 is amended as follows:	(3) Article 4 is amended as follows:	(3) Article 4 is amended as follows:	(3) Article 4 is amended as follows:
Article 1(3), point (a)				
92	(a) paragraph 1 is amended as follows:	<i>deleted</i>	(a) <i>in</i> paragraph 1, <u>point (b)(i) is replaced by the following-is amended as follows:</u>	(a) <i>in</i> paragraph 1, <u>point (b)(i) is replaced by the following-is amended as follows:</u>
Article 1(3), point (a)(i)				
93	(i) point (a) is replaced by the following:	<i>deleted</i>	(i) <u>point (a) is replaced by the following:</u>	<i>deleted</i>
Article 1(3), point (a)(i), amending provision, first paragraph				
94	(a) systems matching orders that are larger than twice the standard market size and that are based on a trading methodology by which the price of the financial instruments referred to in Article 3(1) is derived from either of the following:	<i>deleted</i>	(a) <u>systems matching orders that are larger than twice the standard market size and that are based on a trading methodology by which the price of the financial instruments referred to in Article 3(1) is derived from either of the following:</u>	<i>deleted</i>
Article 1(3), point (a)(i), amending provision, first paragraph(i)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
95	(i) the price of those financial instruments at the trading venues where those financial instruments were first admitted to trading;	<i>deleted</i>	(i) <del>the price of those financial instruments at the trading venues where those financial instruments were first admitted to trading;</del>	deleted
Article 1(3), point (a)(i), amending provision, first paragraph(ii)				
96	(ii) the price of those financial instruments at the most relevant market in terms of liquidity where that price is widely published and is regarded by market participants as a reliable reference price;	<i>deleted</i>	(ii) <del>the price of those financial instruments at the most relevant market in terms of liquidity where that price is widely published and is regarded by market participants as a reliable reference price;</del>	deleted
Article 1(3), point (a)(i), amending provision, first paragraph(iii)				
97	(iii) the consolidated tape for shares or ETFs.;	<i>deleted</i>	(iii) <del>the consolidated tape for shares or ETFs.;</del>	deleted
Article 1(3), point (a)(ii)				
98	(ii) the following subparagraph is added:	<i>deleted</i>	(ii) <del>the following subparagraph is added:</del>	deleted
Article 1(3), point (a)(ii), amending provision, first paragraph				
99	‘For the purposes of point (a), the continued use of that waiver shall	<i>deleted</i>	<del>‘For the purposes of point (a), the continued use of that waiver shall</del>	deleted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	be subject to the conditions set out in Article 5.;		<del>be subject to the conditions set out in Article 5.;</del>	
99a			<u>(i) made within the current volume weighted spread reflected on the order book or the quotes of the market makers of the trading venue operating that system;’;</u>	<u>‘(i) made within the current volume weighted spread reflected on the order book or the quotes of the market makers of the trading venue operating that system;’;</u>
Article 1(3), point (b)				
100	(b) in paragraph 2, the first subparagraph is replaced by the following:	(b) in paragraph 2, the first subparagraph is replaced by the following:	<del>(b) in paragraph 2, the first subparagraph is replaced by the following:</del>	deleted
Article 1(3), point (b), amending provision, first paragraph				
101	‘The reference price referred to in paragraph 1, point (a) shall be established by obtaining either of the following:	‘The reference price referred to in paragraph 1, point (a) shall be established by obtaining either of the following:	<del>‘The reference price referred to in paragraph 1, point (a) shall be established by obtaining either of the following:</del>	deleted
Article 1(3), point (b), amending provision, first paragraph, point (a)				
102	(a) the midpoint within the current bid and offer prices of any of the following:	(a) the midpoint within the current bid and offer prices of any of the following:	<del>(a) the midpoint within the current bid and offer prices of any of the following:</del>	deleted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1(3), point (b), amending provision, first paragraph, point (a)(i)			
103	(i) the trading venue where those financial instruments were first admitted to trading;	(i) the trading venue where those financial instruments were first admitted to trading;	(i) <del>the trading venue where those financial instruments were first admitted to trading;</del>	deleted
	Article 1(3), point (b), amending provision, first paragraph, point (a)(ii)			
104	(ii) the most relevant market in terms of liquidity;	(ii) the most relevant market in terms of liquidity;	(ii) <del>the most relevant market in terms of liquidity;</del>	deleted
	Article 1(3), point (b), amending provision, first paragraph, point (a)(iii)			
105	(iii) the consolidated tape for shares or ETFs;	(iii) the consolidated tape for shares <del>or</del> and ETFs;	(iii) <del>the consolidated tape for shares or ETFs;</del>	[TM1: to drop] deleted
	Article 1(3), point (b), amending provision, first paragraph, point (b)			
106	(b) when the price referred to in point (a) is not available, the opening or closing price of the relevant trading session.;	(b) when the price referred to in point (a) is not available, the opening or closing price of the relevant trading session.;	(b) <del>when the price referred to in point (a) is not available, the opening or closing price of the relevant trading session.;</del>	deleted
	Article 1(3), point (b), amending provision, first paragraph, point (ba)			
106a		<u>(ba) paragraph 6 is amended as follows:</u>	<u>(aa) in paragraph 6, point (f) is deleted;</u>	<u>(ba) paragraph 6 is amended as follows:</u>
	Article 1(3), point (b), amending provision			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
106b		<u>(i) point (a) is replaced by the following:</u>		<u>(i) in the first paragraph, point (a) is replaced by the following:</u>
Article 1(3), point (b), amending provision				
106c		<u>'(a) the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices, to be made public for each class of financial instrument concerned in accordance with Article 3(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 3(2), and the details of pre-trade data, including identifiers for different types of orders or quotes;';</u>		<u>'(a) the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices, to be made public for each class of financial instrument concerned in accordance with Article 3(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 3(2), and the details of pre-trade data;';</u>  [DLA update ddl for RTS in light of the additions made in point a to the ESMA mandate - to decide on which approach to follow in those cases]  [TM 06.09: "including identifiers for different types of orders or quotes;";" deleted - consider whether to include it in recitals]
Article 1(3), point (b), amending provision				
106d		<u>(ii) the following point is added:</u>		deleted
Article 1(3), point (b), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>'(ea) the minimum size of an order that may be matched using the trading methodology referred to in paragraph 1, point (a), which shall be determined taking into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation.'</i></u>		deleted
Article 1(4)				
107	(4) Article 5 is amended as follows:	(4) Article 5 is amended as follows:	(4) Article 5 is amended as follows:	(4) Article 5 is amended as follows:
Article 1(4), point (a)				
108	(a) the title is replaced by the following:	(a) the title is replaced by the following:	(a) the title is replaced by the following:	(a) the title is replaced by the following:
Article 1(4), point (a), amending provision, first paragraph				
109	'Article 5 Volume cap';	'Article 5 Volume cap';	'Article 5 Volume cap';	'Volume cap';
Article 1(4), point (b)				
110	(b) paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(4), point (b), amending provision, numbered paragraph (1)				
111	<p>‘1. Trading venues shall suspend their use of the waivers referred to in Article 4(1), point (a), and 4(1), point (b)(i) where the percentage of volume traded in the Union in a financial instrument carried out under those waivers exceeds 7% of the total volume traded in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of those waivers on the data published by ESMA in accordance with paragraph 4, and shall take such decision within two working days after this publication of those data and for a period of six months.’;</p>	<p>‘1. Trading venues shall suspend their use of the waivers referred to in Article 4(1), point (a), and 4(1), point (b)(i) where the percentage of volume traded in the Union in a financial instrument carried out under those waivers exceeds 7% of the total volume traded in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of those waivers on the data published by ESMA in accordance with paragraph 4, and shall take such decision within two working days after <del>this</del>the publication of those data and for a period of six months.’;</p>	<p>‘1. Trading venues shall suspend their use of the <del>waivers</del>waiver referred to in Article 4(1), point (a), <del>and 4(1), point (b)(i)</del> where the percentage of volume traded in the Union in a financial instrument carried out under <del>those waivers</del>the waiver exceeds <del>7%</del>10 % of the total volume traded in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of <del>those waivers</del>the waiver on the data published by ESMA in accordance with paragraph 4, and shall take such decision within two working days after <del>this</del>the publication of those data and for a period of <del>six</del>three months.’;</p>	<p>‘1. Trading venues shall suspend their use of the <del>waivers</del>waiver referred to in Article 4(1), point (a), <del>and 4(1), point (b)(i)</del> where the percentage of <del>volume trading</del> trading in a financial instrument in the Union carried out under <del>those waivers</del>the waiver exceeds 7 % of the total volume of <del>volume trading</del> trading in that financial instrument in the Union. Trading-venues shall base their decision to suspend the use of <del>those waivers</del>the waiver on the data published by ESMA in accordance with paragraph 4, and shall take such decision within two working days after <del>this</del>the publication of those data and for a period of <del>six</del>three months.’;</p> <p>[TM1: technical agreement: 7%/ only RPW/review clause for the adjustment of the percentage/ suspension period 3 months/ ESMA to publish within 7days, quarterly]</p>
Article 1(4), point (c)				
112	(c) paragraph 2 and 3 are deleted;	(c) paragraph 2 and 3 are deleted;	(c) paragraph 2 and 3 are deleted;	(c) paragraph 2 and 3 are deleted;
Article 1(4), point (d)				
113				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(d) paragraph 4 is replaced by the following:	(d) paragraph 4 is replaced by the following:	(d) paragraph 4 is replaced by the following:	(d) paragraph 4 is replaced by the following:
Article 1(4), point (d), amending provision, numbered paragraph (4)				
114	‘4. ESMA shall publish within five working days of the end of each calendar month all of the following data:	‘4. ESMA shall publish within <del>five</del> <u>seven</u> working days of the end of each calendar month all of the following data:	‘4. ESMA shall publish within five working days of the end of <del>each calendar month all of the following data:</del> <u>March, June, September and December, the total volume of Union trading per financial instrument in the previous 12 months, the percentage of trading in a financial instrument carried out across the Union under the waiver referred to in Article 4(1), point (a) and on each trading venue in the previous 12 months, and the methodology that is used to derive those percentages.</u> ’;	‘4. ESMA shall publish within <del>each</del> <u>five</u> <del>seven</del> working days of <del>each calendar month all of the following data:</del> <u>the end of March, June, September and December of each calendar year the total volume of trading in the Union per financial instrument in the previous 12 months, the percentage of trading in a financial instrument carried out across the Union under the waiver referred to in Article 4(1), point (a), and the methodology that is used to derive those percentages.</u> ’;
Article 1(4), point (d), amending provision, numbered paragraph (4), point (a)				
115	(a) the total volume of Union trading per financial instrument in the previous 12 months;	(a) the total volume of Union trading per financial instrument in the previous 12 months;	(a) <del>the total volume of Union trading per financial instrument in the previous 12 months;</del>	Deleted: PM: captured in row above
Article 1(4), point (d), amending provision, numbered paragraph (4), point (b)				
116	(b) the percentage of trading in a financial instrument carried out across the Union under the waivers referred to in Article 4(1), point (a), and Article 4(1), point (b)(i);	(b) the percentage of trading in a financial instrument carried out <del>across the Union</del> under the waivers referred to in Article 4(1), point (a), and Article 4(1), point (b)(i) <u>across</u>	(b) <del>the percentage of trading in a financial instrument carried out across the Union under the waivers referred to in Article 4(1), point (a), and Article 4(1), point (b)(i);</del>	Deleted: PM: captured in row above

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>the Union and on each trading venue in the previous 12 months</u> ;		
Article 1(4), point (d), amending provision, numbered paragraph (4), point (c)				
117	(c) the methodology that is used to derive the percentage referred to in point (b).;’	(c) the methodology that is used to derive the <del>percentage</del> <u>percentages</u> referred to in point (b).;’	(c) <del>the methodology that is used to derive the percentage referred to in point (b).;’</del>	Deleted: PM: captured in row above
Article 1(4), point (e)				
118	(e) paragraph 5 is deleted;	(e) <del>paragraph 5 is</del> <u>paragraphs 5 and 6 are</u> deleted;	(e) <del>paragraph 5 is</del> <u>paragraphs 5 and 6 are</u> deleted;	(e) paragraphs 5 <del>and 6 are</del> <u>is</u> deleted;
Article 1(4), point (f)				
119	(f) paragraph 7 is replaced by the following:	(f) paragraph 7 is replaced by the following:	(f) paragraph 7 is replaced by the following:	(f) paragraphs <del>7 and 8 are</del> <u>is</u> replaced by the following:
Article 1(4), point (f), amending provision, numbered paragraph (7)				
120	‘7. To ensure a reliable basis for monitoring the trading taking place under the waivers referred to in Article 4(1), point (a), and Article 4(1), point (b)(i) and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall have in place systems and procedures to enable the identification of all trades which	‘7. To ensure a reliable basis for monitoring the trading taking place under the waivers referred to in Article 4(1), point (a), and Article 4(1), point (b)(i) and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall have in place systems and procedures to enable the identification of all trades which	‘7. To ensure a reliable basis for monitoring the trading taking place under the <del>waivers</del> <u>waiver</u> referred to in Article 4(1), point (a), <del>and Article 4(1), point (b)(i)</del> and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall have in place systems and procedures to enable the identification of all trades which	‘7. <u>In order to</u> ensure a reliable basis for monitoring the trading taking place under the <del>waivers</del> <u>waiver</u> referred to in Article 4(1), point (a), <del>and Article 4(1), point (b)(i)</del> and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall have in place systems and procedures to enable the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	have taken place on their venue under those waivers.;	have taken place on their venue under those waivers.;	have taken place on their venue under <del>those waivers</del> <u>the waiver</u> .;	identification of all trades which have taken place on their venue under <del>those waivers</del> <u>the waiver</u> .
Article 1(4), point (fa)				
				<p>8. The period for the publication of trading data by ESMA, and for which trading in a financial instrument under <del>those</del><u>the waivers-waiver</u> is to be monitored shall start on ... <u>[the date of entry into force of this amending Regulation]</u> <del>3 January 2017.</del> <i>Without prejudice to Article 4(5), competent authorities shall be empowered to suspend the use of those waivers from the date of application of this Regulation and thereafter on a monthly basis.</i>;</p> <p><i>[TM3: modification to para 8 introduced in line with previous changes in this article. Check format, and the date/entry into force]</i></p>
Article 1(4), point (fa)				
				<p><u>(f) in paragraph 9, the first and second subparagraphs are replaced as follows:</u></p> <p><u>ESMA shall develop draft regulatory technical standards to specify the method, including the</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>flagging of transactions, by which it collates, calculates and publishes the transaction data, as outlined in paragraph 4, in order to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading that use those waivers across the Union.</u></p> <p><u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the date of entry into force of this amending Regulation].</u>  [TM 13.09: para 9 adjusted as per the changes made in the article and adjustment of the existing RTS]</p>
120a		<u>(fa) the following paragraph is added:</u>		<u>(g) the following paragraph is added:</u>
Article 1(4), point (fa)				
120b		<u>'9a. By ... [three years after the date of entry into force of this amending Regulation], and every two years thereafter, ESMA shall submit to the Commission a report assessing the volume cap threshold set out in paragraph 1 and the method by which it is defined.</u>		<u>'9a. By ... [two years after the date of entry into force of this amending Regulation], and every year thereafter, ESMA shall submit to the Commission a report assessing the volume cap threshold set out in paragraph 1, taking into account financial stability, international best practices, the</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 94/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>taking into account financial stability, international best practices, the competitiveness of Union firms, the significance of the market impact as well as the efficiency of the price formation.</u></p>		<p><u>competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation.</u></p> <p>[TM3: volume cap to be reviewed by delegated act. + Add review clause in Art 52 on the scope of the volume cap- added under point 14c on 06.09]</p>
Article 1(4), point (fa)				
120c		<p><u>The Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation pursuant to regular reviews of the volume cap threshold set out in paragraph 1. For the purpose of this subparagraph, the Commission shall take into account the report from ESMA referred to in the first subparagraph, international developments and standards agreed at Union or international level.’;</u></p>		<p><u>The Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation by adjusting the volume cap threshold set out in paragraph 1. For the purpose of this subparagraph, the Commission shall take into account the report from ESMA referred to in the first subparagraph, international developments and standards agreed at Union or international level.’;</u></p> <p>[TM3: Text changed back to EP mandate as agreed in technical meeting]</p> <p>[TM 20.07: wording adjusted by suggestion of the DLA - to be further checked by the EP]</p>
Article 1(4a), introductory part				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
120d		<u>4a. Article 8 is amended as follows:</u>	<u>4a. Article 8 is replaced by the following:</u>	<u>4a. Article 8 is amended as follows:</u>
Article 1(4a), amending provision				
120e		<u>(a) paragraphs 1 and 2 are replaced by the following:</u>	<u>'Article 8 Pre-trade transparency requirements for trading venues in respect of bonds, structured finance products and emission allowances</u>	<u>(a) the title is replaced by the following:  'Pre-trade transparency requirements for trading venues in respect of bonds, structured finance products and emission allowances</u>
Article 1(4a), amending provision, numbered paragraph (1)				
120f		<u>1. Market operators and investment firms operating a trading venue shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for bonds, structured finance products, emission allowances, derivatives traded on a trading venue and package orders. Those market operators and investment firms shall make that information available to the public on a continuous basis during normal trading hours. That publication obligation does not apply to those derivative transactions of non-financial counterparties which are</u>	<u>1. Market operators and investment firms operating a trading venue applying a central limit order book or periodic auction systems shall make public current bid and offer prices and the depth of trading interests at those prices that are advertised through their systems for bonds, structured finance products, emission allowances and package orders. Those market operators and investment firms shall make that information available to the public on a continuous basis during normal trading hours.</u>	<u>(b) paragraphs 1 and 2 are replaced by the following:  1. When applying a central limit order book or a periodic auction trading system, market operators and investment firms operating a trading venue shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems in respect of bonds, structured finance products, emission allowances and package orders. Those market operators and investment firms shall make that information available to the public on a continuous basis during normal trading hours.</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 96/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty or of that group.</u></p> <p><u>2. The transparency requirements referred to in paragraph 1 shall be calibrated for central limit order book and periodic auction systems only.;</u></p>		<p>[the exemption to non-financial counterparties to discuss in Art 31- TM 13.07 bit covered by 31]</p> <p>[TM 06.09: linguistic adjustments]</p>
Article 1(4a), amending provision, numbered paragraph (2)				
120g			<p><u>2. The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems.;</u></p>	<p><u>2. The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems.;</u></p>
Article 1(4a), amending provision				
120h		<p><u>(b) paragraph 4 is deleted;</u></p>		<p><u>(c) paragraphs 3 and 4 are deleted;</u></p>
Article 1(4b), introductory part				
120i			<p><u>(4b) the following Article 8a is added:</u></p>	<p><u>(4b) the following article is inserted:</u></p>
Article 1(4b), amending provision				
120j			<p><u>'Article 8a</u></p>	<p><u>'Article 8a</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 97/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><a href="#">Pre-trade transparency requirements in respect of derivatives</a></u>	<u><a href="#">Pre-trade transparency requirements for trading venues in respect of derivatives</a></u>  [TM 25 May: a new draft shared via email to discuss on 2 June]  [TM 8 June: article redrafted]
Article 1(4b), amending provision, numbered paragraph (1)				
120k			<u><a href="#">1. Market operators and investment firms operating a trading venue, when applying a central limit order book or a periodic auction system, shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for transactions executed in respect of exchange-traded derivatives.</a></u>	<u><a href="#">1. When applying a central limit order book or a periodic auction trading system, market operators operating a regulated market shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems in respect of exchange-traded derivatives. Those market operators shall make that information available to the public on a continuous basis during normal trading hours.</a></u>  [TM 13.07: PCY to check with the SE about the entities subject to para 1 provision - TM 20.07: it is eventually fine]
Article 1(4b), amending provision, numbered paragraph (1)				
120l			<u><a href="#">The transparency requirements shall be applied also to following transactions executed in respect of OTC derivatives that are:</a></u>	<u><a href="#">1a. When applying a central limit order book or a periodic auction trading system, market operators and investment firms operating an MTF or OTF shall make public</a></u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 98/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems in respect of OTC derivatives denominated in euro, Japanese yen, US dollar or pound sterling and that:</u>
Article 1(4b), amending provision, numbered paragraph (1), point (a)				
120m			<u>(a) denominated in euro or the currency of Japan, the United States of America or United Kingdom, and</u>	<u>(a) are subject to the clearing obligation under Article 5(2) of Regulation (EU) No 648/2012 and are centrally cleared, and in respect of interest rate derivatives, have a contractually agreed tenor of 1, 2, 3, 5, 7, 10, 12, 15, 20, 25 or 30 years;</u>  [TM 14.09: back to the previous text on tenors]
Article 1(4b), amending provision, numbered paragraph (1), point (b)				
120n			<u>(b) subject to the clearing obligation under Article 5(2) of Regulation (EU) No 648/2012 and centrally cleared; and</u>	<u>(b) are single-name credit default swaps, referencing a global systemically important bank; or</u>  <u>(c) are credit default swaps referencing an index comprising global systemically important banks;</u>  <u>Those market operators and investment firms shall make that information available to the public</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 99/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>on a continuous basis during normal trading hours.</u></p> <p>[TM 13.07: reworked according to the suggestions sent by the COM via mail on 22 June - EP to check the revised wording - eventually fine]</p> <p>[TM 06.09: reworked for clarify and point c added - Council and EP to check the addition- eventually fine]</p>
Article 1(4b), amending provision, numbered paragraph (1), point (c)				
120o			<p><u>(c) in respect of a class of interest rate derivatives, the OTC derivatives with a full year tenor with remaining period of 1, 2, 3, 5, 7, 10, 12, 15, 20, 25 or 30 years to their expiration.</u></p>	n/a
Article 1(4b), amending provision, numbered paragraph (1)				
120p			<p><u>ESMA shall publish a list of the OTC derivatives on which the transparency applies in accordance with this Article.</u></p>	[TM 06.09: deleted]
Article 1(4b), amending provision, numbered paragraph (2)				
120q			<p><u>2. The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems.';</u></p>	<p><u>2. The transparency requirements referred to in paragraph 1 and 1a shall be calibrated for different types of trading systems.</u></p> <p><u>2a. The Commission is empowered to adopt delegated acts in accordance with Article 50 to amend paragraph 1a, first</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 100/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>subparagraph, as regards the OTC derivatives subject to the transparency requirements set out in that subparagraph in view of market developments.</u>  [TM 06.09: EP to check additions made in 2a - eventually fine]
Article 1(5)				
121	(5) Article 9 is amended as follows:	(5) Article 9 is amended as follows:	(5) Article 9 is amended as follows:	(5) Article 9 is amended as follows:
Article 1(5), point (-a), introductory part				
121a			<u>(-a) the title is replaced by the following:</u>	<u>(-a) the title is replaced by the following:</u>
Article 1(5), point (-a)				
121b			<u>(1) 'Article 9 Waivers for bonds, structured finance products, emission allowances and derivatives';</u>	<u>'Waivers for bonds, structured finance products, emission allowances and derivatives';</u>
Article 1(5), point (a), introductory part				
122	(a) in paragraph 1, point (b) is deleted;	(a) in paragraph 1, <del>point (b)</del> <u>is points (b) and (e)(iii) are</u> deleted;	(a) <del>in</del> paragraph 1, <del>point (b) is deleted;</del> <u>is replaced by the following:</u>	(a) <del>in</del> paragraph 1, <del>point (b) is deleted;</del> <u>is amended as follows:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(5), point (a)(1)				
122a			<u>1. Competent authorities shall be able to waive the obligation for market operators and investment firms operating a trading venue to make public the information referred to in Article 8(1) and Article 8a(1) for:</u>	<u>(i) the introductory wording is replaced by the following:</u>  <u>'1. Competent authorities shall be able to waive the obligation for market operators and investment firms operating a trading venue to make public the information referred to in Article 8(1) and Article 8a(1) for:';</u>
Article 1(5), point (a)(1), point (a)				
122b			<u>(a) orders that are large in scale compared with normal market size and orders held in an order management facility of the trading venue pending disclosure;</u>	<u>(ii) point (b) is deleted;</u>
Article 1(5), point (a)(1), point (b)				
122c			<u>(c) OTC derivatives which are not subject to the trading obligation as referred to in Article 28 and for which there is not a liquid market, and other financial instruments for which there is not a liquid market;</u>	<u>(iii) point (c) is replaced by the following:</u>  <u>'(c) OTC derivatives which are not subject to the trading obligation as referred to in Article 28 and for which there is not a liquid market, and other financial instruments for which there is not a liquid market;';</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 102/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(5), point (a)(1), point (c)				
122d			<u>(d) orders for the purpose of executing an exchange for physical;</u>	[n/a]
Article 1(5), point (a)(1), point (d)				
122e			<u>(e) package orders that meet one of the following conditions:</u>	[n/a]
Article 1(5), point (a)(1), point (d), first indent				
122f			<u>(i) at least one of its components is a financial instrument for which there is not a liquid market, unless there is a liquid market for the package order as a whole;</u>	[n/a]
Article 1(5), point (a)(1), sixth indent				
122g			<u>(ii) at least one of its components is large in scale compared with the normal market size, unless there is a liquid market for the package order as a whole.;</u>	[n/a] <u>(iv) in point (e), point (iii) is deleted;</u>
Article 1(5)				
122h		<u>(ab) paragraph 3 is replaced by the following:</u>		

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 103/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
122i		<u><i>‘3. Competent authorities shall regularly monitor the use and impact of the waivers granted in accordance with paragraph 1 and inform ESMA of their findings.</i></u>		deleted  [TM 13.07: ESMA already in charge of monitoring waivers in Article 9(2)]
Article 1(5)				
122j		<u><i>Competent authorities, may, either on their own initiative or upon request by other competent authorities or by ESMA, withdraw a waiver granted under paragraph 1 if they observe that the waiver is being used in a way that deviates from its original purpose or if they consider that the waiver is being used to circumvent the requirements established in this Article.</i></u>		<u><i>(b) in paragraph 3, the first subparagraph is replaced by the following:</i></u>  <u><i>‘Competent authorities may, either on their own initiative or upon request by other competent authorities or by ESMA, withdraw a waiver granted under paragraph 1 if they observe that the waiver is being used in a way that deviates from its original purpose or if they consider that the waiver is being used to circumvent the requirements established in this Article.’;</i></u>
Article 1(5)				
122k		<u><i>Competent authorities shall notify ESMA and other competent authorities of such withdrawal without delay and before it takes</i></u>		[n/a]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>effect, providing full reasons for their decision.</u> ’;		
Article 1(5), point (aa), introductory part				
122l			<u>(aa) in paragraph 4, third subparagraph, first sentence is replaced by the following:</u>	<u>(c) in paragraph 4, the third subparagraph is replaced by the following:</u>
Article 1(5), point (aa)				
122m			<u>‘Before suspending or renewing the temporary suspension under this paragraph of the obligations referred to in Article 8 or Article 8a, the relevant competent authority shall notify ESMA of its intention and provide an explanation.’;</u>	<u>‘Before suspending or renewing the temporary suspension under this paragraph of the obligations referred to in Article 8 or Article 8a, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and second subparagraphs.’;</u>
Article 1(5), point (b), introductory part				
123	(b) in paragraph 5, point (d) is deleted;	(b) in paragraph 5, point (d) is deleted;	(b) <del>in</del> paragraph 5, <del>point (d) is deleted;</del> <u>is replaced by the following:</u>	(d) paragraph 5 <u>is amended as follows:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				(i) <u>the first subparagraph <del>point (d)</del> is deleted; is amended as follows:</u>
Article 1(5), point (b), numbered paragraph (5)				
123a			<u>5. ESMA shall develop draft regulatory technical standards to specify the following:</u>	[n/a]
Article 1(5), point (b), numbered paragraph (5), point (a)				
123b			<u>(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);</u>	[n/a]
Article 1(5), point (b), numbered paragraph (5), point (b)				
123c			<u>(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</u>	<u>- point (b) is replaced by the following:</u>  <u>'(b) the range of bid and offer prices and the depth of trading interests at those prices to be made</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 106/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>accordance with Article 8(1) and Article 8a(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2) and Article 8a(2); ESMA shall determine characteristics of central limit order book and periodic auctions systems;</u>	<u>public for each class of financial instrument concerned in accordance with Article 8(1) and Article 8a(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2) and Article 8a(2).</u>  <u>- point (d) is deleted;</u>  <u>- the following point is added:</u>  <u>(ea) the characteristics of central limit order books and periodic auctions trading systems;'</u>
Article 1(5), point (b), numbered paragraph (5), point (c)				
123d			<u>(c) the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;</u>	[n/a]
Article 1(5), point (b), numbered paragraph (5), point (d)				
123e			<u>(d) the financial instruments or the classes of financial instruments for which there is not a liquid market where pre-trade disclosure may be waived under paragraph 1.</u>	

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 107/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(5), point (b), numbered paragraph (5)				
123f			<u>ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.</u>	<u>(ii) the second and third subparagraphs are replaced by the following:</u>  <u>ESMA shall submit those draft regulatory technical standards to the Commission by... [12 months after the date of entry into force of this amending Regulation]</u>
Article 1(5), point (b), numbered paragraph (5)				
123g				<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>  [TM 06.09: presentation adjusted]
Article 1(5a), introductory part				
123h			<u>(5a) Article 10 is replaced by the following:</u>	<u>(5a) Article 10 is amended as follows:</u>
Article 1(5a)				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 108/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
123i			<u>'Article 10 Post-trade transparency requirements for trading venues in respect of bonds, structured finance products, emission allowances and derivatives</u>	[N/A]  [No changes to the current title of Article 10, so no need to be included - presentation approach]
Article 1(5a), numbered paragraph (1)				
123j			<u>1. Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of bonds, structured finance products, emission allowances traded on a trading venue and of the transactions executed in respect of exchange-traded derivatives. The requirements shall also apply to transactions executed in respect of OTC derivatives as referred to in Article 8a(1) second subparagraph. Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real-time as is technically possible.</u>	<u>(i) paragraphs 1 and 2 are replaced by the following:</u>  <u>'1. Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of bonds, structured finance products and emission allowances traded on a trading venue. Those requirements shall also apply to transactions executed in respect of exchange-traded derivatives and in respect of OTC derivatives as referred to in Article 8a(1a). Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real time as is technically possible.'</u>
Article 1(5a), numbered paragraph (2)				
123k			<u>2. Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and</u>	<u>'2. Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 to investment firms which are obliged to publish the details of their transactions in bonds, structured finance products, emission allowances and OTC derivatives pursuant to Article 21.</u></p>	<p><u>on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 to investment firms which are obliged, pursuant to Article 21, to publish the details of their transactions in bonds, structured finance products, emission allowances and OTC derivatives as referred to in Article 8a(1a).</u></p>
Article 1(5a), numbered paragraph (3)				
1231			<p><u>3. The competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded may, where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5)(a), temporarily suspend the obligations referred to in paragraph 1. That threshold shall be defined based on objective criteria specific to the market for the financial instrument concerned. Such temporary suspension shall be published on the website of the relevant competent authority and notified to</u></p>	<p>[TM: To be discussed once Article 11 is closed, 1231 to 123n, provision to be eventually kept in Art 11]</p> <p>N/A</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>ESMA that should publish this suspension on its website as well.</u>	
Article 1(5a), numbered paragraph (3)				
123m			<u>The temporary suspension shall be valid for an initial period not exceeding three months from the date of its publication on the website of the relevant competent authority. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension continue to be applicable. Where the temporary suspension is not renewed after that three-month period, it shall automatically lapse.</u>	[To be discussed once Article 11 is closed, 123l to 123n - provision to be eventually kept in Art 11]  N/A
Article 1(5a), numbered paragraph (3)				
123n			<u>Before suspending or renewing the temporary suspension of the obligations referred to in paragraph 1, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and second subparagraphs.;</u>	[To be discussed once Article 11 is closed, 123l to 123n - provision to be eventually kept in Art 11]  N/A

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 111/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(6)				
124	(6) Article 11 is amended as follows:	(6) Article 11 is <del>amended as follows</del> <u>replaced by the following</u> :	(6) Article 11 is <del>amended as follows</del> <u>replaced by the following</u> :	6) Article 11 is <del>amended as follows</del> <u>replaced by the following</u> :
Article 1(6), point (a)				
125	(a) paragraph 1 is amended as follows:	<i>deleted</i>	(a) <del>paragraph 1 is amended as follows</del> :	<i>deleted</i>
Article 1(6), point (a)(i)				
126	(i) the first subparagraph is replaced by the following:	<i>deleted</i>	(i) <del>the first subparagraph is replaced by the following</del> :	<i>deleted</i>
Article 1(6), point (a)(i), amending provision, first paragraph				
127	'Based on the deferral regime as set out in paragraph 4, competent authorities shall authorise market operators and investment firms operating a trading venue to defer the publication of the price of transactions until the end of the trading day, or the volume of transactions for a maximum of two weeks.;	<i>deleted</i>	<del>'Based on the deferral regime as set out in paragraph 4, competent authorities shall authorise market operators and investment firms operating a trading venue to defer the publication of the price of transactions until the end of the trading day, or the volume of transactions for a maximum of two weeks.;</del>	<i>deleted</i>
Article 1(6), point (a)(ii)				
128				<i>deleted</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(ii) in the second subparagraph, point (c) is deleted;	<i>deleted</i>	(ii) <del>in the second subparagraph, point (c) is deleted;</del>	
Article 1(6), point (b)				
129	(b) paragraph 3 is replaced by the following:	<i>deleted</i>	(b) <del>paragraph 3 is replaced by the following:</del>	<i>deleted</i>
Article 1(6), point (b), amending provision, numbered paragraph (3)				
130	‘3. Competent authorities may, when authorising a deferred publication as referred to in paragraph 1 with regard to transactions in sovereign debt, allow market operators and investment firms operating a trading venue:	<i>deleted</i>	‘3. <del>Competent authorities may, when authorising a deferred publication as referred to in paragraph 1 with regard to transactions in sovereign debt, allow market operators and investment firms operating a trading venue:</del>	<i>deleted</i>
Article 1(6), point (b), amending provision, numbered paragraph (3), point (a)				
131	(a) to allow the omission of the publication of the volume of an individual transaction during an extended time period of deferral; or	<i>deleted</i>	(a) <del>to allow the omission of the publication of the volume of an individual transaction during an extended time period of deferral; or</del>	<i>deleted</i>
Article 1(6), point (b), amending provision, numbered paragraph (3), point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
132	(b) to publish in an aggregated form several transactions in sovereign debt for an indefinite period of time.	<i>deleted</i>	(b) <del>to publish in an aggregated form several transactions in sovereign debt for an indefinite period of time.</del>	<i>deleted</i>
Article 1(6), point (c)				
133	(c) paragraph 4 is amended as follows:	<i>deleted</i>	(c) <del>paragraph 4 is amended as follows:</del>	<i>deleted</i>
Article 1(6), point (c)(i)				
134	(i) the first subparagraph is amended as follows:	<i>deleted</i>	(i) <del>the first subparagraph is amended as follows:</del>	<i>deleted</i>
Article 1(6), point (c)(i), first paragraph				
135	point (c) is replaced by the following:	<i>deleted</i>	<del>point (c) is replaced by the following:</del>	<i>deleted</i>
Article 1(6), point (c)(i), first paragraph, amending provision, first paragraph				
136	(c) the transactions eligible for price or volume deferral, and the transactions for which competent authorities shall authorise market operators and investment firms operating a trading venue to provide	<i>deleted</i>	(c) <del>the transactions eligible for price or volume deferral, and the transactions for which competent authorities shall authorise market operators and investment firms operating a trading venue to provide for deferred publication of</del>	<i>deleted</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	for deferred publication of the volume or price for one of the following durations:		<del>the volume or price for one of the following durations:</del>	
Article 1(6), point (c)(i), first paragraph, amending provision, first paragraph(i)				
137	(i) 15 minutes;	<i>deleted</i>	(i) <del>15 minutes;</del>	<i>deleted</i>
Article 1(6), point (c)(i), first paragraph, amending provision, first paragraph(ii)				
138	(ii) end of trading day;	<i>deleted</i>	(ii) <del>end of trading day;</del>	<i>deleted</i>
Article 1(6), point (c)(i), first paragraph, amending provision, first paragraph(iii)				
139	(iii) two weeks.;	<i>deleted</i>	(iii) <del>two weeks.;</del>	<i>deleted</i>
Article 1(6), point (c)(ii)				
140	(ii) the following subparagraph is inserted after the first subparagraph:	<i>deleted</i>	(ii) <del>the following subparagraph is inserted after the first subparagraph:</del>	<i>deleted</i>
Article 1(6), point (c)(ii), amending provision, first paragraph				
141	'For the purposes of the first subparagraph, point (c), ESMA shall specify the buckets for which the deferral period shall apply	<i>deleted</i>	<del>'For the purposes of the first subparagraph, point (c), ESMA shall specify the buckets for which the deferral period shall apply</del>	<i>deleted</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	across the Union by using the following criteria:		<del>across the Union by using the following criteria:</del>	
Article 1(6), point (c)(ii), amending provision, first paragraph, point (a)				
142	(a) the liquidity determination;	<i>deleted</i>	(a) <del>the liquidity determination;</del>	<i>deleted</i>
Article 1(6), point (c)(ii), amending provision, first paragraph, point (b)				
143	(b) the size of the transaction, in particular transactions in illiquid markets or transactions that are large in scale;	<i>deleted</i>	(b) <del>the size of the transaction, in particular transactions in illiquid markets or transactions that are large in scale;</del>	<i>deleted</i>
Article 1(6), point (c)(ii), amending provision, first paragraph, point (c)				
144	(c) for bonds, the classification of the bond as investment grade or high yield.;	<i>deleted</i>	(c) <del>for bonds, the classification of the bond as investment grade or high yield.;</del>	<i>deleted</i>
Article 1(6)				
144a		<a href="#"><u>'Authorisation of deferred publication</u></a>	<a href="#"><u>'Article 11</u></a>	<a href="#"><u>'Article 11</u></a>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>Deferred publication for bonds, structured finance products or emission allowances</u>	<u>Deferred publication for bonds, structured finance products or emission allowances</u>
Article 1(6)				
144b		<u>1. Competent authorities shall be able to authorise market operators and investment firms operating a trading venue to defer the publication of the details of transactions for a period calculated according to the size or type of transaction. The publication of the volume of very large transactions may be deferred for an extended period not exceeding four weeks.</u>	<u>1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of bonds, structured finance products or emission allowances traded on a trading venue, including the price and the volume, in accordance with paragraphs 2, 3 and 4.</u>	<u>1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of bonds, structured finance products or emission allowances traded on a trading venue, including the price and the volume, in accordance with paragraphs 2, 3 and 4.</u>  DLA: trade from trade-publication deleted, check at finalization - to be removed through the text
Article 1(6)				
144c		<u>Market operators and investment firms operating a trading venue shall clearly disclose proposed arrangements for deferred trade-publication to market participants and the public. ESMA shall monitor the application of those arrangements for deferred trade-publication and shall submit an annual report to the Commission on how they are used in practice.</u>	<u>Market operators and investment firms operating a trading venue shall clearly disclose proposed arrangements for deferred trade-publication to market participants and the public.</u>	<u>Market operators and investment firms operating a trading venue shall clearly disclose the arrangements for deferred publication to market participants and the public. ESMA shall monitor the application of those arrangements for deferred publication and shall submit a report every two years to the Commission on how they are used in practice.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(6)				
144d		<u>The arrangements for deferred publication shall be organised using the following five categories of transactions related to a bond, structured finance product, emission allowance or derivatives traded on a trading venue:</u>	<u>The arrangements for deferred trade-publication shall be organised by using five categories of transactions related to a class of bond, structured finance product or emission allowance traded on a trading venue:</u>	<u>1a. The arrangements for deferred publication with regard to bonds shall be organised by using five categories:</u>  [TM 20.07: to keep “class of bond”]  [TM 28.08 Council to reflect on the scope of the regime - COM to propose a draft in order to differentiate between bonds and other type of non- equity- new text added]
Article 1(6)				
144e		<u>(a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;</u>	<u>(a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;</u>	<u>(a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;</u>
Article 1(6), numbered paragraph (2), point (a)				
144f		<u>(b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;</u>	<u>(b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;</u>	<u>(b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;</u>
Article 1(6), numbered paragraph (4), point (d)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
144g		<u>(c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;</u>	<u>(c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;</u>	<u>(c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;</u>
Article 1(6), numbered paragraph (4), point (e)				
144h		<u>(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;</u>	<u>(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;</u>	<u>(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;</u>
Article 1(6), numbered paragraph (4)				
144i		<u>(e) category 5: transactions of a very large size, irrespective of the liquidity of the financial instrument.</u>	<u>(e) category 5: transactions of a very large size, irrespective of the liquidity status of the financial instrument.</u>	<u>(e) category 5: transactions of a very large size.</u>  <u>1b. The arrangements for deferred publication with regard to structured finance products or emission allowances traded on a trading venue shall be organised pursuant the regulatory technical standard referred to in paragraph 4.</u>  <u>When the deferral time period lapses, all the details of the transactions on an individual basis shall be published.</u>
Article 1(6)				
144j		<u>2. The competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance</u>	<u>2. The deferrals for categories set in paragraph 1 shall not exceed:</u>	<u>2. The competent authority responsible for supervising one or more trading venues on which a class of bonds, structured finance</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>product, emission allowance or derivative is traded may, where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5)(a), temporarily suspend the obligations referred to in Article 10. That threshold shall be defined based on objective criteria specific to the market for the financial instrument concerned. Such temporary suspension shall be published on the website of the relevant competent authority.</u></p>		<p><u>products or emission allowances is traded may, where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5), point (a), temporarily suspend the obligations referred to in Article 10. That threshold shall be defined based on objective criteria specific to the market for the financial instrument concerned.</u></p> <p><u>Such temporary suspension shall be published on the website of the relevant competent authority and shall be notified to ESMA. ESMA shall also publish that temporary suspension on its website.</u></p> <p><u>ESMA may, in case of an emergency, such as a significant adverse effect on the liquidity of a class of bond, structured finance product or emission allowance traded in the Union, extend the maximum deferral durations set in accordance with the regulatory technical standards adopted pursuant to paragraph 4, point (d). Before deciding on such an extension, ESMA shall consult with any competent authority responsible for supervising one or more trading venues on which that</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 120/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><i>class of bonds, structured finance products or emission allowances is traded. Such extension shall be published on the ESMA website.</i></u></p> <p>[TM 20.07: adjusted as per the agreement in trilogue on 29 June]</p> <p>[TM 28.08 linguistic revision]</p>
Article 1(6)				
144k		<p><u><i>The temporary suspension shall be valid for an initial period not exceeding three months from the date of its publication on the website of the relevant competent authority. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension continue to be applicable. Where the temporary suspension is not renewed after that three month period, it shall automatically lapse.</i></u></p>	<p><u><i>(a) for category 1, for price and volume 15 minutes;</i></u></p>	<p><u><i>The temporary suspension referred to in the first subparagraph or the extension referred to in the second subparagraph shall be valid for an initial period not exceeding three months from the date of its publication on the website of the relevant competent authority or ESMA, respectively. Such a suspension or extension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension or extension continue to be applicable. Where the temporary suspension or extension is not renewed after that three-month period, it shall automatically lapse.</i></u></p>
Article 1(6)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
144l		<u>Before suspending or renewing the temporary suspension of the obligations referred to in Article 10, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and second subparagraphs.</u>	<u>(b) for category 2, for price the end of the trading day and for volume the end of the second trading day;</u>	<u>Before suspending or renewing the temporary suspension as referred to in the first subparagraph, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and third subparagraphs.;</u>
Article 1(6)				
144m			<u>(c) for category 3, for price the end of the second trading day and for volume one week;</u>	[n/a]
Article 1(6)				
144n			<u>(d) for category 4, for price one week and for volume two weeks; and</u>	[n/a]
144o			<u>(e) for category 5, for price and volume four weeks.</u>	[n/a]
Article 1(6)				
144p		<u>2a. With respect to sovereign debt instruments, competent authorities of a sovereign debt instrument may allow, with regard to transactions</u>	<u>3. In addition to the deferred publication as referred to in paragraphs 1 and 2, competent authorities of the Member State of</u>	<u>3. In addition to the deferred publication as referred to in paragraph 1, the competent authority of a Member State may</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 122/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>in that sovereign debt instrument in the Union:</u>	<u>a sovereign debt instrument may, with regard to transactions in that sovereign debt instruments in the Union:</u>	<u>allow, with regard to transactions in sovereign debt instruments issued by that Member State:</u>  [TM 28.08: recital to specify the goal is to allow the NCA to decide on the deferral applicable to their sovereign debt across Europe]
Article 1(6)				
144q		<u>(a) the omission of the publication of the volume of an individual transaction during an extended time period of deferral not exceeding six months; or</u>	<u>(a) allow the omission of the publication of the volume of an individual transaction during an extended time period of deferral; or</u>	<u>(a) the omission of the publication of the volume of an individual transaction for an extended time period not exceeding six months; or</u>  [DLA: language on extended time period to be checked at finalization]
Article 1(6)				
144r		<u>(b) the deferral of the publication of the details of several transactions in an aggregated form for six months.</u>	<u>(b) defer the publication of the details of several transactions for six months.</u>	<u>(b) the publication of the details of several transactions in an aggregated form for an extended time period not exceeding six months.</u>  [TM 28.08: reworked]
Article 1(6)				
				<u>With regard to transactions in sovereign debt instruments not issued by a Member State, decisions in accordance with the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>first subparagraph shall be taken by ESMA.</u></p> <p>[TM 28.08: redrafted as proposed by the SE/ES for simplification purposes]</p>
144s		<p><u>ESMA shall publish on its website the list of the deferred publication related to sovereign debt instruments. ESMA shall monitor the application of those arrangements for deferred publication and shall submit an annual report to the Commission indication how they are used in practice.</u></p>	<p><u>The set deferred publication by competent authorities of Member State in relation to sovereign debt instrument is applicable in the European Union. ESMA shall publish on its website the list of the deferred publication related to sovereign debt instrument. ESMA shall monitor the application of those arrangements for deferred trade-publication and shall submit an annual report to the Commission indication how they are used in practice.</u></p>	<p><u>ESMA shall publish on its website the list of deferrals allowed pursuant the first and second subparagraphs. ESMA shall monitor the application of those arrangements for deferred publication and shall submit a report every two years to the Commission on how they are used in practice.</u></p>
Article 1(6)				
144t		<p><u>When the deferral time period lapses, the outstanding details of the transaction and all the details of the transaction on an individual basis shall be published.</u></p>	<p><u>When the deferral time period lapses, the outstanding details of the transaction and all the details of the transaction on an individual basis shall be published.</u></p>	<p><u>When the deferral time period lapses, all the details of the transactions on an individual basis shall be published.</u></p> <p>[TM 28.08: reworked for clarification]</p>
Article 1(6)				
144u				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>4. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article and under Article 27g:</u>	<u>4. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article as well as under Article 27g:</u>	<u>4. ESMA shall, after consulting the expert stakeholder group established by Article 22b, develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article and under Article 27g:</u>
Article 1(6)				
144v		<u>(a) the details of transactions that investment firms, including systematic internalisers, and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 10(1), including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;</u>	<u>(a) the details of transactions that investment firms, market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 10(1), including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;</u>	<u>(a) the details of transactions that investment firms and market operators shall 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 under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;</u>
Article 1(6)				
144w		<u>(b) the time limit that would be deemed in compliance with the</u>	<u>(b) the time limit that would be deemed in compliance with the</u>	<u>(b) the time limit that would be deemed in compliance with the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>obligation to publish as close to real time as possible, including when trades are executed outside ordinary trading hours;</u>	<u>obligation to publish as close to real time as technically possible including when trades are executed outside ordinary trading hours; ESMA shall regularly review this time limit and adjust it in line with technological developments;</u>	<u>obligation to publish as close to real time as technically possible including when trades are executed outside normal trading hours;</u>
Article 1(6)				
144x		<u>(c) for the purposes of determining the categories referred to in paragraph 1, the third subparagraph of this Article, what constitutes a transaction of a medium, large and very large size in a liquid and illiquid financial instrument as referred to in paragraph 1, third subparagraph, of this Article and in Article 21(1);</u>	<u>(c) what constitutes a transaction of a medium, large and very large size in a liquid and illiquid financial instrument as referred to in paragraph 1, third subparagraph, based on quantitative and qualitative research taking into account the criteria in Article 2(1)(17)(a) and other relevant criteria where applicable;</u>	<u>c) what constitutes a transaction of a medium, large and very large size in a liquid and illiquid class of bond as referred to in paragraph 1a based on quantitative and qualitative analysis and taking into account the criteria in Article 2(1), point (17)(a), and other relevant criteria where applicable;</u>
Article 1(6)				
144y		<u>(d) the price and volume deferrals applicable to each of the five categories set out in the paragraph 1, the third subparagraph, points (a)-(e), applying the following maximum durations:</u>	<u>(d) the price and volume deferrals applicable to each of the five categories in paragraph 1, subparagraph 3 that are shorter than deferrals set up in paragraph 2; the shortening shall be based on quantitative and qualitative</u>	<u>(d) with regards to classes of bonds, the price and volume deferrals applicable to each of the five categories set out in the paragraph 1a, third subparagraph, points (a) to (e), applying the following maximum durations:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>research to assess the impact of the decrease.</u>	
Article 1(6)				
144z		<u>(i) for transactions in category 1: a price deferral and a volume deferral not exceeding 15 minutes;</u>		<u>(i) for transactions in category 1: a price deferral and a volume deferral not exceeding 15 minutes;</u>
Article 1(6)				
144aa		<u>(ii) for transactions in category 2: a price deferral and a volume deferral not exceeding the end of the trading day;</u>		<u>(ii) for transactions in category 2: a price deferral and a volume deferral not exceeding the end of the trading day;</u>
Article 1(6)				
144ab		<u>(iii) for transactions in category 3: a price deferral not exceeding the end of the trading day and a volume deferral not exceeding one week following the transaction date;</u>		<u>(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;</u>
Article 1(6)				
144ac		<u>(iv) for transactions in category 4: a price deferral not exceeding the end of the trading day and a volume deferral not exceeding two weeks following the transaction date;</u>		<u>(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;</u>
Article 1(6)				
144ad		<u>(v) for transactions in category 5: a price deferral and a volume</u>		<u>(v) for transactions in category 5: a price deferral and a volume</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 127/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>deferral not exceeding four weeks following the transaction date.</u>		<u>deferral not exceeding four weeks after the transaction date.</u>
Article 1(6)				
144ae		<u>For each of the categories set out under paragraph 1, the third subparagraph, points (a)-(e), ESMA shall regularly recalibrate the applicable deferral duration with the aim of gradually decreasing it where appropriate. Six months after the decreased deferral durations become applicable, ESMA shall perform a quantitative and qualitative review to assess the effects of the decrease. Where available, ESMA shall use the post-trade transparency data published by the consolidated tape for this purpose. If adverse effects to the financial instruments appear, ESMA shall increase the deferral duration back to the previous level.</u>	<u>For each of the above categories ESMA shall regularly, recalibrate the applicable deferral duration, with the aim to gradually decrease them where appropriate. A year after the decreased deferral durations become applicable ESMA shall perform quantitative and qualitative research to assess the impact of the decrease. Where available ESMA shall use the post-trade transparency data published by the consolidated tape for this purpose. If adverse effects to the financial instruments appear, ESMA shall increase the deferral window back to its previous state.</u>	<u>(da) the arrangements for deferred publication with regards to structured financed products and emission allowances based on quantitative and qualitative analysis and taking into account the criteria in Article 2(1), point (17)(a), and other relevant criteria where applicable;</u>  <u>(e) the criteria to be applied when determining the size or type of a transaction for which the following is allowed under paragraph 3:</u>  <u>(i) omission of the publication of the volume of a transaction for an extended time period, or</u>  <u>(ii) publication of details of several transactions in an aggregated form.</u>
Article 1(6)				
				<u>[TM 28.08: previous point f deleted as per the changes made to paragraph 3 second subparagraph]</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
144af			<u>(e) the criteria to be applied when determining the size or type of a transaction for which publication of details of several transactions in an aggregated form, or omission of the publication of the volume of a transaction with particular reference to allowing an extended length of time of deferral for certain financial instruments depending on their liquidity, is allowed under paragraph 3.</u>	<u>For each of the categories set out under paragraph 1, third subparagraph, points (a) to (e), ESMA shall regularly update the draft regulatory technical standards referred to in the first subparagraph, point (d), 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 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 published by the consolidated tape 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 of this paragraph to increase the deferral duration back to the previous level.</u>
Article 1(6)				
144ag		<u>4b. ESMA shall submit the draft regulatory technical standards</u>	<u>ESMA shall submit those draft regulatory technical standards to</u>	<u>ESMA shall submit the draft regulatory technical standards</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>referred to in paragraph 4 to the Commission by ... [six months after the date of entry into force of this amending Regulation].</u>	<u>the Commission by [9 months from publication in Official Journal].</u>	<u>referred to in the first subparagraph to the Commission by ... [12 months after the date of entry into force of this amending Regulation].</u>
Article 1(6)				
144ah		<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>
Article 1(6a), introductory part				
144ai			<u>(6a) the following Article 11a is added:</u>	<u>(6a) the following article is inserted:</u>
Article 1(6a)				
144aj			<u>'Article 11a Deferred publication for derivatives</u>	<u>'Article 11a Deferred publication for derivatives</u>
Article 1(6a), numbered paragraph (1)				
144ak			<u>1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of</u>	<u>1. Market operators and investment firms operating a trading venue may defer the publication of the details of transactions executed in respect of exchange-traded derivatives and in</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 130/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>exchange-traded derivatives and in respect of OTC Derivatives as referred to in Article 8a(1) second subparagraph, including the price and the volume, in accordance with paragraphs 2 and 3. The deferrals shall be based on the liquidity of a class of derivatives in accordance with Article 2(1)(17) point (a), and on the size of the transaction.</u>	<u>respect of OTC derivatives as referred to in Article 8a(1a), including the price and the volume, in accordance with paragraphs 2 and 3.</u>
Article 1(6a), numbered paragraph (1)				
144al			<u>Market operators and investment firms operating a trading venue shall clearly disclose those arrangements to market participants and the public.</u>	<u>Market operators and investment firms operating a trading venue shall clearly disclose the arrangements for deferred publication to market participants and the public. ESMA shall monitor the application of those arrangements for deferred publication and shall submit a report every two years to the Commission on how they are used in practice.</u>
Article 1(6a), numbered paragraph (1)				
144am			<u>The duration of deferrals will be determined by ESMA in accordance with paragraph 3, using complete and accurate market data, according to the</u>	<u>The arrangements for deferred publication shall be organised by using five categories of transactions related to a class of exchange-traded derivatives or of</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 131/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>following categories of transactions in derivatives:</u>	<u>OTC derivatives as referred to in Article 8a(1a):</u>
Article 1(6a), numbered paragraph (1), point (a)				
144an			<u>(a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;</u>	<u>(a) category 1: transactions of a medium size in a financial instrument for which there is a liquid market;</u>
Article 1(6a), numbered paragraph (1), point (b)				
144ao			<u>(b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;</u>	<u>(b) category 2: transactions of a medium size in a financial instrument for which there is not a liquid market;</u>
Article 1(6a), numbered paragraph (1), point (c)				
144ap			<u>(c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;</u>	<u>(c) category 3: transactions of a large size in a financial instrument for which there is a liquid market;</u>
Article 1(6a), numbered paragraph (1), point (d)				
144aq			<u>(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;</u>	<u>(d) category 4: transactions of a large size in a financial instrument for which there is not a liquid market;</u>
Article 1(6a), numbered paragraph (1), point (e)				
144ar				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 132/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(e) category 5: transactions of a very large size, irrespective of the liquidity status of the financial instrument.</u>	<u>(e) category 5: transactions of a very large size.</u>
Article 1(6a), numbered paragraph (1)				
	144as		<u>When the deferral time period lapses, the outstanding details of the transaction and all the details of the transaction on an individual basis shall be published.</u>	<u>When the deferral time period lapses, all the details of the transactions on an individual basis shall be published.</u>  [TM 28.08: adjusted and in line with article 11]
Article 1(6a), numbered paragraph (2)				
	144at		<u>2. The duration of deferrals will be based on the categories as referred to in paragraph 1, third subparagraph, and determined by ESMA in accordance with paragraph 3, using complete and accurate market data. The initial time deferral may be combination of any of the following durations: 15 minutes, the end of a trading day, the end of the second trading day, a week, two weeks, four weeks, or two months.</u>	[TM 28.08: former wording considered redundant as per paragraph 3 below- therefore it is deleted]  <u>2. The competent authority responsible for supervising one or more trading venues on which a class of exchange-traded derivatives or of derivatives as referred to in Article 8a(1a) is traded may, where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5), point (a), temporarily suspend the obligations referred to in Article 10. That threshold shall</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 133/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>be defined based on objective criteria specific to the market for the financial instrument concerned.</u></p> <p><u>Such temporary suspension shall be published on the website of the relevant competent authority and shall be notified to ESMA. ESMA shall also publish that temporary suspension on its website.</u></p> <p><u>ESMA may, in case of an emergency, such as a significant adverse effect on the liquidity of a class of exchange-traded derivatives or of derivatives as referred to in Article 8a(1a) traded in the Union, extend the maximum deferral durations set in accordance with the regulatory technical standards adopted pursuant to paragraph 3, point (e). Before deciding on such an extension, ESMA shall consult with any competent authority responsible for supervising one or more trading venues on which that class of exchange-traded derivatives or of derivatives as referred to in Article 8a(1a), is traded. Such extension shall be published on the ESMA website.</u></p> <p><u>The temporary suspension referred to in the first subparagraph or the</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 134/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>extension referred to in the second subparagraph shall be valid for an initial period not exceeding three months from the date of its publication on the website of the relevant competent authority or ESMA, respectively. Such a suspension or extension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension or extension continue to be applicable. Where the temporary suspension or extension is not renewed after that three-month period, it shall automatically lapse.</u></p> <p><u>Before suspending or renewing the temporary suspension as referred to in the first subparagraph, the relevant competent authority shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and third subparagraphs.;</u></p>
Article 1(6a), numbered paragraph (3)				
144au				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>3. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article and Article 27g:</u>	<u>3. ESMA shall, after consulting the expert stakeholder group established by Article 22b, develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under this Article and under Article 27g:</u>
Article 1(6a), numbered paragraph (3), point (a)				
144av			<u>(a) the details of transactions that investment firms, market operators and investment firms operating a trading venue shall make available to the public for each class of derivatives, published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;</u>	<u>(a) the details of transactions that investment firms and market operators shall make available to the public for each class of derivatives as referred to in paragraph 1 of this Article, including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the derivatives and those determined by other factors;</u>
Article 1(6a), numbered paragraph (3), point (b)				
144aw			<u>(b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including</u>	<u>(b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as technically possible</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>when trades are executed outside ordinary trading hours;</u>	<u>including when trades are executed outside ordinary trading hours;</u>
Article 1(6a), numbered paragraph (3), point (c)				
144ax			<u>(c) the conditions under which investment firms, and market operators and investment firms operating a trading venue, may provide for deferred publication of details of transactions for each class of derivatives concerned in accordance with paragraph 1 and 2 and Article 21 (4);</u>	[TM 28.08: deleted - conditions are already established in this article]
Article 1(6a), numbered paragraph (3), point (d)				
144ay			<u>(d) what constitutes a transaction of a medium, large and very large size in a liquid and illiquid derivatives as referred to in paragraph 1, third sub-paragraph, based on analysis of the market data taking into account characteristics of the market for a class of derivatives including its liquidity as defined in Article 2 (1)(17)(a);</u>	<u>(d) what constitutes a transaction of a medium, large and very large size in a liquid or illiquid derivative as referred to in paragraph 1, third sub-paragraph, based on a quantitative and qualitative analysis and taking into account the criteria in Article 2 (1), point (17)(a), and other relevant criteria where applicable;</u>
Article 1(6a), numbered paragraph (3), point (e)				
144az			<u>(e) assigning the appropriate time deferral of price and volume for</u>	<u>(e) the price and volume deferrals applicable to each of the five</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 137/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>each of the categories of transactions as referred to in paragraph 1 based on analysis of the market data and the market performance of the derivative or a class of derivatives, liquidity of a class of derivatives in accordance with Article 2(1)(17)(a), and on the size of the transaction.</u></p>	<p><u>categories set out in the paragraph 1, third subparagraph, points (a) to (e), based on a quantitative and qualitative analysis and taking into account the criteria in Article 2 (1), point (17)(a), the size of the transaction and other relevant criteria where applicable;</u></p>
Article 1(6a), numbered paragraph (3)				
144ba			<p><u>For each category ESMA shall regularly recalibrate the applicable deferral duration with the aim to gradually decrease them where appropriate based on quantitative and qualitative research to assess the impact of the decrease.</u></p>	<p><u>For each of the categories set out under paragraph 1, third subparagraph, points (a) to (e), ESMA shall regularly update the draft regulatory technical standards referred to in the first subparagraph of this paragraph to recalibrate the applicable deferral duration with the aim of gradually decreasing it where appropriate. No later than one year after 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 published by the consolidated tape for this purpose. If adverse effects to the financial instruments appear, ESMA shall update the draft regulatory technical standards referred to in the first</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>subparagraph of this paragraph to increase the deferral duration back to the previous level.</u>
Article 1(6a), numbered paragraph (3)				
144bb			<u>ESMA shall submit those draft regulatory technical standards to the Commission by [9 months from publication in Official Journal].</u>	<u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [18 months after the date of entry into force of this amending Regulation].</u>
Article 1(6a), numbered paragraph (3)				
144bc			<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>	<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>
Article 1(6a), numbered paragraph (3)				
144bd			<u>ESMA shall review the regulatory technical standards in conjunction with the expert stakeholder group under article 22(b) and amend the standards to take into account substantial changes in calibration of categories under the first subparagraph point (d) and second subparagraph of this paragraph.;</u>	<u>ESMA shall review the regulatory technical standards in conjunction with the expert stakeholder group under article 22b and amend the standards to take into account substantial changes in calibration of categories under the first subparagraph point (d) and second subparagraph of this paragraph.;</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 139/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(6b), introductory part				
144be			<u>(6b) Article 12, paragraph 1 is replaced by the following:</u>	<u>(6b) in Article 12, paragraph 1 is replaced by the following:</u>
Article 1(6b), amending provision, numbered paragraph (1)				
144bf			<u>'1. Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11a available to the public by offering pre-trade and post-trade transparency data separately.'</u>	<u>'1. Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11a available to the public by offering pre-trade and post-trade transparency data separately.'</u>
Article 1(7), introductory part				
145	(7) in Article 13, the following paragraph 3 is added:	(7) <del>in Article 13, the following paragraph 3 is added</del> <u>is replaced by the following:</u>	(7) <del>in Article 13, the following paragraph 3 is added</del> <u>is replaced by the following:</u>	(7) <del>in Article 13, the following paragraph 3 is added</del> <u>is replaced by the following:</u>  [TM 28.08: Might be better placed after the clock synchronisation article (i.e. 22d) as it applies across the board]
Article 1(7), amending provision				
145a			<u>'Article 13 Obligation to make pre-trade and post-trade data available on a reasonable commercial basis</u>	<u>'Article 13 Obligation to make pre-trade and post-trade data available on a reasonable commercial basis</u>
Article 1(7), amending provision, numbered paragraph (1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
145b		<p><u>1. Market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers shall make the information published in accordance with Article 3 and Article 4, Articles 6 to 11, and Articles 14, 20, 21, 27g and 27h, available to the public on a reasonable commercial basis and ensure non-discriminatory access to the information. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall make such information available free of charge 15 minutes after publication.</u></p>	<p><u>1. Market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers shall make the information published in accordance with Articles 3, 4, 6 to 11a, 14, 20, 21, 27g and 27h, available to the public on a reasonable commercial basis, which means that the price of market data shall be based on the costs of producing and disseminating such data and may include a reasonable margin, and ensure non-discriminatory access to the information. Market operators and investment firms operating a trading venue, APAs and systematic internalisers shall make such information available in a machine readable format as well as readable for retail customer and free of charge 15 minutes after publication.</u></p>	<p><u>1. Market operators and investment firms operating a trading venue, APAs and CTPs shall make available to the public the information published in accordance with Articles 3, 4, 6 to 11a, 14, 20, 21, 27g and 27h, on a reasonable commercial basis and ensure non-discriminatory access to such data. They shall also make available to the public the arrangements they employ for making public such information on a reasonable commercial basis.</u></p> <p><u>Market operators and investment firms operating a trading venue, APAs shall make such data available free of charge 15 minutes after publication in a format that is machine readable and utilisable for all users, including retail investors.</u></p> <p>[TM3: 11a to be defined. last sentence left for linguistic revision]</p> <p>[TM 28.08: reworked to align language to Article 27h]</p> <p>[TM 04.09: language of the first and second subparas adjusted as per the input received from ESMA]</p>
Article 1(7), amending provision, numbered paragraph (2)				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 141/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
145c		<u>2. Providing data on a reasonable commercial basis means that the price of market data shall be based on the cost of producing and disseminating such data and may include a reasonable margin.</u>		<u>2. For the purposes of paragraph 1, the price of that information shall be based on the cost of producing and disseminating such information and may include a reasonable margin.</u>  [TM 28.08: language adapted accordingly to level 2 measure]
Article 1(7), amending provision, numbered paragraph (2a)				
145d		<u>2a. Market operators and investment firms operating a trading venue, APAs, CTPs and systematic internalisers shall, upon request, provide the competent authorities and ESMA with information on the actual costs of producing and disseminating market data including the margins.</u>		<u>2a. Market operators and investment firms operating a trading venue, APAs and CTPs shall, upon request, provide their competent authorities with information on the actual costs of producing and disseminating the information referred to in paragraph 1, including the margins.</u>
Article 1(7), amending provision, numbered paragraph (3), introductory part				
146	3. ESMA shall develop draft regulatory technical standards to specify the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public.	3. ESMA shall develop draft regulatory technical standards to <del>specify the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public.:</del>	<del>3.2.</del> ESMA shall develop draft regulatory technical standards to specify <u>what constitutes reasonable commercial basis, as well as</u> the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public.	3. ESMA shall develop draft regulatory technical standards to <del>specify the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public.:</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(7), amending provision, numbered paragraph (3a)				
146a		(a) specify <u>what constitutes a reasonable commercial basis, as well as</u> the content, format and terminology of the reasonable commercial basis information that trading venues, APAs, CTPs and systematic internalisers have to make available to the public;		(a) <u>further specify what constitutes a reasonable commercial basis</u>  (aa) <u>specify the arrangements to be employed for demonstrating that the information referred to in paragraph 1 is made available on a reasonable commercial basis.</u>  [28.08: language reworked]  [TM 04.09: reworked according to ESMA feedback - further adjustment needed in order to consider the existing guidelines]
Article 1(7), amending provision, numbered paragraph (3b)				
146b		(b) <u>specify the frequency, contact details and format of the information to be provided to the competent authorities and ESMA in accordance with paragraph 2a;</u>		(b) <u>specify the content and format of the information to be provided to the competent authorities and ESMA in accordance with paragraph 2a;</u>
Article 1(7), amending provision, numbered paragraph (3c)				
146c		(c) <u>identify the cost criteria of producing and disseminating market data resulting from trading activities and specify what constitutes a reasonable margin that market operators and</u>		(c) <u>identify the cost criteria of producing and disseminating the information referred to in paragraph 1 market data resulting from trading activities and specify what constitutes a reasonable</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 143/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>investment firms operating a trading venue, APAs, CTPs and systematic internalisers shall follow to comply with Article 13(2).</u>		<u>margin as referred to in paragraph 2.</u>
Article 1(7), amending provision, numbered paragraph (3), first paragraph				
146d		<u>ESMA shall regularly monitor the developments in market data costs and the levels of compliance with the rules, and shall regularly update its draft regulatory technical standards in light of the result of its assessment.</u>		n/a [TM3: to drop] [TM 28.08: specify in a recital the need for ESMA to assess the developments in order to update RTS in general]
Article 1(7), amending provision, numbered paragraph (3), second paragraph				
147	ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <u>OP please insert XX months after entry into force</u> <del>OP please insert nine months after entry into force</del> ].	ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <u>nine months after the date of entry into force of this amending Regulation</u> ] <del>OP please insert nine months after entry into force</del> ].  [TM3: timing to submit to RTS to check at the end with timing of other RTS]
Article 1(7), amending provision, numbered paragraph (3), third paragraph				
148	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance	Power is delegated to the Commission to <u>supplement this Regulation by adopting</u> the regulatory technical standards

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;
Article 1(8)				
149	(8) Article 14 is amended as follows:	(8) Article 14 is amended as follows:	(8) <del>in Article 14, paragraphs 2 and 3 are deleted;</del> <u>is amended as follows:</u>	(8) Article 14 is amended as follows:  [TM 1: technical agreement: ESMA to define the threshold (as proposed by EP) but to be defined as from the min market standard size)]
Article 1(8), point (a)				
150	(a) paragraphs 2 and 3 are replaced by the following:	(a) paragraphs 2 and 3 are replaced by the following:	(a) <del>paragraphs 2 and 3 are replaced by the following:</del>	(a) paragraphs 2 and 3 are replaced by the following:
Article 1(8), point (a), amending provision, numbered paragraph (2)				
151	‘2. This Article and Articles 15, 16 and 17 shall apply to systematic internalisers when they deal in sizes up to twice the standard market size. Systematic internalisers shall not be subject to this Article and Articles 15, 16 and 17 when they deal in sizes above twice the standard market size.	‘2. This Article and Articles 15, 16 and 17 shall apply to systematic internalisers when they deal in sizes up to <del>twice the standard market size</del> <u>the threshold determined by ESMA in accordance with Article 4(6)(ea)</u> . Systematic internalisers shall not be subject to this Article and Articles 15, 16 and 17 when they deal in sizes above <del>twice the standard market size</del> <u>that threshold</u> .	‘2. <del>This Article and Articles 15, 16 and 17 shall apply to systematic internalisers when they deal in sizes up to twice the standard market size. Systematic internalisers shall not be subject to this Article and Articles 15, 16 and 17 when they deal in sizes above twice the standard market size.</del>	‘2. This Article and Articles 15, 16 and 17 shall apply to systematic internalisers when they deal in sizes up to <u>and including twice the standard market size</u> the <u>threshold determined in the regulatory technical standards adopted pursuant to paragraph 7, point (b), of this Article</u> . <del>Systematic internalisers shall not be subject to this Article and Articles 15, 16 and 17 when they deal in sizes above twice the standard market.</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 07.09: ESMA reference replaced by RTS mention]
Article 1(8), point (a), amending provision, numbered paragraph (3)				
152	<p>3. Systematic internalisers are allowed to quote any size. The minimum quoting size shall be at least the equivalent of twice the standard market size of a share, depositary receipt, ETF, certificate, or other financial instrument that is similar to those financial instruments and that is traded on a trading venue. For a particular share, depositary receipt, ETF, certificate or other financial instrument that is similar to those financial instruments and that is traded on a trading venue, each quote shall include a firm bid and offer price, or firm bid and offer prices for a size or sizes which could be up to twice the standard market size for the class of shares, depositary receipts, ETFs, certificates or financial instruments that are similar to those financial instruments, to which the financial instrument belongs. The price or prices shall reflect the prevailing market conditions for that share, depositary receipt, ETF, certificate or financial instrument that is</p>	<p>3. Systematic internalisers <del>are allowed to quote any size. The</del> minimum quoting size shall be <del>at least the equivalent of twice the standard market size of a share, depositary receipt, ETF, certificate, or other financial instrument that is similar to those financial instruments and that is traded on a trading venue</del> <u>determined by ESMA in accordance with paragraph 7.</u> For a particular share, depositary receipt, ETF, certificate or other financial instrument that is similar to those financial instruments and that is traded on a trading venue, each quote shall include a firm bid and offer price, or firm bid and offer prices for a size or sizes which could be up to <del>twice the standard market size for the class of shares, depositary receipts, ETFs, certificates or financial instruments that are similar to those financial instruments, to which the financial instrument belongs</del> <u>the threshold determined by ESMA in accordance with paragraph 7.</u> The price or prices shall reflect the prevailing market conditions for</p>	<p>3. <del>Systematic internalisers are allowed to quote any size. The</del> minimum quoting size shall be <del>at least the equivalent of twice the standard market size of a share, depositary receipt, ETF, certificate, or other financial instrument that is similar to those financial instruments and that is traded on a trading venue. For a particular share, depositary receipt, ETF, certificate or other financial instrument that is similar to those financial instruments and that is traded on a trading venue, each quote shall include a firm bid and offer price, or firm bid and offer prices for a size or sizes which could be up to twice the standard market size for the class of shares, depositary receipts, ETFs, certificates or financial instruments that are similar to those financial instruments, to which the financial instrument belongs. The price or prices shall reflect the prevailing market conditions for that share, depositary receipt, ETF, certificate or financial instrument that is</del></p>	<p>3. <u>The minimum quote size of</u> systematic internalisers <del>are allowed to quote any size. The</del> minimum quoting size shall be <del>at least the equivalent of twice the standard market size of a share, depositary receipt, ETF, certificate, or other financial instrument that is similar to those financial instruments and that is traded on a trading venue</del> <u>determined in the regulatory technical standards adopted pursuant to paragraph 7, point (c).</u> For a particular share, depositary receipt, ETF, certificate or other similar financial instruments-traded on a trading venue, each quote shall include a firm bid and offer price for a size which could be up <del>twice the standard market size for the class of shares, depositary receipts, ETFs, certificates or financial instruments that are similar to those financial instruments, to which the financial instrument belongs</del> <u>to that threshold.</u> The price shall reflect the prevailing market conditions for that share, depositary receipt, ETF, certificate or other similar financial instrument.;</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	similar to those financial instruments.;	that share, depositary receipt, ETF, certificate or financial instrument that is similar to those financial instruments.;	<del>similar to those financial instruments.;</del>	[TM 28.08: language adjusted]  [TM 07.09: ESMA reference replaced by RTS mention]
Article 1(8), point (b)				
153	(b) the following paragraph 6a is inserted:	(b) the following paragraph 6a is inserted:	(b) <del>the following paragraph 6a is inserted:</del>	<del>(b) the following paragraph 6a is inserted:</del>  [TM 28.08: paragraph 6a deleted - covered by paragraph 7]
Article 1(8), point (b), amending provision, first paragraph				
154	'6a. Systematic internalisers shall not match orders at the mid-point within the current bid and offer prices.;	'6a. <del>Systematic internalisers shall not match orders at the mid-point within the current bid and offer prices.;</del> <u>ESMA shall, taking into consideration efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments as well as the provision of favourable deals for investment firm clients, assess the appropriateness of the threshold for:</u>	'6a. <del>Systematic internalisers shall not match orders at the mid-point within the current bid and offer prices.;</del>	<del>Systematic internalisers shall not match orders at the mid-point within the current bid and offer prices.;</del>  [TM3: agreement to merge paragraphs 6a and 7- to consider DLA suggestion provided in writing]  [TM 28.08: paragraph 6a deleted - covered by paragraph 7]
Article 1(8), amending provision				
154a		<u>(a) the arrangements for the publication of a firm quote as referred to in paragraph 1;</u>		[TM 28.08: paragraph 6a deleted - covered by paragraph 7]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(8), amending provision				
154b		<u>(b) the size below which this Article and Articles 15, 16 and 17 shall apply to systematic internalisers as referred to in paragraph 2;</u>		<i>[Deleted: PM this is in ESMA's RTS empowerment in para 7]</i>  <i>[TM 28.08: paragraph 6a deleted - covered by paragraph 7]</i>
Article 1(8), amending provision				
154c		<u>(c) the minimum quoting sizes as referred to in paragraph 3;</u>		<i>[Deleted: PM this is in ESMA's RTS empowerment in para 7]</i>  <i>[TM 28.08: paragraph 6a deleted - covered by paragraph 7]</i>
Article 1(8), amending provision				
154d		<u>(d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3; and</u>		<i>[TM 28.08: paragraph 6a deleted - covered by paragraph 7]</i>
Article 1(8), amending provision				
154e		<u>(e) the standard market size as referred to in paragraph 4</u>		<i>[TM 28.08: paragraph 6a deleted - covered by paragraph 7]</i>
Article 1(8), amending provision				
154f		<u>On the basis of the assessment referred to in the first subparagraph, ESMA shall develop draft regulatory technical standards to modify the thresholds</u>		<i>[TM 28.08: paragraph 6a deleted - covered by paragraph 7]</i>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 148/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>referred to in points (a)-(e), where appropriate.</u>		
Article 1(8), amending provision				
154g		<u>ESMA shall submit those draft regulatory technical standards to the Commission by 31 December 2024.</u>		[TM 28.08: paragraph 6a deleted - covered by paragraph 7]
Article 1(8), amending provision				
154h		<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>		[TM 28.08: paragraph 6a deleted - covered by paragraph 7]
Article 1(8), amending provision				
154i		<u>(ba) in paragraph 7, the first subparagraph is replaced by the following:</u>		<u>(c) paragraph 7 is replaced by the following:</u>
Article 1(8), amending provision				
154j		<u>'In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility of</u>		<u>'7. In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility of</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 149/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>investment firms to obtain the best deal for their clients, ESMA shall develop draft regulatory technical standards to specify further the arrangements for the publication of a firm quote as referred to in paragraph 1, the determination of the minimum quoting sizes as referred to in paragraph 3, and of the standard market size as referred to in paragraph 4.'</u></p>		<p><u>investment firms to obtain the best deal for their clients, ESMA shall develop draft regulatory technical standards to specify:</u></p> <p><u>(a) the arrangements for the publication of a firm quote as referred to in paragraph 1;</u></p> <p><u>(b) the determination of the threshold below which this Article and Articles 15, 16 and 17 apply, which shall take into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation and which shall not be below twice the standard market size;</u></p> <p><u>(c) the determination of the minimum quote sizes as referred to in paragraph 3, which shall not exceed 90 % of the threshold referred to in point (b) and which shall not be below the standard market size;</u></p> <p><u>(d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3; and</u></p> <p><u>(e) the standard market size as referred to in paragraph 4.'</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 150/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the date of entry into force of this amending Regulation].</u></p> <p><u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u></p> <p><i>[DLA - in line with the changes to be made on 6a and 7, to also consider to update the ddl for ESMA to develop the RTS. Consider to insert a point d on (d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3;]</i></p>
Article 1(8), amending provision				
154k		<u>(8a) Article 15 is amended as follows:</u>		<u>(8a) Article 15 is amended as follows:</u>
154l		<u>a) in paragraph 1, the following subparagraphs are added:</u>		<u>a) in paragraph 1, the following subparagraphs are added:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(8), amending provision				
154m		<u>'Upon the request of competent authorities, systematic internalisers shall provide the competent authority with a detailed description of the functioning of the systematic internaliser, including any links to or participation by a regulated market, an MTF, an OTF or a systematic internaliser owned by the same investment firm.'</u>		<u>'Upon the request of competent authorities, systematic internalisers shall provide the competent authority with a detailed description of the functioning of the systematic internaliser, including any links to or participation by a regulated market, an MTF, an OTF or a systematic internaliser owned by the same investment firm.'</u>  [TM 28.08: aim of the EP suggestion to be clarified]
Article 1(8), amending provision				
154n		<u>Competent authorities shall make that information available to ESMA on request.</u>		<u>Competent authorities shall make the information referred to in the fourth subparagraph available to ESMA upon request.</u>
Article 1(8), amending provision				
154o		<u>Systematic internalisers shall establish and implement transparent and non-discriminatory rules and objective criteria for the efficient execution of orders. They shall have arrangements for the sound management of their technical operations, including the</u>		[TM 28.08: aim of the EP suggestion to be clarified]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i><u>establishment of effective contingency arrangements to cope with risks of systems disruption.</u></i> ;		
Article 1(8), amending provision				
154p		<i><u>(b) paragraph 5 is replaced by the following:</u></i>		<i><u>(b) paragraph 5 is replaced by the following:</u></i>
Article 1(8), amending provision				
154q				<i><u>'5. ESMA shall develop draft implementing technical standards to determine the content and format of the notification referred to in paragraph 1, second subparagraph, and the content and format of the description referred to in paragraph 1, fourth subparagraph.</u></i>
Article 1(8), amending provision				
154r		<i><u>ESMA shall submit those draft implementing technical standards to the Commission by ... [six months after the date of entry into force of this amending Regulation].</u></i>		<i><u>ESMA shall submit those draft implementing technical standards to the Commission by ... [12 months after the date of entry into force of this amending Regulation].</u></i>
Article 1(8), amending provision				
154s		<i><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</u></i>		<i><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</u></i>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 153/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</u> ’;		<u>subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</u> ’;
Article 1(8), amending provision				
154t		<u>(8b) in Article 16, points (a) and (b) are replaced by the following:</u>		<u>(8b) Article 16 is replaced by the following:</u>
Article 1(8), amending provision				
154u		<u>‘(a) that firms that meet the definition of systematic internaliser comply with the conditions for order execution laid down in Article 15(1);</u>		<u>‘Article 16 Obligations of competent authorities</u>  <u>The competent authorities shall check that systematic internalisers comply with the conditions for order execution laid down in Article 15(1) and with the conditions for price improvement laid down in Article 15(2).’;</u>
Article 1(8), amending provision				
154v		<u>(b) that firms that meet the definition of systematic internaliser comply with the conditions for price improvement laid down in Article 15(2).’;</u>		n/a  [TM 28.08: lines merge for simplification]
Article 1(9)				
155	(9) Article 17a is replaced by the following:	(9) Article 17a is replaced by the following:	(9) Article 17a is replaced by the following:	(9) Article 17a is replaced by the following:

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 154/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(9), amending provision, first paragraph				
156	'Article 17a Tick sizes	'Article 17a Tick sizes	'Article 17a Tick sizes	'Article 17a Tick sizes
Article 1(9), amending provision, numbered paragraph (1)				
157	1. Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.	1. Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.	1. Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.	1. Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.
Article 1(9), amending provision, numbered paragraph (2)				
158	2. The application of the tick sizes set in accordance with Article 49 of Directive 2014/65/EU shall not prevent systematic internalisers from matching orders large in scale at mid-point within the current bid and offer prices. Matching orders at mid-point within the current bid and offer prices below large in scale but above twice the standard market size shall be allowed in so far as those tick sizes are complied with.;	2. The application of the tick sizes set in accordance with Article 49 of Directive 2014/65/EU shall not prevent systematic internalisers from matching orders <del>large in scale at mid-point within the current bid and offer prices. Matching orders at mid-point within the current bid and offer prices</del> <del>below large in scale but for sizes</del> above <del>twice the standard market size shall be allowed in so far as those tick sizes are complied with</del> <u>the threshold determined by ESMA in accordance with Article 4(6)(ea).</u> ;	2. The application of the tick sizes set in accordance with Article 49 of Directive 2014/65/EU shall not prevent systematic internalisers from matching orders <del>large in scale at mid-point within the current bid and offer prices. Matching orders at mid-point</del> <u>at mid-point</u> within the current bid and offer prices <del>below large in scale but above twice the standard market size shall be allowed in so far as those tick sizes are complied with.</del> ;	<i>[TM 1: technical agreement: Council text]</i> 2. The application of the tick sizes set in accordance with Article 49 of Directive 2014/65/EU shall not prevent systematic internalisers from matching orders <del>large in scale at mid-point within the current bid and offer prices. Matching orders at mid-point</del> <u>at midpoint</u> within the current bid and offer prices <del>below large in scale but above twice the standard market size shall be allowed in so far as those tick sizes are complied with.</del> ;
Article 1(9), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
158a		<u>9a. Article 18 is replaced by the following:</u>	<u>(9a) Article 18, paragraphs 1 to 3, and 5 to 11 are deleted;</u>	<p>[TM 1: technical agreement: to keep EP approach on Article 18]</p> <p>[TM 8 June: technical team had decided eventually to keep Council position - changes to 4CT now implemented]</p> <p><u>(9a) Articles 18 and 19 are deleted;</u></p> <p>[TM 20.07: Article 18 eventually deleted as per the proposal of the COM and agreed with the Council]</p>
Article 1(9), amending provision				
158b		<u>'Obligation for systematic internalisers to make public firm quotes in respect of bonds, structured finance products, emission allowances and derivatives</u>		deleted
Article 1(9), amending provision				
158c		<u>1. Investment firms shall make public firm quotes in respect of bonds, structured finance products, emission allowances traded on a trading venue and derivatives subject to the clearing obligation set out in Article 4 of Regulation (EU) No 648/2012, for which they are systematic internalisers and for which there is a liquid market</u>		deleted

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 156/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>when the following conditions are fulfilled:</u>		
Article 1(9), amending provision				
158d		<u>(a) they are prompted for a quote by a client of the systematic internaliser;</u>		deleted
Article 1(9), amending provision				
158e		<u>(b) they agree to provide a quote.</u>		deleted
Article 1(9), amending provision				
158f		<u>2. Systematic internalisers may update their quotes at any time.</u>		deleted
Article 1(9), amending provision				
158g		<u>3. Member States shall require that firms that meet the definition of systematic internalisers notify their competent authority, specifying the financial instruments for which they meet the definition of systematic internaliser. Such notification shall be transmitted to ESMA within one working day.</u>		deleted
Article 1(9), amending provision				
158h		<u>ESMA shall establish a register of all systematic internalisers in the</u>		deleted

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 157/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>Union, including the details of systematic internalisers at the level of an individual financial instrument. That list shall be updated by ESMA without delay and within one working day of the competent authority transmitting to it a notification in accordance with the first subparagraph.</i></u>		
Article 1(9), amending provision				
158i		<u><i>4. Systematic internalisers shall not be subject to this Article when they deal in sizes that are large in scale compared with the normal market size and as determined in accordance with Article 9(5)(c).</i></u>		deleted
Article 1(9), amending provision				
158j		<u><i>In respect of a package order and without prejudice to paragraph 2, the obligations in this Article shall only apply to the package order as a whole and not to any component of the package order separately.</i></u>		deleted
Article 1(9), amending provision				
158k		<u><i>5. The quotes published pursuant to paragraph 1 shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.</i></u>		deleted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(9), amending provision				
158l		<u>6. The quoted price or prices shall be such as to ensure that the systematic internaliser complies with its obligations under Article 27 of Directive 2014/65/EU, where applicable, and shall reflect prevailing market conditions in relation to prices at which transactions are concluded for the same or similar financial instruments on a trading venue.</u>		deleted
Article 1(9), amending provision				
158m		<u>However, in justified cases, they may execute orders at a better price provided that the price falls within a public range close to market conditions.'</u>		deleted
Article 1(9), amending provision				
158n		<u>9b. in Article 19, paragraph 2 is deleted;</u>	<u>(9b) Article 19 is deleted;</u>	N/a <i>[TM 8 June: Article 19 deleted in line with Council mandate - covered when deleting article 18 above]</i>
Article 1(9), amending provision				
158o		<u>9c. Article 20 is amended as follows:</u>	<u>(9c) Article 20 in its title is replaced by the following:</u>	<u>(9c) Article 20 is amended as follows:</u>
Article 1(9c), amending provision, first paragraph				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 159/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
158p			<u>(1) 'Article 20 Post-trade disclosure by investment firms in respect of shares, depository receipts, ETFs, certificates and other similar financial instruments';</u>	[SI is kept in the title]
Article 1(9c), amending provision				
158q		<u>(a) the following paragraph is inserted:</u>		<u>(a) the following paragraph is inserted:</u>
Article 1(9c), amending provision				
158r		<u>'2a. Each individual transaction shall be made public once through a single APA.';</u>		<u>'1a. Each individual transaction shall be made public once through a single APA.';</u>  [Mirroring Article 21 provisions- explicit provision at level 1 to avoid double reporting]
Article 1(9c), amending provision				
158s		<u>(b) in paragraph 3, point (c) is deleted;</u>		<u>(b) in paragraph 3, point (c) is deleted;</u>  [publication provision clarified with the insertion of new Art 21a]
Article 1(9c), amending provision				
158t		<u>(9d) Article 21 is amended as follows:</u>	<u>(9d) Article 21 is amended as follows:</u>	<u>(9d) Article 21 is amended as follows:</u>
Article 1(9d), point (a), introductory part				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 160/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
158u			<u>(a) the title is replaced by the following:</u>	[SI is kept in the title]
Article 1(9d), point (a)				
158v			<u>'Article 21 Post-trade disclosure by investment firms in respect of bonds, structured finance products, emission allowances and derivatives';</u>	[SI is kept in the title]
Article 1(9d), point (b), introductory part				
158w		<u>(a) paragraph 1 is replaced by the following:</u>	<u>(b) paragraph 1 is replaced by the following:</u>	<u>(a) paragraph 1 is replaced by the following:</u>
Article 1(9d), point (b), amending provision, numbered paragraph (1)				
158x		<u>'1. Investment firms which, either on own account or on behalf of clients, conclude transactions in bonds, structured finance products and emission allowances traded on a trading venue, or derivatives subject to the clearing obligation set out in Article 4 of Regulation (EU) No 648/2012, shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.';</u>	<u>1. Investment firms which, either on own account or on behalf of clients, conclude transactions in bonds, structured finance products and emission allowances traded on a trading venue shall make public the volume and price of those transactions and the time at which they were concluded. The requirement shall also apply to transactions concluded in OTC derivatives as referred to in Article 8a(1) second subparagraph.</u>	<u>'1. Investment firms which, either on own account or on behalf of clients, conclude transactions in bonds, structured finance products and emission allowances traded on a trading venue or OTC derivatives as specified in Article 8a (1a), shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.';</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 161/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(9d), point (b), amending provision, numbered paragraph (1)				
158y			<u><i>That information shall be made public through an APA.;</i></u>	N/a  [TM 28.08: sentence moved to the above line]
Article 1(9d), point (c), introductory part				
158z			<u><i>(c) paragraph 3 is replaced by the following:</i></u>	<u><i>(c) paragraph 3 is replaced by the following:</i></u>  [REDACTED]
Article 1(9d), point (c), amending provision, numbered paragraph (3)				
158aa			<u><i>3. The information which is made public in accordance with paragraph 1 and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 10, including the regulatory technical standards adopted in accordance with Article 11(4)(a) and (b) and Article 11a(3)(a) and (b).;</i></u>	<u><i>‘3. The information which is made public in accordance with paragraph 1 and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 10, including the regulatory technical standards adopted in accordance with Article 11(4), points (a) and (b) and Article 11a(3), points (a) and (b).’;</i></u>  [REDACTED]
Article 1(9d), point (d), introductory part				
158ab		<u><i>(b) paragraph 4 is replaced by the following:</i></u>	<u><i>(d) paragraph 4 is replaced by the following:</i></u>	<u><i>(b) paragraph 4 is replaced by the following:</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(9d), point (d), amending provision, numbered paragraph (4)				
158ac		<u>'4. Competent authorities shall be able to authorise investment firms to provide for deferred publication of price or volume on the same conditions as laid down in Articles 11.'</u> ;	<u>4. Investment firms may defer publication of price or volume on the same conditions as laid down in Articles 11 and 11a. Where the measures adopted pursuant to Article 11(3) by national competent authorities in relation to sovereign debt provide for omission of publication of the volume for an extended period of time or publication of details of several transactions in an aggregated form, those measures shall also apply to those transactions when undertaken outside trading venues.'</u> ;	[Council/EP to agree whether CAs need to authorise deferrals or Investment firms to decide so]  [28.08: kept Council approach as in Article 11]  <u>'4. Investment firms may defer publication of price or volume on the same conditions as laid down in Articles 11 and 11a.'</u>
Article 1(9d), point (e), introductory part				
158ad		<u>(c) in paragraph 5, the introductory part is replaced by the following:</u>	<u>(e) paragraph 5 is replaced by the following:</u>	<u>(c) in paragraph 5, the first subparagraph is amended as follows:</u>  [Presentation correction: replacing first subparagraph of paragraph 5 to correct punctuation after point b]  [TM 28.08: presentation revised]
Article 1(9d), point (e), amending provision, numbered paragraph (5)				
158ae		<u>'5. ESMA shall develop draft regulatory technical standards in such a way as to enable the</u>	<u>5. ESMA shall develop draft regulatory technical standards in such a way as to enable the</u>	[TM 1: 27h MiFIR should replace 64 MIFID]  <u>(i) the introductory wording is replaced by the following:</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 163/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>publication of information required under Article 27h of this Regulation to specify the following:</u> ;	<u>publication of information required under Article 64 of Directive 2014/65/EU to specify the following:</u>	<u>'5. ESMA shall develop draft regulatory technical standards in such a way as to enable the publication of information required under Article 27h to specify the following:';</u>
Article 1(9d), point (e), amending provision, numbered paragraph (5), point (a)				
158af			<u>(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;</u>	n/a  [TM 28.08: point a and b deleted since no changes were made to those provisions]
Article 1(9d), point (e), amending provision, numbered paragraph (5), point (b)				
158ag			<u>(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.</u>	n/a  [TM 28.08: point a and b deleted since no changes were made to those provisions]
Article 1(9d), point (e), amending provision, numbered paragraph (5)				
158ah				n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 164/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.</u>	[TM 28.08: point a and b deleted since no changes were made to those provisions]
Article 1(9d), point (e), amending provision, numbered paragraph (5)				
158ai			<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	n/a  [TM 28.08: point a and b deleted since no changes were made to those provisions]
Article 1(9d), point (d), amending provision				
158aj		<u>(d) in paragraph 5, point (c) is deleted.;</u>		<u>(ii) point (c) is deleted;</u>
158ak		<u>(9e) the following Article is inserted:</u>	<u>(9e) the following Article 21a is added:</u>	<u>(9e) the following article is inserted:</u>
Article 1(9e)				
158al		<u>'Article 21a Designated reporting entity</u>	<u>'Article 21a Designated publishing entity</u>	<u>Article 21a</u>  <u>Designated publishing entities</u>  [kept DPE Council text/classes of financial instruments]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 165/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[29.08: paras 1-3 reordered for better clarity]
Article 1(9e), numbered paragraph (1)				
158am		<u>1. Where only one party to a transaction is a designated reporting entity in accordance with paragraph 3 of this Article, it shall be responsible for the disclosure of transactions through an APA in accordance with Article 20(1) or Article 21(1).</u>	<u>1. Where only one party to a transaction is a designated publishing entity in accordance with paragraph 3, it shall be responsible for making public transactions through an APA in accordance with Article 20(1) or Article 21(1).</u>	[TM1: keep classes of financial instruments] <u>1. Competent authorities shall grant investment firms the status of designated publishing entity for specific classes of financial instruments, as requested by those investment firms. The competent authority shall communicate such requests to ESMA.</u>  [kept DPE Council text/classes of financial instruments]  [TM 29.08: middle sentence deleted]  [TM 29.08: competent authorities to grant status of DPR]
Article 1(9e), numbered paragraph (2)				
158an		<u>2. Where none of the parties to a transaction, or both of the parties to a transaction are designated reporting entities in accordance with paragraph 3, only the entity that sells the financial instrument concerned shall make the transaction public through an APA.</u>	<u>2. Where neither of the parties to a transaction, or both of the parties to a transaction are designated publishing entities in accordance with paragraph 3, only the entity that sells the financial instrument concerned shall make the transaction public through an APA.</u>	<u>2. Where only one party to a transaction is a designated publishing entity in accordance with paragraph 1 of this Article, that party shall be responsible for making transactions public through an APA in accordance with Article 20(1) or Article 21(1).</u>  [kept DPE Council text/classes of financial instruments]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(9e), numbered paragraph (3)				
158ao		<u>3. Upon request to ESMA, investment firms shall obtain the status of designated reporting entity for specific financial instruments or classes of financial instruments. All systematic internalisers shall be considered to be designated as reporting entities for the financial instruments or classes of financial instruments for which they are systematic internaliser.</u>	<u>3. Investment firms shall receive the status of designated publishing entity upon request to their competent authority for specified classes of financial instruments. All systematic internalisers are designated publishing entities for the financial instruments or classes of financial instruments for which they are systematic internaliser. The request shall be notified by the competent authority to ESMA.</u>	<u>3. Where neither of the parties to a transaction, or both of the parties to a transaction are designated publishing entities in accordance with paragraph 1, only the entity that sells the financial instrument concerned shall be responsible for making the transaction public through an APA in accordance with Article 20(1) or Article 21(1).</u>  [kept DPE Council text/classes of financial instruments]
Article 1(9e), numbered paragraph (4)				
158ap		<u>4. ESMA shall establish a register of all designated reporting entities, specifying the identity of the designated reporting entities, including the systematic internalisers, as well as the instruments or classes of instruments for which they are designated reporting entities.’;</u>	<u>4. ESMA shall establish a list of all designated publishing entities, specifying the identity of the designated publishing entities, including the systematic internalisers, as well as the classes of financial instruments for which they are designated publishing entities and keep it updated on its website.’;</u>	<u>4. ESMA shall by... [6 months after the data of entry into force of this amending Regulation] establish and regularly update a register of all designated publishing entities, specifying their identity and the classes of financial instruments for which they are designated publishing entities. ESMA shall publish that register on its website.’;</u>  [kept DPE Council text/classes of financial instruments]  [29.08: deletion of SI as per the changes above]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 167/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 13.09:]
Article 1(9f), introductory part				
158aq		<u>(9f) in Article 22(1), the introductory part is replaced by the following:</u>	<u>(9f) in Article 22, first paragraph, introductory wording is replaced by the following:</u>	<u>(9f) in Article 22(1), the introductory part is replaced by the following:</u>  [TM 04.07: Council to come back with comments in relation to the role of NCAs in supervision of data to the CTP - see line 165a]  [TM 20.07: role of CAs regarding data to CTP clarified in line 165a]
Article 1(9f), amending provision, numbered paragraph (1)				
158ar		<u>'In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11, Articles 14 to 21 and Article 32, which are applicable to financial instruments and for determining whether an investment firm is a systematic internaliser, and to prepare annual reports to the Commission in accordance with Article 4(4), Article 9(2), Article 7(1) and Article 11(1), ESMA and competent authorities may require information from:':</u>	<u>1. In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, Articles 14 to 21 and Article 32, which are applicable to financial instruments and for determining whether an investment firm is a systematic internaliser, ESMA and competent authorities may require information from:':</u>	<u>'In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, 14 to 21 and 32, which are applicable to financial instruments and for determining whether an investment firm is a systematic internaliser, and to prepare reports to the Commission in accordance with Article 4(4), Article 7(1), Article 9(2), Article 11(3) and Article 11a(1), ESMA and competent authorities may require information from:':</u>  [TM 20.07: reworked according to the new regime for derivatives]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 168/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[29.08: linguistic changes applied]
Article 1(10), introductory part				
159	(10) the following Articles 22a, 22b and 22c are inserted:	(10) the following Articles 22a, 22b and 22c are inserted:	(10) the following Articles 22a, 22b and 22c are <del>inserted</del> <b>added</b> :	(10) the following <del>articles</del> <b>Articles 22a, 22b and 22c</b> are inserted:
Article 1(10), amending provision, first paragraph				
160	‘Article 22a Provision of market data to the CTP	‘Article 22a Provision of market data to the CTP	‘Article 22a Provision of market data to the CTP	‘Article 22a Provision of <del>market</del> data to the CTP
Article 1(10), amending provision, numbered paragraph (1)				
161	1. Market data contributors shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC derivatives as defined in Article 2(7) of Regulation (EU) No 648/2012 that are subject to the clearing obligation as referred to in Article 4 of that Regulation, provide the CTP with all the market data as set out in Article 22b(2) as needed for the CTP to be operational. Those market data shall be provided in a harmonised format, through a high quality transmission protocol, and as close to real-time as is technically possible.	1. Market data contributors shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC derivatives as defined in Article 2(7) of Regulation (EU) No 648/2012 that are subject to the clearing obligation as referred to in Article 4 of that Regulation, provide the CTP with all the market data as set out in <u>the regulatory technical standarts referred to in</u> Article 22b(2) as needed for the CTP to be operational. Those market data shall be provided in a harmonised format, through a high quality transmission protocol, and as close to real-time as is technically possible.	1. Market data contributors shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC derivatives as <del>defined in Article 2(7) of Regulation (EU) No 648/2012 that are subject to the clearing obligation as referred to in Article 4 of that Regulation</del> <u>Articles 8a(1) and 21(1)</u> , provide the CTP with all the <u>core</u> market data, <u>as well as with regulatory data, as set out in Article 22b(2)</u> as needed for the CTP to be operational. Those <u>core</u> market data shall be provided in a harmonised format, <u>where applicable in accordance with the data quality requirements based on Article 7, 11, 11a, 20 and 21</u> , through a high quality transmission protocol, and	1. <del>Market data</del> <u>Trading venues and APAs</u> ( <del>‘data</del> contributors’) shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC <u>derivatives as referred to in Article 8a (1a)</u> provide the CTP as close to real-time as is technically possible with <del>all</del> the <del>market</del> regulatory data and the data required <u>under Article 3(1), without prejudice to Article 4, and under Article 6(1), Article 10(1), and Articles 20 and 21.</u> Those <del>market</del> data shall be provided in a harmonised format, through a high quality transmission protocol.  [TM 04.07: adjustment of the type of derivatives after political agreement]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			as close to real-time as is technically possible.	[TM 04.07: adjustment after decision on type of pre trade data to be distributed by CTP]  [TM3: Commission suggested the list of Articles related to RTS / TM 31.05 changes made on the articles as proposed by the COM]
Article 1(10), amending provision				
161a		<u><i>1a. Regulated markets and SME growth markets whose average daily trading volume of shares represents less than 1 % of the average daily trading volume of the Union, and who do not form part of a market operator group that operates regulated markets that collectively represent more than 2% of the average daily trading volume in the Union, shall not be required to provide their market data to the CTP.</i></u>	<u><i>1a. Regulated markets and MTFs with the annual trading volume of shares traded at the trading venue equal to or below 1 % of the annual trading volume of shares traded in the Union shall not be required to provide core market data and regulatory data in relation to shares and ETFs to the CTP if:</i></u>	[TM 1: clarification on the exempted entities and opt in regime- wording revised by DLA]  [TM 31.05 DLA to rework the language of the exemption]  <u><i>1a. An investment firm operating a SME growth market, or a market operator, whose annual trading volume of shares represents 1 % or less of the average daily trading volume in the Union shall not be required to provide its data to the CTP if:</i></u>  [TM 14.09: to replace average trade volume by “annual trading volume of shares”]
Article 1(10), amending provision, numbered paragraph (1a), point (1), point (a)				
161b			<u><i>(a) the regulated market or the MTF is not a part of a group comprising or having close links with a regulated market or a MTF</i></u>	[TM 1: clarification on the exempted entities and opt in regime- wording revised by DLA]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 170/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>that has annual trading volume of shares traded at the trading venue above 1 % of annual trading volume of share traded in the Union; or</u>	<u>(a) that investment firm or market operator is not a part of a group comprising or having close links with an investment firm or a market operator whose average daily trading volume represents more than 1 % of the average daily trading volume in the Union; or</u>
Article 1(10), amending provision, numbered paragraph (1a), point (1), point (a), point (b)				
161c			<u>(b) on the regulated market or the MTF the 85 % of the annually trading volume of shares or more were traded of the shares that were initially admitted to trading on that regulated market or the MTF.</u>	[TM 1: clarification on the exempted entities and opt in regime- wording revised by DLA]  <u>(b) the regulated market or SME growth market operated by that investment firm or market operator accounts for more than 85% of the average daily trading volume in shares that were first admitted to trading on that regulated market or SME growth market.</u>  [TM 29.08: linguistic revision]
Article 1(10), amending provision, numbered paragraph (1a)				
161d			<u>The regulated market or MTF that meets the conditions set in first subparagraph may contribute the core market data and regulatory data to the CTP. The regulated market or MTF shall notify decision to opt in to CTP and ESMA.</u>	[TM 1: clarification on the exempted entities and opt in regime- wording revised by DLA]  <u>1b. Notwithstanding paragraph 1a, an investment firm operating a SME growth market, or a market operator, that meets the conditions set out in that paragraph may decide to provide data to the CTP</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 171/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>in accordance with paragraph 1, and in that case it shall notify ESMA and the CTP accordingly. Such investment firm or market operator shall start providing data to the CTP within 30 working days of the date of the notification to ESMA.</u></p> <p>[TM 29.08: linguistic revision]</p>
Article 1(10), amending provision, numbered paragraph (1a)				
161e			<p><u>ESMA shall publish and maintain the list of regulated market and MTF that meet the conditions set in first subparagraph and also those who decided to opt in to the CTP on its website and update it annually or every time there is new regulated market of MTF licensed or decides to opt in.</u></p>	<p>[TM 1: clarification on the exempted entities and opt in regime- wording revised by DLA]</p> <p><u>1c. ESMA shall publish on its website and keep up to date the list of investment firms operating SME growth markets and market operators that meet the conditions set out in paragraph 1a, indicating also those who have decided to apply paragraph 1b.</u></p> <p>[TM/DLA to discuss the structure]</p>
Article 1(10), amending provision, numbered paragraph (1b)				
161f		<p><u>1b. Regulated markets and SME growth markets whose average daily trading volume of shares exceeds 1 % of the average trading volume of the Union, and who do not form part of a market operator group that operates regulated</u></p>		<p>[Exemption and opt in provisions technical agreement inserted in lines 161a-161e]</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 172/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>markets that collectively represent more than 2% of the average daily trading volume in the Union, shall not be required to provide their market data to the CTP if:</u>		
Article 1(10), amending provision				
161g		<u>(i) the regulated market or SME growth market accounts for more than 80% of the average daily trading volume of shares that were first admitted to trading on that regulated market or SME growth market; or</u>		[Exemption and opt in provisions technical agreement inserted in lines 161a-161e]
Article 1(10), amending provision				
161h		<u>(ii) the average daily trading volume of shares first admitted on a regulated market on MTFs and systematic internalisers collectively is 20% or less of the average daily trading volume of those shares.</u>		[Exemption and opt in provisions technical agreement inserted in lines 161a-161e]
Article 1(10), amending provision				
161i		<u>ESMA shall publish on its website a list of regulated markets exempted from providing their pre-trade market data to the CTP and shall update that list regularly.</u>		[Exemption and opt in provisions technical agreement inserted in lines 161a-161e]
Article 1(10), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
161j		<u><i>Ic. Notwithstanding paragraphs Ia and Ib, smaller regulated markets and SME growth markets may decide to provide their market data to the CTP, in accordance with paragraph 1, by notifying ESMA and the CTP. Those regulated markets that decide to subject themselves to the requirement to provide market data in accordance with paragraph 1 shall start providing market data to the CTP within 30 working days of the date of the notification to ESMA.</i></u>		<i>[Exemption and opt in provisions technical agreement inserted in lines 161a-161e]</i>
Article 1(10), amending provision, numbered paragraph (2)				
162	2. Each CTP shall be free to choose, from among the types of connection that the market data contributors offer to other users, which connection it wishes to use for the provision of those data. Market data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing for shares, as specified in the conditions for appointment of the CTP in the selection process laid down in 27da.	2. Each CTP shall be free to choose, from among the types of connection <u>and protocols</u> that the market data contributors offer to other users, which connection <u>and protocol</u> it wishes to use for the provision of those data. Market data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing for shares, as specified in the conditions for appointment of the CTP in the selection process laid down in 27da.	2. Each CTP shall be free to choose, from among the types of connection that the market data contributors offer to other users, which connection it wishes to use for the provision of those data. Market data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing <del>for shares, as specified in the conditions for appointment of the CTP in the selection process laid down in 27da.</del>	2. Each CTP <del>shall be free to</del> choose, from among the types of <u>transmission protocols</u> that the <del>market</del> data contributors offer to other users, which <u>transmission protocol</u> <del>it wishes is to be</del> used for the provision of the <del>ese</del> data <u>referred to in paragraph 1.</u> <del>Market Data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing distribution scheme for shares, as specified in the conditions for appointment of the CTP in the selection process laid down in referred to in Article 27da.</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>[TM3: "Revenue distribution scheme" will be used throughout the text]</p> <p>[TM 04.07: second sentence deleted since it has been merged to para 4]</p> <p>[TM 29.08: COM colleagues to check the use of "transmission protocol" and the following up use of "connection and protocols"]</p> <p>[TM 07.09: transmission protocol replacing "connection and protocol" - adequacy of the transmission protocol added to the elements to be revised in Article 52(14a)]</p>
Article 1(10), amending provision, numbered paragraph (3)				
163	<p>3. Market data contributors shall, with regard to transactions in the instruments referred to in paragraph 1 that are concluded by investment firms outside a trading venue, provide the CTP with the market data concerning those transactions either directly or through an APA.</p>	<p>3. Market data contributors shall, with regard to transactions in the instruments referred to in paragraph 1 that are concluded by investment firms outside a trading venue, provide the CTP with the market data concerning those transactions <u>through an APA. Market data providers shall, with regard to the best bids and offers in shares and ETFs provided by investment firms outside a trading venue, provide the CTP with the market data concerning those bids and offers</u> either directly or through an APA.</p>	<p>3. Market data contributors shall, <del>with regard to transactions in the instruments referred to in paragraph 1 that are concluded by investment firms outside a trading venue, provide</del> <u>not receive from the CTP any remuneration for the market data provided to</u> the CTP <del>with the market data concerning those transactions either directly or through an APA</del> <u>other than the revenue sharing as referred to in Article 27h(5).</u></p>	<p>Deleted</p> <p>[TM 04.07: assets traded outside a trading venue already in the scope as per the current wording of para 1]</p>
Article 1(10), amending provision, numbered paragraph (4)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
164	4. Market data contributors shall not receive any remuneration for the market data provided other than the revenue sharing as referred to in Article 27da(2), point (c).	4. Market data contributors shall not receive any remuneration for the market data provided other than the revenue sharing as referred to in Article 27da(2)h(1), point (c).	4. Market data contributors shall <del>not receive any remuneration for the</del> <u>apply the deferrals as laid down in Articles 7, 11, 11a, 20 and 21 to the core</u> market data <del>provided other than the revenue sharing as referred to in Article 27da(2), point (c) to be submitted to the CTP. Market data contributors shall apply the deferrals in such a way that the CTP is able to disseminate the consolidated core market data no later than in accordance with Articles 6, 10, 20 and 21.</del> ;	4. <del>Market data</del> <u>Data</u> contributors shall not receive any remuneration for <del>providing market</del> the data <u>referred to in paragraph 1 and the transmission protocol referred to in paragraph 2 other than the revenue received under</u> Article 27da(2)h(1a) and (5). <del>point (c).</del>  [TM3: Check references]  [TM 29.08: reworked for clarity. Cross references checked]  [TM 07.09: transmission protocol replacing “connection and protocol”]
Article 1(10), amending provision, numbered paragraph (5)				
165	5. Market data contributors shall provide the information with regard to waivers and deferrals as laid down in Articles 4, 7, 11, 14, 20 and 21.	5. <del>Market data contributors</del> <u>Each CTP shall provide the information with regard to waivers and deferrals as laid down in Articles 4, 7, 11, 14 apply the deferrals as laid down in Articles 7, 11, 20 and 21 to the market data to be submitted to the CTP, and disseminate them in accordance with Articles 6, 10, 20 and 21.</u>	5. <del>Market data contributors shall provide the information with regard to waivers and deferrals as laid down in Articles 4, 7, 11, 14, 20 and 21.</del>	[TM 1: to drop EP position on line 165]  5. <del>Market</del> Data contributors shall <del>not receive any remuneration for the,</del> where applicable, <u>apply the deferrals laid down in Articles 7, 11, 11a, Article 20(2) and Article 21(4) to the market</u> data <del>provided other than the revenue sharing as referred to in Article 27da(2), point (c) to be provided to the CTP.</del> ;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 29.08: cross references revised]
Article 1(10), amending provision, numbered paragraph (5a)				
165a		<u>5a. Competent authorities shall monitor the data quality provided to the CTP by market data contributors. Where data quality is deemed insufficient, competent authorities shall take the necessary measures, including sanctions as provided by Article 70 of Directive 2014/65/EU and Title VIa, Chapter 2 of this Regulation.</u>		<u>5a. Where the CTP deems the quality of the data insufficient, it shall notify the competent authority of the data contributor to this effect. That competent authority shall take the necessary measures in accordance with Articles 69 and 70 of Directive 2014/65/EU.</u>  [TM3: Council to comment on this para]  [TM 04.07: PCY finds line redundant but can live with it. Waiting for comments from PCY on Art 22. Line to be revisited]  [TM 20.07: paragraph reworked for clarification]
Article 1(10), amending provision, seventh paragraph				
166	Article 22b Market data quality	Article 22b Market data quality	Article 22b Market data quality	Article 22b <del>Market data</del> <u>Data</u> quality
Article 1(10), amending provision, numbered paragraph (1)				
167	1. The Commission shall set up an expert stakeholder group by [OP add 3 months as of entry into force]	1. The Commission shall set up an expert stakeholder group by [ <del>OP</del> <u>add 3 three months after the entry</u> ]	1. The Commission shall set up an expert stakeholder group by [OP add 3 months as of entry into force]	[TM1: EP mandate is OK, but Council could comment in writing on lines 169-172]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>to provide advice on the quality and the substance of market data, the common interpretation of market data and the quality of the transmission protocol referred to in Article 22a(1). The expert stakeholder group shall provide advice on a yearly basis. That advice shall be made public.</p>	<p><u>into force of this amending Regulation</u> <del>months as of entry into force</del>] to provide advice on the quality and the substance of <u>core</u> market data, <u>in relation to the output of the consolidated tapes</u> <del>the common interpretation of market data</del> and the quality of the transmission protocol referred to in Article 22a(1). <u>ESMA shall work closely with</u> the expert stakeholder group, <u>which</u> shall provide advice on a yearly basis <u>through a dedicated report. That report</u> <del>That advice</del> shall be made public.</p>	<p>to provide advice on the quality and the substance of <u>core</u> market data, the common interpretation of <u>core</u> market data and the quality of the transmission protocol referred to in Article 22a(1). <u>ESMA shall be member of the expert stakeholder group</u>. The expert stakeholder group shall provide advice on <del>a</del> <u>yearly</u> <del>an annual</del> basis. That advice shall be made public.</p>	<p>[TM 31.05: Commission proposal for para -1. Explanation: in addition to the alternative 22a(1) this ensures there is a basic framework for both input and output that only needs to be supplemented/amended by L2 in case necessary and not by default.]</p> <p><u>-1. The data provided to the CTP in accordance with Article 22a(1) and the data disseminated by the CTP in accordance with Article 27h(1), point (da), shall comply with the regulatory technical standards adopted in accordance with Article 4(6), point (a), Article 7(2), point (a), Article 11(4), point (a), and Article 11a(3), unless provided otherwise in the regulatory technical standards adopted in accordance with paragraph 2, points (a) and (b), of this Article.</u></p> <p>1. The Commission shall <u>set up</u> <u>establish</u> an expert stakeholder group by... [<del>OP</del> <u>three months after the date of entry into force of this amending Regulation</u> <del>months as of entry into force</del>] to provide advice on the quality and the substance of <u>market data</u> <del>in relation to the consolidated tapes the common interpretation of market data</del> and the quality of the transmission protocol referred to in Article 22a(1). The expert stakeholder</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 178/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				group <u>and ESMA shall work closely together. The expert stakeholder group shall make its advice public.</u> <del>and the expert stakeholder group shall provide advice on a yearly basis through a dedicated report. That report. That advice shall be made and make it public.</del>
Article 1(10), amending provision				
167a		<u>The expert stakeholder group shall be composed of members with a sufficiently wide range of expertise, skills, knowledge and experience to provide adequate advice.</u>		<u>The expert stakeholder group shall be composed of members with a sufficiently wide range of expertise, skills, knowledge and experience to provide adequate advice.</u>
Article 1(10), amending provision				
167b		<u>Members of the expert stakeholder group shall be selected following an open and transparent selection procedure. In selecting the members of the expert stakeholder group, the Commission shall ensure that they reflect the diversity of market participants across the Union.</u>		<u>Members of the expert stakeholder group shall be selected following an open and transparent selection procedure. In selecting the members of the expert stakeholder group, the Commission shall ensure that they reflect the diversity of market participants across the Union.</u>
Article 1(10), amending provision				
167c		<u>The expert stakeholder group shall elect a Chair from among its members. The position of Chair</u>		<u>The expert stakeholder group shall elect a Chair from among its members. The position of the Chair</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 179/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>shall be held for a period of two years. The European Parliament may invite the Chair of the expert stakeholder group to make a statement before it and answer any questions from its members whenever so requested.</i>		<i>shall be held for a period of two years. The European Parliament may invite the Chair of the expert stakeholder group to make a statement before it and answer any questions from its members whenever so requested.</i>
Article 1(10), amending provision, numbered paragraph (2)				
168	2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to specify the quality and the substance of the market data and the quality of the transmission protocol.	2. <del>The Commission</del> <b>ESMA</b> shall <del>be empowered to adopt delegated acts in accordance with Article 50</del> <b>develop draft regulatory technical standards</b> to specify, <b>where necessary</b> , the quality and the substance of the <b>core</b> market data <del>and</del> the quality of the transmission protocol, <b>and measures to address erroneous trade reporting and enforcement standards in relation to data quality</b> .	2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to <b>further</b> specify the quality and the substance of <b>core</b> the market data and the quality of the transmission protocol.	2. <del>The Commission</del> <b>ESMA</b> shall <del>be empowered to adopt delegated acts in accordance with Article 50</del> <b>develop draft regulatory technical standards</b> to specify, <b>as necessary</b> , the quality and the substance of the <del>market</del> data <del>in relation to</del> <b>for the operation of the consolidated tapes</b> <del>and</del> the quality of the transmission protocol, <b>and measures to address erroneous trade reporting and enforcement standards in relation to data quality, including arrangements regarding cooperation between data contributors and the CTP</b> .  [TM3: mandate an RTS by ESMA]  [Added arrangements regarding cooperation]
Article 1(10), amending provision, numbered paragraph (2)				
169		Those <del>delegated acts</del> <b>draft regulatory technical standards</b>		Those <del>delegated acts</del> <b>draft regulatory technical standards</b>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Those delegated acts shall in particular specify all of the following:	shall in particular specify all of the following:	Those delegated acts shall in particular specify all of the following:	shall in particular specify all of the following: <i>[TM3: mandate an RTS by ESMA]</i>
Article 1(10), amending provision, numbered paragraph (2), point (a)				
170	(a) the market data, contributors need to provide to the CTP in order to produce the core market data needed for the CTP to be operational, including the substance and the format of those market data;	(a) the <del>market data, contributors need to provide to the CTP in order to produce</del> <u>content and the format of the core market data needed for the CTP to be operational, including the substance and the format of those market data</u> <del>fields and the regulatory data fields, in accordance with prevailing industry standards and practices;</del>	(a) the market data, contributors need to provide to the CTP in order to produce the core market data needed for the CTP to be operational, including the substance and the format of those market data;	(a) <del>the market data, contributors need to provide to the CTP in order to produce the core market data to be provided to the CTP needed for the CTP to be operational,</del> including the substance and the format of those <del>market data, in accordance with prevailing industry standards and practices;</del>
Article 1(10), amending provision, numbered paragraph (2), point (b)				
171	(b) what constitutes core market data referred to in Article 2(1)(36b) and the regulatory data referred to in Article 2(1)(36c).	(b) <del>what constitutes</del> <u>any data fields required to be contributed to and by the CTP in addition to</u> core market data <u>as</u> referred to in Article 2(1)(36b) and <del>the</del> regulatory data <u>as</u> referred to in Article 2(1)(36c).	(b) <del>what constitutes</del> <u>additional data fields that might be required to characterise</u> core market data referred to in Article 2(1)(36b) and the regulatory data referred to in Article 2(1)(36c).	(b) <del>what constitutes core market data referred to in Article 2(1)(36b) and the regulatory data referred to in Article 2(1)(36c).</del> <u>the presentation of the core market data to be disseminated by the CTP, in accordance with prevailing industry standards and practices;</u>  <i>[Commission proposal for point b is deleted since the Commission is already empowered to modify the definition of core market data as per Art. 2.2]</i>
Article 1(10), amending provision, numbered paragraph (2), point (ba)				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 181/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
171a		<u>(ba) what constitutes the transmission of data “as close to real time as technically possible”.</u>		<u>(ba) what constitutes the transmission of market data “as close to real time as technically possible”.</u>
Article 1(10), amending provision, numbered paragraph (2)				
172	For the purposes of the first subparagraph, the Commission shall take into account the advice from ESMA and from the technical expert group established in accordance with paragraph 2, international developments, and standards agreed at Union or international level. The Commission shall ensure that the delegated acts adopted take into account the reporting requirements laid down in Articles 3, 6, 8, 10, 14, 18, 20, 21 and 27g.	For the purposes of the first subparagraph, <del>the Commission</del> <u>ESMA</u> shall take into account the advice from <del>ESMA and from the technical expert</del> <u>the expert stakeholder</u> group established in accordance with paragraph <del>2</del> <u>1</u> , international developments, and standards agreed at Union or international level. <del>The Commission</del> <u>ESMA</u> shall ensure that the <del>delegated acts adopted</del> <u>draft regulatory technical standards</u> take into account the reporting requirements laid down in Articles 3, 6, 8, 10, 14, 18, 20, 21 and 27g.	For the purposes of the first subparagraph, the Commission shall take into account the advice from ESMA and from the <del>technical expert</del> <u>expert stakeholder</u> group established in accordance with paragraph <del>2</del> <u>1</u> international developments, and standards agreed at Union or international level. The Commission shall ensure that the delegated acts adopted take into account the reporting requirements laid down in Articles 3, 6, 8, <del>8a, 10, 11, 11a, 14, 18</del> <u>10, 11, 11a, 14, 18</u> , 20, 21 and 27g.	For the purposes of the first subparagraph, <del>the Commission</del> <u>ESMA</u> shall take into account the advice from <del>ESMA and from the technical expert</del> <u>the expert stakeholder</u> group established in accordance with paragraph <del>2</del> <u>1</u> , international developments, and standards agreed at Union or international level. <del>The Commission</del> <u>ESMA</u> shall ensure that the <del>delegated acts adopted</del> <u>draft regulatory technical standards</u> take into account the reporting requirements laid down in Articles 3, 6, 8, <del>8a, 10, 11, 11a, 14, 18</del> <u>8a, 10, 11, 11a, 14, 18</u> , 20, 21 and 27g.  [TM3: mandate an RTS by ESMA]  [TM 29.08: minor adjustments as per other changes throughout the text]
Article 1(10), amending provision, numbered paragraph (2)				
172a		<u>ESMA shall submit those draft regulatory technical standards to the Commission by [12 months</u>		<u>ESMA shall submit those draft regulatory technical standards to the Commission by... [nine months</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>after the date of entry into force of this amending Regulation].</u>		<u>after the date of entry into force of this amending Regulation].</u>  [TM3: mandate an RTS by ESMA]
Article 1(10), amending provision, numbered paragraph (2)				
172b		<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>		<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>  [TM3: mandate an RTS by ESMA]
Article 1(10), amending provision, tenth paragraph				
173	Article 22c Synchronisation of business clocks	Article 22c Synchronisation of business clocks	Article 22c Synchronisation of business clocks	Article 22c Synchronisation of business clocks
Article 1(10), amending provision, numbered paragraph (1)				
174	1. Trading venues and their members or participants, systematic internalisers, APAs and CTPs shall synchronise their business clocks to record the date and time of any reportable event.	1. Trading venues and their members or participants, systematic internalisers, APAs and CTPs shall synchronise their business clocks to record the date and time of any reportable event.	1. Trading venues and their members or participants, <del>systematic internalisers</del> <u>designated publishing entities</u> , APAs and CTPs shall synchronise their business clocks to record the date and time of any reportable event.	[TM1: Keep SIs and designated publishing entities]  1. Trading venues and their members or participants, systematic internalisers, <u>designated publishing entities</u> , APAs and CTPs shall synchronise their business clocks to record the date and time of any reportable event.
Article 1(10), amending provision, numbered paragraph (2)				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 183/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
175	2. ESMA shall, in accordance with international standards, develop draft regulatory technical standards to specify the level of accuracy to which clocks are to be synchronised.	2. ESMA shall, in accordance with international standards, develop draft regulatory technical standards to specify the level of accuracy to which clocks are to be synchronised.	2. ESMA shall, in accordance with international standards, develop draft regulatory technical standards to specify the level of accuracy to which clocks are to be synchronised.	2. ESMA shall, in accordance with international standards, develop draft regulatory technical standards to specify the level of accuracy to which clocks are to be synchronised.
Article 1(10), amending provision, numbered paragraph (2)				
176	ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert a date 6 months as of entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <u>OP insert a date 6 months as of entry into force</u> <del>OP insert a date 6 months as of entry into force</del> ].	ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert a date 6 months as of entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by... [ <u>nine months after the date of entry into force of this amending Regulation</u> ].
Article 1(10), amending provision, numbered paragraph (2)				
177	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission <u>to supplement this Regulation by adopting</u> the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;
Article 1(11), introductory part				
178	(11) in Article 23, paragraph 1 is replaced by the following:	(11) in Article 23, paragraph 1 is replaced by the following:	(11) in Article 23, paragraph 1 is replaced by the following:	(11) in Article 23, paragraph 1 is replaced by the following:
Article 1(11), amending provision, numbered paragraph (1), introductory part				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
179	<p>‘1. An investment firm shall ensure that the trades it undertakes in shares with an EEA International Securities Identification Number (ISIN) shall take place on a regulated market, MTF, systematic internaliser or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a) of Directive 2014/65/EU, as appropriate, unless :</p>	<p>‘1. An investment firm shall ensure that the trades it undertakes in shares with an EEA International Securities Identification Number (ISIN) <u>admitted to trading on a regulated market</u> shall take place on a regulated market, MTF, systematic internaliser or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a) of Directive 2014/65/EU, as appropriate, unless :</p>	<p>‘1. An investment firm shall ensure that the trades it undertakes, in shares with an EEA International Securities Identification Number (ISIN) <u>and which are traded on a trading venue</u>, shall take place on a regulated market, MTF, systematic internaliser or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a) of Directive 2014/65/EU, as appropriate, unless:</p>	<p>[TM1 keep Council text]</p> <p>‘1. An investment firm shall ensure that the trades it undertakes in shares <u>which have</u> <del>with</del> an EEA International Securities Identification Number (ISIN) <u>and which are traded on a trading venue</u> shall take place on a regulated market, <u>an</u> MTF, <u>a</u> systematic internaliser or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a), <u>of</u> Directive 2014/65/EU, as appropriate, unless:</p> <p>[TM 29.08: Linguistic changes]</p>
Article 1(11), amending provision, numbered paragraph (1), point (a)				
180	<p>(a) those shares are traded on a third-country venue in the local currency;; or</p>	<p>(a) those shares are traded on a third-country venue in <del>the local</del> <u>non-EEA</u> currency;; or</p>	<p>(a) those shares are traded on a third-country venue in the local currency;; or</p>	<p>[TM1: keep EP currency - language clearer for translation]</p> <p>[TM 31.05: new language on currency to be adjusted]</p> <p>[Linguistic changes - provided by the EP 03.07.2023]</p> <p>(a) those shares are traded on a third-country venue in the local currency <u>or in a non-EEA currency</u>;; or</p>
Article 1(11), amending provision, numbered paragraph (1), point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
181	(b) those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.	(b) those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.	(b) those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.;	(b) those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.;
Article 1(11), amending provision, numbered paragraph (1), first paragraph				
182	ESMA shall publish a list on its website containing the shares with an EEA ISIN subject to the share trading obligation and shall update that list regularly.;	<i>deleted</i>	<del>ESMA shall publish a list on its website containing the shares with an EEA ISIN subject to the share trading obligation and shall update that list regularly.;</del>	<del>ESMA shall publish a list on its website containing the shares with an EEA ISIN subject to the share trading obligation and shall update that list regularly.;</del>
Article 1(11a), introductory part				
182a		<u>(11a) Article 25 is amended as follows:</u>	<u>(11a) Article 25 is amended as follows:</u>	<u>(11a) Article 25 is amended as follows:</u>
Article 1(11a), point (a), amending provision, introductory part				
182b		<u>(a) paragraph 2 is replaced by the following:</u>	<u>(a) paragraph 2, the first sentence is replaced by the following:</u>	<u>(a) paragraph 2 is replaced by the following:</u>
Article 1(11a), point (a), amending provision, numbered paragraph (2)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
182c		<p><u>'2. The operator of a trading venue shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems in an electronic and machine-readable format and using a common template in accordance with the ISO 20022 methodology. The records shall contain the relevant data that constitute the characteristics of the order, including those that link an order with the executed transaction(s) that stems from that order and the details of which shall be reported in accordance with Article 26(1) and (3). ESMA shall perform a facilitation and coordination role in relation to the access by competent authorities to information under this paragraph.'</u></p>	<p><u>2. The operator of a trading venue shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems in an electronic and machine-readable format and using a common template.'</u></p>	<p><u>'2. The operator of a trading venue shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems in an electronic and machine-readable format and using a common template. The records shall contain the relevant data that constitute the characteristics of the order, including those that link an order with the executed transaction(s) that stems from that order and the details of which shall be reported in accordance with Article 26(1) and (3). ESMA shall perform a facilitation and coordination role in relation to the access by competent authorities to information under this paragraph.'</u></p> <p>[EP text maintained with removal of reference to ISO 20022 methodology as requested by the Council. Need to assess whether specification of what is meant by 'electronic and machine-readable format and using a common template' is necessary]</p> <p>[TM 29.08: electronic and machine-readable kept]</p>
Article 1(11a), point (b), amending provision, introductory part				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 187/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
182d		<u>(b) in paragraph 3, the first subparagraph is replaced by the following:</u>	<u>(b) paragraph 3, the first subparagraph is replaced by the following:</u>	<u>(b) in paragraph 3, the first subparagraph is replaced by the following:</u>
Article 1(11a), point (b), amending provision, numbered paragraph (3)				
182e		<u>'ESMA shall develop draft regulatory technical standards to specify the details and formats of the relevant order data required to be maintained under paragraph 2 of this Article that is not referred to in Article 26.'</u>	<u>'3. ESMA shall develop draft regulatory technical standards to specify the details and formats of the relevant order data required to be maintained under paragraph 2 of this Article that is not referred to in Article 26.'</u>	<u>'ESMA shall develop draft regulatory technical standards to specify the details and formats of the relevant order data that are required to be maintained under paragraph 2 of this Article and that are not referred to in Article 26.'</u>  [TM 29.08: linguistic revision]
Article 1(11b), point (b), amending provision, numbered paragraph (3)				
182f		<u>(11b) in Article 26, paragraph 1 is replaced by the following:</u>		<u>(11b) Article 26 is amended as follows:</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(11a), point (b), amending provision, numbered paragraph (3)				
182g		<u>'1. Investment firms which execute transactions in financial instruments shall report complete and accurate details of such transactions to the competent authority as quickly as possible, and no later than the close of the following working day.'</u>		<u>(a) in paragraph 1, the second and third subparagraphs are replaced by the following:</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 188/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(11b), point (b), amending provision, numbered paragraph (3)				
182h		<p><u>The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the competent authority of relevant markets also receive that information.</u></p>		<p><u>'The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the following competent authorities also receive that information:</u></p> <p><u>(i) the competent authority of the most relevant market in terms of liquidity for those financial instruments;</u></p> <p><u>(ii) the competent authorities responsible for the supervision of the transmitting investment firms;</u></p> <p><u>(iii) the competent authorities responsible for the supervision of the branches which have been part of the transaction; and</u></p> <p><u>(iv) the competent authority responsible for the supervision of the trading venues used.</u></p> <p>[TM 12.07: as discussed - content inserted in the 4CT in the right way]</p>
Article 1(11b), point (b), amending provision, numbered paragraph (3)				
182i		<p><u>The competent authorities shall without undue delay make available to ESMA any</u></p>		<p><u>The competent authority referred to in the first subparagraph shall without undue delay make</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 189/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>information reported in accordance with this Article.</u>		<u>available to ESMA any information reported in accordance with this Article.;</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(11b), point (b), amending provision, numbered paragraph (3)				
182j		<u>1a. By ... [12 months after the date of entry into force of this amending Regulation], the Commission shall, in close cooperation with ESMA, assess the possibility of extending the requirements of this Article to AIFMs as defined in Article 4(1), point (b) of Directive 2011/61/EU, and management companies, as defined in Article 2.1b of Directive 2009/65/EC, which provide investment services and activities, as defined in Article 4(1), point (2) of Directive 2014/65/EU and which execute transactions in financial instruments. In particular, the Commission shall include a cost-benefit analysis and an evaluation of the scope of such extension.</u>		[TM 12.07: moved to Article 52]
Article 1(11b), point (b), amending provision, numbered paragraph (3)				
182k		<u>On the basis of that assessment and taking into account the goals of the capital markets union, the</u>		[TM 12.07: moved to Article 52]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation by extending the requirements of this Article as set out in the first subparagraph.</u> ;		
Article 1(11c), amending provision				
182l		<u>(11c) in Article 26(2), the first subparagraph is replaced by the following:</u>		<u>(b) in paragraph 2, the second subparagraph is replaced by the following:</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(11c), amending provision				
182m		<u>'The obligation laid down in paragraph 1 shall apply to:</u>		[TM 12.09: change on presentation as per the changes made to second subparagraph]
Article 1(11c), amending provision				
182n		<u>(a) financial instruments which are admitted to trading or traded on a trading venue or for which a request for admission to trading has been made;</u>		n/a  [TM 07.09: eventually the existing text has changes]
Article 1(11c), amending provision				
182o		<u>(b) financial instruments where the underlying is a financial</u>		n/a

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>instrument traded on a trading venue;</u>		[TM 07.09: eventually the existing text has not changed]
Article 1(11c), amending provision				
182p		<u>(c) financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue; and</u>		n/a [TM 07.09: eventually the existing text has not changed]
Article 1(11c), amending provision				
182q		<u>(ca) derivatives subject to the clearing obligation set out in Article 4 of Regulation (EU) No 648/2012 executed outside a trading venue.;</u>		n/a [TM 07.09: eventually the existing text has not changed]
Article 1(11d), amending provision				
				<u><del>(d) derivatives as referred to in Article 8a(1a), where they are not effectively traded on a trading venue.</del></u> <u><del>(ii) the second subparagraph is replaced by the following:</del></u> <u><del>The obligation laid down in paragraph 1 shall apply to transactions in financial instruments referred to in points (a) to (c) irrespective of whether or not</del></u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 192/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>such transactions are carried out on the trading venue.</u></p> <p><u>That obligation shall apply to transactions in financial instruments referred to in points (a) to (c) irrespective of whether or not such transactions are carried out on a trading venue.</u></p> <p><u>By way of derogation from the second subparagraph, that obligation shall apply to transactions in derivatives other than those referred to in Article 8a(1a) only where such transactions are carried out on a trading venue.</u></p> <p>[TM 07.09: to clarify the aim in the recitals]</p> <p>[TM 12.09: lines reworked as per the suggestion of the Council]</p>
182r		<u>(11d) in Article 26, paragraph 3 is replaced by the following:</u>		<u>(c) paragraph 3 is replaced by the following:</u>
	Article 1(11d), amending provision			
182s		<u>'3. The reports shall, in particular, include details of the names and numbers of the financial</u>		<u>'3.The reports shall, in particular, include details of the names and numbers of the financial</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 193/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the entity subject to the reporting obligation, a designation to identify the applicable waiver under which the trade has taken place and means of identifying the investment firms concerned.</u></p> <p><u>Reports on a transaction made at the trading venue shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue. For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3)(a) and Article 21(5)(a).</u></p> <p><u>For commodity derivatives, the reports shall indicate whether the</u></p>		<p><u>instruments bought or sold, the quantity, the dates and times of execution, the effective dates, the transaction prices, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the entity subject to the reporting obligation, a designation to identify the applicable waiver under which the trade has taken place and means of identifying the investment firms concerned.</u></p> <p><u>Reports on a transaction made at the trading venue shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue.</u></p> <p><u>For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3), point (a), and Article 21(5), point (a). For commodity derivatives, the reports shall</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 194/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.;</u>		<u>indicate whether the transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.;</u>  [TM 20.07: “the effective dates” added in line with the addition made on 12.07 on point c of para 9]
Article 1(11e), amending provision				
182t		<u>(11e) in Article 26, paragraph 5 is replaced by the following:</u>		<u>(d) paragraph 5 is replaced by the following:</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(11e), amending provision				
182u		<u>‘5. The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user not subject to this Regulation in accordance with paragraphs 1 and 3.’;</u>		<u>‘5. The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user which is not subject to this Regulation in accordance with paragraphs 1 and 3.’;</u>
Article 1(11f), amending provision				
182v		<u>(11f) in Article 26(6), the first subparagraph is replaced by the following:</u>		<u>(e) in paragraph 8, the following subparagraph is inserted before the first subparagraph:</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 195/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(11f), amending provision				
182w		<u>'In reporting the designation to identify the clients as required under paragraphs 3 and 4, investment firms shall use an ISO 17442 legal entity identifier code established to identify parties that are eligible for the code. The code shall be used to identify eligible parties regardless of their legal status and the way in which they are financed. For parties that are not eligible for the code, a national identifier established to identify parties that are not eligible for the legal entity identifier code shall be used.'</u> ;		<u>An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm. The branch of a third country firm shall submit its transaction reports to the competent authority which authorised the branch. Where a third country firm has set up branches in more than one Member State, those branches shall define the competent authority that is to receive all the transaction reports.'</u> ;
Article 1(12)				
183	(12) Article 26(9) is amended as follows:	(12) Article 26(9) is amended as follows:	(12) Article <del>26(9)</del> 26 is amended as follows:	<del>(12) Article 26(9) (f) paragraph 9 is amended as follows:</del>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(12), point (a)				
184	(a) the following point (j) is added:	<i>deleted</i>	(a) <del>the following point (j) is added</del> paragraph 1 is replaced by the following:	<del>(a) the following point (j) is added:</del> <u>(i) the first subparagraph is amended as follows:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(12), point (a), amending provision, numbered paragraph (1)				
185	‘(j) the date by which transactions are to be reported.;	<i>deleted</i>	<u>‘(j)1. <del>the date by which</del> Investment firms which execute transactions <del>are to be reported</del> in financial instruments shall report complete and accurate details of such transactions to the competent authority as quickly as possible, and no later than the close of the following working day.’</u>	<u>- point (c) is replaced by the following:</u>
Article 1(12), point (a), amending provision, first paragraph				
185a			<u>The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the following competent authorities also receive that information:</u>	<u>(c) the references of the financial instruments bought or sold, the quantity, the dates and times of execution, the effective dates, the transaction prices, the information and details of the identity of the client, a designation to identify the clients on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>execution of the transaction, a designation to identify the applicable waiver under which the trade has taken place, the means of identifying the investment firms concerned, the way in which the transaction was executed, data fields necessary for the processing and analysis of the transaction reports in accordance with paragraph 3;</u></p> <p>[TM 20.07: “including its country of domicile or establishment,” included on 12.07 is now deleted]</p>
Article 1(12), point (a), amending provision, numbered paragraph (1), first intent				
185b			<p><u>(i) the competent authority of the most relevant market in terms of liquidity for those financial instruments, and</u></p>	<p><u>- point (d) is deleted.</u></p>
Article 1(12), point (a), amending provision, numbered paragraph (1), second intent				
185c			<p><u>(ii) the competent authorities responsible for the supervision of the transmitting investment firms;</u></p>	<p><u>- point (e) is replaced by the following:</u></p>
Article 1(12), point (a), amending provision, numbered paragraph (1), third intent				
185d			<p><u>(iii) the competent authorities responsible for the supervision of</u></p>	<p><u>(e) the relevant categories of indices to be reported in accordance with paragraph 2;</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 198/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>the branches which have been part of the transaction; and</u>	[TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(12), point (a), amending provision, numbered paragraph (1), fourth intent				
185e			<u>(iv) the competent authority responsible for the supervision of the trading venues used.</u>	<u>- the following points are added:</u>
Article 1(12), point (a), amending provision				
185f			<u>The competent authorities shall without undue delay make available to ESMA any information reported in accordance with this Article.;</u>	<u>'(j) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction; and</u>  <u>(k) the date by which transactions are to be reported.;</u>
Article 1(12), point (b)				
186	(b) the following subparagraph is inserted after the first subparagraph:	<i>deleted</i>	<del>(b) the following subparagraph is inserted after the first subparagraph</del> <u>paragraph 2 is replaced by the following:</u>	<del>(b) (ii) the following subparagraphs are inserted after the first subparagraph:</del> <u>(ii) the second and third following subparagraphs are replaced by the following-is</u>
Article 1(12), point (b), amending provision, first paragraph				
187	'When drafting those regulatory technical standards, ESMA shall take into account international developments and standards agreed	<i>deleted</i>	<del>2. When drafting those regulatory technical standards, ESMA shall take into account international developments and standards agreed</del>	'When <del>drafting</del> <u>developing</u> those <u>draft</u> regulatory technical standards, ESMA shall take into account international developments and standards

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 199/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	upon at Union or global level, and their consistency with the reporting requirements laid down in Regulation (EU) 2019/834 and Regulation (EU) 2015/2365.;		<del>upon at Union or global level, and their consistency with the reporting requirements</del> <u>The obligation</u> laid down in <del>Regulation (EU) 2019/834 and Regulation (EU) 2015/2365.;</del> <u>paragraph 1 shall apply to:</u>	agreed upon at Union or global level, and <del>the their</del> <u>consistency of those draft regulatory technical standards</u> with the reporting requirements laid down in Regulation (EU) <del>2019/834</del> <u>No 648/2012</u> and Regulation (EU) 2015/2365.;
Article 1(12)				
187a			<u>(a) financial instruments which are admitted to trading or traded or concluded on a trading venue or for which a request for admission to trading has been made;</u>	n/a
Article 1(12)				
187b			<u>(b) financial instruments where the underlying is a financial instrument traded on a trading venue; and</u>	n/a
Article 1(12)				
187c			<u>(c) financial instruments where the underlying is an index or a basket composed of financial</u>	n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 200/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>instruments traded on a trading venue;</u>	
Article 1(12), point (b), amending provision, second paragraph				
187d			<u>The obligation shall apply to transactions in financial instruments referred to in points (a) to (c) irrespective of whether or not such transactions are carried out on the trading venue with exception of transactions in derivatives that are not concluded on a trading venue and that are not referred to in points (b) or (c) or in Article 21(1).';</u>	n/a
Article 1(12), point (ba), amending provision, numbered paragraph (3)				
187e			<u>(ba) paragraph 3 is replaced by the following:</u>	n/a
Article 1(12), point (ba), amending provision, numbered paragraph (3)				
187f			<u>"3. The reports shall, in particular, include details of the names and numbers of the financial instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the</u>	n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 201/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the entity subject to the reporting obligation, a designation to identify the applicable waiver under which the trade has taken place, means of identifying the investment firms concerned.</u></p>	
Article 1(12), point (ba), amending provision, numbered paragraph (3)				
187g			<p><u>For transactions carried out on a trading venue, the reports shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue. For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3)(a) and Article 21(5)(a). For commodity derivatives, the reports shall indicate whether the transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.';</u></p>	n/a
Article 1(12), point (bb), amending provision				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 202/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
187h			<u>(bb) paragraph 5 is replaced by the following:</u>	n/a
Article 1(12), point (bb), amending provision, first paragraph				
187i			<u>The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user which is not subject to this Regulation in accordance with paragraphs 1 and 3.;</u>	n/a
Article 1(12), point (bc), amending provision				
187j			<u>(bc) paragraph 7 is amended as follows:</u>	n/a
Article 1(12), point (bc), amending provision				
187k			<u>(i) second subparagraph is replaced by the following:</u>	n/a
Article 1(12), point (bc), amending provision				
187l			<u>"Investment firms shall have responsibility for the completeness, accuracy and timely submission of</u>	n/a

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>the reports which are submitted to the competent authority.</u> ;	"
Article 1(12), point (bc), amending provision				
187m			<u>(ii) last subparagraph is replaced by the following:</u>	n/a
Article 1(12), point (bc), amending provision				
187n			<u>"Where there are errors or omissions in the transaction reports the ARM, investment firm or trading venue reporting the transaction shall correct the information and submit a corrected report to the competent authority.</u> ;	" n/a
Article 1(12), point (bd), amending provision				
187o			<u>(bd) in paragraph 8 following new first subparagraph is inserted:</u>	n/a
Article 1(12), point (bd), amending provision, first subparagraph				
187p			<u>"An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm. The branch of a third country firm shall submit its transaction reports to the competent authority which authorised the branch. Where a third country firm has set</u>	n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 204/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>up branches in more than one Member State within the Union, those branches shall define the competent authority that will receive all the transaction reports.';</u>	
Article 1(12), point (be), amending provision				
187q			<u>(be) paragraph 9 is amended as follows:</u>	n/a
Article 1(12) point (a), amending provision				
187r		<u>(a) the first subparagraph is amended as follows:</u>		n/a
Article 1(12), amending provision				
187s		<u>(i) point (c) is replaced by the following:</u>		n/a
Article 1(12), amending provision				
187t		<u>'(c) the references of the financial instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, the information and details of the identity of the client, a designation to identify the clients on whose behalf the investment firm has executed that transaction, a designation to identify the persons</u>		n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 205/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the applicable waiver under which the trade has taken place, the means of identifying the investment firms concerned, the way in which the transaction was executed, data fields necessary for the processing and analysis of the transaction reports in accordance with paragraph 3;';</u>		
Article 1(12), amending provision				
187u		<u>(ii) point (d) is deleted;</u>	<u>(i) point (d) is deleted;</u>	n/a
Article 1(12), amending provision				
187v		<u>(iii) point (e) is replaced by the following:</u>	<u>(ii) point (e) is replaced by the following:</u>	n/a
Article 1(12), point (be)(ii), amending provision, numbered paragraph (e)				
187w		<u>'(e) the relevant categories of indices to be reported in accordance with paragraph 2;';</u>	<u>"(e) the relevant categories of indices to be reported in accordance with paragraph 2;'</u> "	n/a
Article 1(12), amending provision				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 206/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
187x		<u>(iv) the following points are added:</u>	<u>(iii) the following point (j) is added:</u>	n/a
Article 1(12), amending provision				
187y		<u>'(ia) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction; and</u>		n/a
187z		<u>(ib) the date by which transactions are to be reported. ';</u>		n/a
Article 1(12), point (be)(iii), amending provision, numbered paragraph (j)				
187aa			<u>"(j) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction. ';</u> "	n/a
Article 1(12), amending provision				
187ab			<u>(iv) the following point (k) is added:</u>	n/a
Article 1(12), point (be)(iv), amending provision, numbered paragraph (k)				
187ac				n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 207/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			"(k) <u>the date by which transactions are to be reported.</u> "; "	
Article 1(12), point (be)(iv), amending provision, numbered paragraph (v)				
	187ad		<u>(v) the following subparagraph is inserted after the first subparagraph:</u>	n/a
Article 1(12), point (be)(v), amending provision, second subparagraph				
	187ae		<u>'When drafting those regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and their consistency with the reporting requirements laid down in Regulation (EU) No 648/2012 and Regulation (EU) No 2015/2365.'</u> "	n/a
Article 1(12), amending provision				
	187af	<u>(b) the second subparagraph is replaced by the following:</u>		[TM 12.07: as discussed - content inserted in the 4CT in the right way]  [TM 29.08: deleted as per the merge in line 186]
Article 1(12), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
187ag		<u>'ESMA shall submit those draft regulatory technical standards to the Commission by ... [3 years after the date of entry into force of this amending Regulation].';</u>		<u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [18 months after the date of entry into force of this amending Regulation].'</u>  <u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>
Article 1(13)				
188	(13) in Article 26, the following paragraph 11 is added:	(13) in Article 26, the following paragraph 11 is added:	(13) in Article 26, the following paragraph 11 is added:	<del>(13) in Article 26, the following paragraph 11 is added:</del>  <u>(h) the following paragraph is added:</u>  [TM 12.07: as discussed - content inserted in the 4CT in the right way]
Article 1(13), amending provision, numbered paragraph (11)				
189	'11. By [OP insert date 2 years as of date of publication], ESMA shall submit to the Commission a report assessing the feasibility of more integration in transaction reporting and streamlining of data flows under Article 26 of this Regulation to:	'11. By [ <u>OP insert date 2 years as of date of publication</u> <del>OP insert date 2 years as of date of publication</del> ], ESMA shall submit to the Commission a report <del>assessing the feasibility of more integration in for</del> <u>the development of an integrated collection of</u> transaction reporting	'11. By [OP insert date 2 years as of date of publication], ESMA shall submit to the Commission a report assessing the feasibility of more integration in transaction reporting and streamlining of data flows under Article 26 of this Regulation to:	'11. By ... [ <del>OP insert date</del> two years <u>after</u> as of date <del>of publication</del> <u>of entry into force of this amending Regulation</u> ], ESMA shall submit to the Commission a report assessing the feasibility of more integration in transaction reporting and streamlining of data flows under Article 26 of this Regulation to:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<del>data and for the</del> streamlining of data flows under Article 26 of this Regulation to:		[TM 20.07: revert to the COM proposal]  [TM 29.08 linguistic revision]
Article 1(13), amending provision, numbered paragraph (11), point (a)				
190	(a) reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation and Regulation (EU) 2019/834 of the European Parliament and of the Council* <sup>1</sup> and Regulation (EU) 2015/2365;	(a) reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation <del>and</del> Regulation (EU) 2019/834 of the European Parliament and of the Council* <sup>1</sup> <del>and</del> Regulation (EU) 2015/2365, <u>and in other legislation of the financial industry</u> ;	(a) reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation <del>and</del> Regulation (EU) <del>2019/834 of the European Parliament and of the Council*<sup>1</sup></del> <u>No 648/2012</u> and Regulation (EU) <del>2015/2365</del> <u>No 2015/2365</u> ;	(a) reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation <del>and</del> Regulation (EU) <del>2019/834 of the European Parliament and of the Council*<sup>1</sup></del> <u>No 648/2012</u> and Regulation (EU) 2015/2365, <u>and in other relevant Union law</u> ;
Article 1(13), amending provision, numbered paragraph (11), point (b)				
191	(b) improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant competent authority, both Union and national.	(b) improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant competent authority, both Union and national.	(b) improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant competent authority, both Union and national.	(b) improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant <u>Union or national</u> competent authority, <del>both Union and national</del> .  [TM 29.08: linguistic revision]
Article 1(13), amending provision, numbered paragraph (11), point (b), first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
192	When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank.	When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank.	When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank. <a href="#">:</a>	When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank. <a href="#">:</a>
Article 1(13), amending provision, numbered paragraph (11), point (b), third paragraph				
193	*1 Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42);	*1 Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42);	<del>*1 Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (OJ L 141, 28.5.2019, p. 42);</del>	n/a
Article 1(14)				
194	(14) Article 27(3) is amended as follows:	(14) Article <del>27(3)</del> 27 is amended as follows:	(14) Article <del>27(3)</del> 27 is amended as follows:	(14) Article <del>27(3)</del> 27 is amended as follows:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
194a		<u><i>(-a) in paragraph 1, first and second subparagraphs are replaced by the following:</i></u>	<u><i>(-a) in paragraph 1, first and second subparagraphs are replaced by the following:</i></u>	<u><i>(-a) in paragraph 1, the first and second subparagraphs are replaced by the following:</i></u>
Article 1(14), point (-a), amending provision, first subparagraph				
194b		<u><i>'With regard to financial instruments admitted to trading or traded on a trading venue or where the issuer has approved trading of the issued instrument or where a request for admission to trading has been made, trading venues shall provide ESMA with identifying reference data for the purpose of transaction reporting under Article 26 and the transparency requirements under Articles 3, 6, 8, 8a, 10, 11, 11a, 14, 20 and 21.'</i></u>	<u><i>"With regard to financial instruments admitted to trading or traded on a trading venue or concluded on a trading venue or where the issuer has approved trading of the issued instrument or where a request for admission to trading has been made, trading venues shall provide ESMA with identifying reference data for the purpose of transaction reporting under Article 26 and the transparency requirements under Articles 3, 6, 8, 8a, 10, 11, 11a, 14, 20 and 21."</i></u>	<u><i>'With regard to financial instruments admitted to trading or traded on a trading venue or where the issuer has approved trading of the issued instrument or where a request for admission to trading has been made, trading venues shall provide ESMA with identifying reference data for the purpose of transaction reporting under Article 26 and of the transparency requirements under Articles 3, 6, 8, 8a, 10, 14, 20 and 21.'</i></u>  <i>[TM 29.08: "concluded on a trading venue" deleted and cross references to articles 11 and 11a, since they do not related to transparency requirements]</i>
Article 1(14), point (-a), amending provision, second subparagraph				
194c		<u><i>With regard to derivatives, identifying reference data shall be based and further developed on globally agreed international standard used for identifying reference data as derivative identifiers.');</i></u>	<u><i>With regard to derivatives, identifying reference data shall be based and further developed on globally agreed international standard used for identifying reference data as derivative identifiers.');</i></u>	<u><i>With regard to OTC derivatives, identifying reference data shall be based on an globally agreed unique product identifier and on any other relevant identifying data.'</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>With regard to financial instruments not covered by the first subparagraph that fall within the scope of Article 26(2) and are traded on its system, each systematic internaliser, in case of equity instruments, and each designated reporting entity, in case of non-equity instruments, shall provide ESMA with the identifying reference data.</u></p> <p>[TM 20.07: wording of the COM proposed on 18.07 adjusted]</p>
Article 1(14), point (a)				
195	(a) the following point (c) is added:	(a) <del>the following point (c) is added:</del> <u>paragraph 3 is amended as follows;</u>	(a) <u>in paragraph 3,</u> the following point (c) is added:	(a) <del>the following point (c) is added:</del> <u>paragraph 3 is amended as follows:</u>
195a		<u>(i) the following point (c) is added:</u>		<u>(i) the following point is added:</u>
Article 1(14), point (a), amending provision, first paragraph				
196	'(c) the date by which reference data are to be reported.'	'(c) the date by which reference data are to be reported.'	'(c) the date by which reference data are to be reported. <u>;</u> '	'(c) the date by which reference data are to be reported. <u>;</u> '
Article 1(14), point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
197	(b) the following subparagraph is inserted after the first subparagraph:	(ii) the following subparagraph is inserted after the first subparagraph:	(b) <u>in paragraph 3</u> , the following <u>new</u> subparagraph is <u>inserted after the first subparagraph added at the end</u> :	(ii) the following subparagraph is inserted after the first subparagraph:
Article 1(14), point (b), amending provision, first paragraph				
198	‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) 2019/834 and Regulation (EU) 2015/2365.’;	‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) 2019/834 and Regulation (EU) 2015/2365.’;	‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) <del>2019/834</del> <u>No 648/2012</u> and Regulation (EU) <del>2015/2365</del> <u>No 2015/2365</u> .’;	‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) <del>2019/834</del> <u>No 648/2012</u> and Regulation (EU) 2015/2365.’;  <u>(b) the following paragraph is added:</u>  <u>5. By ... [three months after the date of entry into force of this amending Regulation], the Commission shall adopt a delegated act in accordance with Article 50 in order to supplement this Regulation by specifying the identifying reference data to be used with regards to OTC derivatives as referred to</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u><a href="#">paragraph 1, second subparagraph.</a></u>  [TM 13.09: DA added as compromise in relation to para 1, subparagraph 2]
Article 1(14)				
198a		<u><a href="#">(14a) Article 27d is amended as follows:</a></u>		<u><a href="#">(14a) Article 27d is amended as follows:</a></u>
Article 1(14)				
198b		<u><a href="#">(a) the title is replaced by the following:</a></u>		<u><a href="#">(a) the title is replaced by the following:</a></u>
Article 1(14)				
198c		<u><a href="#">‘Article 27d</a> <u><a href="#">Procedures for granting and refusing applications for authorisation for ARMs and APAs’;</a></u></u>		<u><a href="#">‘Procedures for granting and refusing applications for authorisation of ARMs and APAs’;</a></u>
Article 1(14)				
198d		<u><a href="#">(b) paragraphs 1-3 are replaced by the following:</a></u>		<u><a href="#">(b) paragraphs 1, 2 and 3 are replaced by the following:</a></u>
Article 1(14)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
198e		<u><i>‘1. The applicant APA or ARM shall submit an application providing all information necessary to enable ESMA, or the national competent authority where relevant, to confirm that the APA or ARM has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations under the provisions of this Title, including a programme of operations setting out, inter alia, the types of services envisaged and the organisational structure.</i></u>		<u><i>‘1. The applicant APA or ARM shall submit an application providing all information necessary to enable ESMA, or the national competent authority where relevant, to confirm that the APA or ARM has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations under the provisions of this Title, including a programme of operations setting out, inter alia, the types of services envisaged and the organisational structure.</i></u>
Article 1(14)				
198f		<u><i>2. ESMA, or the national competent authority where relevant, shall assess whether the application for authorisation is complete within 20 working days of receipt of the application.</i></u>		<u><i>2. ESMA, or the national competent authority where relevant, shall assess whether the application for authorisation is complete within 20 working days of receipt of the application.</i></u>
Article 1(14)				
198g		<u><i>Where the application is not complete, ESMA, or the national competent authority where relevant, shall set a deadline by which the APA or ARM is to provide additional information.</i></u>		<u><i>Where the application is not complete, ESMA, or the national competent authority where relevant, shall set a deadline by which the APA or ARM is to provide additional information.</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(14)				
198h		<u>After assessing an application as complete, ESMA, or the national competent authority where relevant, shall notify the APA or ARM accordingly.</u>		<u>After assessing an application as complete, ESMA, or the national competent authority where relevant, shall notify the APA or ARM accordingly.</u>
Article 1(14)				
198i		<u>3. ESMA, or the national competent authority where relevant, shall, within six months from the receipt of a complete application, assess the compliance of the APA or ARM with this Title. It shall adopt a fully reasoned decision granting or refusing authorisation and shall notify the applicant APA or ARM accordingly within five working days.’;</u>		<u>3. ESMA, or the national competent authority where relevant, shall, within six months from the receipt of a complete application, assess the compliance of the APA or ARM with this Title. It shall adopt a fully reasoned decision granting or refusing authorisation and shall notify the applicant APA or ARM accordingly within five working days.’;</u>  <u>(c) in paragraph 4, point (b) is replaced by the following:</u>  <u>‘ (b) the information included in the notifications under Article 27f(2) as regards APAs and ARMs. ’;</u>  <u>(d) in paragraph 5, the first subparagraph is replaced by the following:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>‘ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the notification or provision of information provided for in paragraph 1 of this Article and in Article 27f(2) as regards for APAs and ARMs. ’;</u></p> <p>[TM 30.08: RTS text modified in order to be aligned with the RTS and ITS for CTPs in Article 27db]</p>
Article 1(15)				
199	(15) the following Article 27da is inserted:	(15) the following Article 27da is inserted:	(15) the following Article 27da is <del>inserted</del> <u>added</u> :	(15) the following <del>Article 27da</del> <u>articles are</u> inserted:
Article 1(15), amending provision, first paragraph				
200	<p>‘Article 27da Selection process for the authorisation of a single consolidated tape provider for each asset class</p>	<p>‘Article 27da <del>Selection</del> Process for the <del>authorisation</del><u>selection</u> of a single <del>consolidated tape provider</del><u>CTP</u> for each asset class</p>	<p>‘Article 27da Selection process for the authorisation of a single consolidated tape provider for each asset class</p>	<p>‘Article 27da <del>Selection Process</del> <u>Procedure</u> for the <del>authorisation</del><u>selection</u> of a single <del>consolidated tape provider</del><u>CTP</u> for each asset class</p> <p>[Title changed in be aligned with the one of Article 27d]</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(15), amending provision, numbered paragraph (1)				
201	1. By [OP insert date 3 months as of entry into force], ESMA shall organise a selection procedure for the appointment of the CTP for a five year term. ESMA shall organise a separate selection procedure for each of the following asset classes: shares, exchange traded funds, bonds and derivatives (or relevant subclasses of derivatives).	1. By <u>[OP insert date 3 months as of entry into force]</u> <del>OP insert date 3 months as of entry into force</del> , ESMA shall organise a selection procedure for the appointment of the CTP for a five year term. ESMA shall organise a separate selection procedure for <del>each of</del> the following asset classes: <del>shares, exchange traded funds, bonds and derivatives (or relevant subclasses of derivatives)</del> , <u>in the following order:</u>	1. <del>By [OP insert date 3 months as of entry into force]</del> , ESMA shall organise a selection procedure for the appointment of the CTP for a five year term. ESMA shall organise a separate selection procedure for <u>a single CTP for</u> each of the following asset classes: <del>shares, exchange traded funds, bonds and derivatives (or relevant subclasses of derivatives)</del> .	1. <del>By: [insert date 3 months as of entry into force]</del> , For each of the following asset classes, ESMA shall organise a separate selection procedure for the appointment of <u>a single</u> CTP for a five-year term. <del>ESMA shall organise a separate selection procedure for each of the following asset classes: shares, exchange traded funds, bonds and derivatives (or relevant subclasses of derivatives).</del>  [TM 29.08: linguistic revision]
Article 1(15), amending provision				
201a		<u>(a) bonds;</u>	<u>(a) bonds;</u>	<u>(a) bonds;</u>
Article 1(15), amending provision				
201b		<u>(b) shares and ETFs;</u>	<u>(b) shares and exchange traded funds; and</u>	<u>(b) shares and ETFs; and</u>
Article 1(15), amending provision				
201c		<u>(c) derivatives.</u>	<u>(c) OTC derivatives or relevant subclasses of OTC derivatives.</u>	<u>(c) OTC derivatives or relevant subclasses of OTC derivatives.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 3: specify in Recitals that ESMA can decide for which subclasses of derivatives can launch a selection]
Article 1(15), amending provision				
201d		<u>Each selection procedure shall be initiated no later than six months following the initiation of the preceding one.</u>	<u>ESMA shall organise a the first selection procedure under point (a) by [OP insert date 9 months as of entry into force], or if it is later, directly after publication of the delegated acts based on Article 11(4) and 22b(2) in the Official Journal of the European Union.</u>	<u>ESMA shall initiate the first selection procedure under the first subparagraph, point (a), by ... [nine months after the date of entry into force of this amending Regulation].</u>
Article 1(15), amending provision				
201e			<u>ESMA shall organise the first selection procedure under point (b) within 6 months after the selection procedure under point (a) or, if this is later, directly after publication of all relevant delegated acts in the Official Journal of the European Union.</u>	<u>ESMA shall initiate the first selection procedure under the first subparagraph, point (b), within six months of the initiation of the selection procedure under the first subparagraph, point (a).</u>
Article 1(15), amending provision				
201f			<u>ESMA shall organise the first selection procedure under point (c) within six months after the selection procedure under point (b), and directly after an identifier under article 27 para 1 is developed and applied.</u>	<u>ESMA shall initiate the first selection procedure under the first subparagraph, point (c), within three months of the application of the delegated act referred to in Article 27(59) and not earlier than six months after the initiation of</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 220/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><a href="#">the selection procedure under point (b).</a></u></p> <p>[To discuss whether the identifier is needed in the text]</p> <p>[TM 8 June: TM decided to keep the reference to identifier]</p> <p>[TM 05.07: clarified the wording in Article 27 in relation to the application of the identifier]</p> <p>[TM 13.09: timing of the CT selection procedure for derivatives modified in order to avoid that it goes before the one of shares and ETFs]</p>
Article 1(15), amending provision				
201g			<p><u><a href="#">ESMA shall organise subsequent selection procedures under points (a), (b) and (c), in time to allow for a continuation of provision of the consolidated tape without disruption.</a></u></p>	<p><u><a href="#">ESMA shall initiate subsequent selection procedures under the first subparagraph, points (a), (b) and (c), in time to allow the provision of the consolidated tape to continue without disruption.</a></u></p>
Article 1(15), amending provision, numbered paragraph (2)				
202	<p>2. For each of the asset classes referred to in paragraph 1, ESMA shall assess the applications on the basis of the following criteria:</p>	<p>2. For each of the asset classes referred to in paragraph 1, ESMA shall <del>assess the applications</del> <u>select the applicant for subsequent authorisation</u> on the basis of the following criteria:</p>	<p>2. For each of the asset classes referred to in paragraph 1, ESMA shall assess the applications on the basis of the following criteria:</p>	<p>2. For each of the asset classes referred to in paragraph 1, ESMA shall <del>assess the applications</del> <u>select the applicant deemed suitable for operating the consolidated tape</u> on the basis of the following criteria:</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 29.08: linguistic improvement]
Article 1(15), amending provision, numbered paragraph (2), point (a)				
203	(a) the technical ability of the applicants to provide a resilient consolidated tape throughout the Union;	(a) the technical ability of the applicants to provide a resilient consolidated tape throughout the Union;	(a) the technical ability of the applicants to provide a resilient consolidated tape throughout the Union;	(a) the technical ability of the applicant <sup>s</sup> to provide a resilient consolidated tape throughout the Union;
Article 1(15), amending provision, numbered paragraph (2), point (b)				
204	(b) the capacity of the applicants to comply with the organisational requirements laid down in Article 27h;	(b) the capacity of the applicants to comply with the organisational requirements laid down in Article 27h;	(b) the capacity of the applicants to comply with the organisational requirements laid down in Article 27h;	(b) the capacity of the applicant <sup>s</sup> to comply with the organisational requirements laid down in Article 27h;  [TM 13.07: reworked]  [TM 20.07: second part added on 13.07 eventually deleted as per the additions made on Art 27db regarding joint applications]
Article 1(15), amending provision, numbered paragraph (2), point (ba)				
204a		<u>(ba) the ability to receive, consolidate and disseminate pre-trade and post-trade market data for shares and ETFs, up to the first five layers of the order books, and post-trade data for bonds and derivatives;</u>		<u>(ba) the ability of the applicant to receive, consolidate and disseminate pre-trade and post-trade data for shares and ETFs and post-trade data for bonds and OTC derivatives;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 05.07: wording adjusted as per the agreement reached at trilogue on pre-trade data - precise pre trade data to be adjusted in the definition of core market data]
Article 1(15), amending provision, numbered paragraph (2), point (c)				
205	(c) the governance structure of the applicants;	(c) <u>the adequacy of</u> the governance structure of the applicants;	(c) the <del>governance structure of the applicants</del> <u>ability to receive, consolidate and disseminate core market data for shares, ETFs, bonds and OTC derivatives; for shares and ETF disseminate also the European best bid and offer spread, defined as the best bid and offer spread for a share or ETF among all the venues that offer trading in that instrument;</u>	(c) <u>the adequacy of</u> the governance structure of the applicants;
Article 1(15), amending provision, numbered paragraph (2), point (d)				
206	(d) the speed at which the applicants can disseminate core market data;	(d) <u>the adequacy of</u> the speed at which the applicants can disseminate core market data;	(d) the <del>speed at which</del> <u>governance structure of</u> the applicants <del>can disseminate core market data;</del>	(d) the speed at which the applicants can disseminate core market data;
Article 1(15), amending provision, numbered paragraph (2), point (e)				
207	(e) the capacity of the applicants to disseminate good quality data;	(e) the <del>capacity</del> <u>appropriateness</u> of the <del>applicants to disseminate good quality data</del> <u>applicant's methods and arrangements to ensure data quality;</u>	(e) the <del>capacity of</del> <u>speed at which</u> the applicants <del>to can</del> disseminate <del>good quality</del> <u>core market</u> data;	(e) the <del>capacity</del> <u>appropriateness</u> of the <del>applicants to disseminate good quality data</del> <u>applicant's methods and arrangements to ensure data quality;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(15), amending provision, numbered paragraph (2), point (f)				
208	(f) the total expenditure needed by the applicants to develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis;	(f) the <u>reasonable level of</u> total expenditure needed by the applicants to develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis;	(f) the <del>total expenditure needed</del> <u>by capacity of</u> the applicants to <del>develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis</del> <u>disseminate good quality data</u> ;	(f) the total expenditure needed by the applicants to develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis;
Article 1(15), amending provision, numbered paragraph (2), point (g)				
209	(g) the level of the fees that the applicant intends to charge to the different types of users of the core market data;	(g) the level of the fees that the applicant intends to charge to the different types of users of the core market data, <u>their proportionality to the costs incurred for running the CTP, the simplicity of its fee and licensing models, and the applicant's ultimate ability to cover costs and generate a reasonable margin in line with the requirements of Article 13</u> ;	(g) the <del>level of the fees that the applicant intends to charge to the different types of users of the core market data</del> <u>total expenditure needed by the applicants to develop the consolidated tape and the costs of operating the consolidated tape on an ongoing basis</u> ;	(g) the level of the fees that the applicant intends to charge to the different types of users of the core market data, <u>the simplicity of its fee and licensing models, and compliance with Article 13</u> ;  [TM 20.07: wording proposed by the COM adjusted - costs incurred for running of the CTP is considered covered in Article 13]  [TM 29.08 recital to be clarify licensing models]
Article 1(15), amending provision, numbered paragraph (2), point (h)				
210	(h) the possibility of the applicants to use modern interface technologies for the provision of the core market data and for connectivity;	(h) the possibility of the applicants to use modern interface technologies for the provision of the core market data and for connectivity;	(h) the <del>possibility</del> <u>level</u> of the <del>applicants to use modern interface technologies for the provision</del> <u>fees that the applicant intends to charge to the different types of users</u> of the	(h) the <del>possibility of the applicants</del> <u>to use of</u> modern interface technologies <u>by the applicant</u> for the provision of the core market data and for connectivity;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			core market data <del>and for</del> <del>connectivity</del> ;	
Article 1(15), amending provision, numbered paragraph (2), point (i)				
211	(i) the storage medium the applicants will use for the storage of historic data;	(i) the <del>storage medium the applicants will use</del> <u>appropriateness of the arrangements in place to preserve records</u> for the <del>storage of historic data</del> <u>purposes of Article 27ha(3)</u> ;	(i) the <del>storage medium</del> <u>possibility of the applicants will use to use modern interface technologies</u> for the <del>storage of historic data</del> <u>provision of the core market data and for connectivity</u> ;	(i) the <del>storage medium the applicants will use</del> <u>appropriateness of the arrangements put in place by the applicant to preserve records</u> for the <del>storage of historic data</del> <u>purposes of Article 27ha(3)</u> ;
Article 1(15), amending provision, numbered paragraph (2), point (j)				
212	(j) the protocols the applicants will use to prevent and address outages.	(j) the <del>protocols</del> <u>ability to ensure regularity, resilience and business continuity, and the process</u> the applicants <del>will use to prevent</del> <u>intend to put in place to mitigate</u> and address <del>outages</del> <u>cyber-risk</u> ;	(j) the <del>protocols</del> <u>storage medium</u> the applicants will use <del>to prevent and address outages</del> <u>for the storage of historic data</u> ;	(j) the <del>protocols</del> <u>ability of the applicant to ensure resilience and business continuity, and the process</u> that the applicant <del>will use to prevent</del> <u>intends to put in place to mitigate</u> and address outages <u>and cyber-risk</u> ;
Article 1(15), amending provision, numbered paragraph (2), point (ja)				
212a			<u>(ja) the protocols the applicants will use to prevent and address outages</u> ;	[point ja of the Council mandate is covered by j above]
Article 1(15), amending provision, numbered paragraph (2), point (jb)				
212b			<u>(jb) the revenue participation scheme in accordance with Article</u>	[revenue participation scheme criteria kept in paragraph 3 to separate the selection criteria for all type of assets]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 225/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>27h(1) point (c) and (d) and Article 27h(5).</u>	from those applicable to shares and ETFs]
Article 1(15), amending provision, numbered paragraph (2), point (k)				
212c		<u>(k) the process the applicants intend to put in place to mitigate the energy consumption generated by the storage of data.</u>		<u>(k) the process the applicant intends to put in place to mitigate the energy consumption generated by the collection, processing and storage of data.</u>  <u>(l) where an application is submitted by joint applicants, the necessity, in terms of technical and logistical capacity, for each of the applicants to apply jointly.</u>  [TM 04.09: para 2b on competition issues is moved from Article 27db to 27da, as one of the criteria]
Article 1(15), amending provision, numbered paragraph (3)				
				<u>2a. The applicant shall provide all the information necessary to enable ESMA to confirm that the applicant has put in place, at the time of the application, all the necessary arrangements to fulfil the criteria set out in paragraph 2 of this Article and to comply with the organisational requirements set out in Article 27h.</u>  [TM 20.07: second part of para 2a deleted as per the additions on the joint applications in Article 27db]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 226/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
213	<p>3. The first selection procedure organised for shares shall only invite bids for the provision of a consolidated tape containing post trade data. Prior to subsequent selection procedures, ESMA shall assess market demand and revenue impacts on regulated markets and based on that assessment, report to the Commission on the opportunity of adding best bids and offers and corresponding volumes to the tape. Based on that report and on the experience gained further to the first selection procedure, the Commission is empowered to adopt a delegated act specifying the appropriate level of pre-trade data to be contributed to the CTP.</p>	<p>3. <del>The first</del> <u>For the</u> selection procedure organised <u>of the CTP</u> for shares <del>shall only invite bids for the provision of a consolidated tape containing post trade data. Prior to subsequent selection procedures and</del> <u>ETFs, in addition to the criteria in paragraph 2 of this Article,</u> ESMA shall <del>assess market demand and</del> <u>consider the</u> revenue <del>impacts on regulated markets and based on that assessment, report to the Commission on the opportunity of adding best bids and offers and corresponding volumes to the tape. Based on that report and on the experience gained further to the first selection procedure, the Commission is empowered to adopt a delegated act specifying the appropriate level of pre-trade data to be contributed to the</del> <u>CTP redistribution scheme that the applicant intends to put in place in relation to each market data contributor, and in particular the formula applicable to smaller regulated markets and SME growth markets that decide to provide their market data to the</u></p>	<p>3. The first selection procedure organised for shares <del>shall only and</del> <u>ETFs shall</u> invite bids for the provision of a consolidated tape containing post trade data. <del>Prior to subsequent selection procedures, ESMA shall assess market demand and revenue impacts on regulated markets and based on that assessment, report to the Commission as well as the best bids and offers available at the time of the transaction</del> on the <del>opportunity of adding best bids and offers and corresponding volumes to the tape. Based on that report and on the experience gained further to the first selection procedure, the Commission is empowered to adopt a delegated act specifying the appropriate level of pre-trade data to be contributed to the CTP</del> <u>venue where the share or ETF is traded and the European best bid and offer spread, defined as the best bid and offer spread for a share or ETF among all the venues that offer trading in that instrument.</u></p>	<p>Deleted</p> <p>[TM 05.07: agreed to delete this selection criteria as per Article 27h]</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><a href="#">CTP, in accordance with Article 22a(1c).</a></u>		
Article 1(15), amending provision, numbered paragraph (4)				
214	<p>4. The selection of the CTP for shares shall, in addition to the criteria in paragraph 2, consider the revenue participation scheme, and in particular the formula, applicable to regulated markets that are market data contributors. ESMA shall, when considering the competing tenders, select the CTP for shares that offers the revenue participation scheme that provides regulated markets, in particular smaller regulated markets, with the highest amount of revenue that remains for distribution once deducted operating costs and a reasonable margin. This revenue shall be distributed in accordance with Article 27h(1)(c), and in a manner commensurate to the market data contributed according to Article 22a.</p>	<p>4. <del>The selection of the CTP for shares shall, in addition to the criteria</del> <u>Within six months from the initiation of the selection procedure referred to</u> in paragraph 2, <del>consider the revenue participation scheme, and in particular the formula, applicable to regulated markets that are market data contributors.</del> <u>1, ESMA shall, when considering the competing tenders, select the CTP for shares that offers the revenue participation scheme that provides regulated markets, in particular smaller regulated markets, with the highest amount of revenue that remains for distribution once deducted</u> <u>adopt a fully reasoned decision selecting entities deemed suitable for</u> operating <del>costs and a reasonable margin. This revenue shall be distributed in accordance with Article 27h(1)(c), and in a manner commensurate to the market data contributed according to Article 22a</del> <u>the consolidated tapes and inviting them to submit an application for authorisation.</u></p>	<p>4. <del>The selection of the CTP for shares shall, in addition to the criteria in paragraph 2, consider the revenue participation scheme, and in particular the formula, applicable to regulated markets that are market data contributors. ESMA shall, when considering the competing tenders, select the CTP for shares that offers the revenue participation scheme that provides regulated markets, in particular smaller regulated markets, with the highest amount of revenue that remains for distribution once deducted operating costs and a reasonable margin. This revenue shall be distributed in accordance with Article 27h(1)(c), and in a manner commensurate to the market data contributed according to Article 22a.</del></p>	<p>4. <del>The selection of the CTP for shares shall, in addition to the criteria</del> <u>Within six months from the initiation of each selection procedure referred to</u> in paragraph 2, <del>consider the revenue participation scheme, and in particular the formula, applicable to regulated markets that are market data contributors.</del> <u>1, ESMA shall, when considering the competing tenders, select the CTP for shares that offers the revenue participation scheme that provides regulated markets, in particular smaller regulated markets, with the highest amount of revenue that remains for distribution once deducted</u> <u>adopt a fully reasoned decision selecting the applicant deemed suitable for</u> operating <del>costs and a reasonable margin. This revenue shall be distributed in accordance with Article 27h(1)(c), and in a manner commensurate to the market data contributed according to Article 22a</del> <u>the consolidated tape and inviting it to submit an application for authorisation.</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(15), amending provision, numbered paragraph (5)				
215	<p>5. ESMA shall adopt a fully reasoned decision selecting and authorising the entities operating the consolidated tapes within 3 months as of initiation of the selection procedure referred to in paragraph 2. Such reasoned decision shall specify the conditions under which the CTPs shall operate, and in particular the level of fees referred to in paragraph 2, point (g) and for shares the level of the participation referred to in paragraph 3, in particular for smaller regulated markets.</p>	<p><i>deleted</i></p>	<p>5. ESMA shall adopt a fully reasoned decision selecting <del>and authorising</del> the entities operating the consolidated tapes within 3 months as of initiation of the selection procedure referred to in paragraph <del>2. Such</del> <u>1. Such</u> reasoned decision shall specify the conditions under which the CTPs shall operate, and in particular the level of fees referred to in paragraph 2, point (g) and for shares the level of the participation referred to in paragraph <del>3</del> <u>2, point (h)</u>, in particular for smaller <del>regulated markets</del> <u>pre-trade transparent trading venues. The selected CTP shall without undue delay submit an application for authorisation referred to in Article 27d. In case no entity has been selected, ESMA shall organise a new selection procedure after 6 months from the end of the unsuccessful selection procedure.</u></p>	<p><u>5. Where no applicant has been selected under this Article or authorised under Article 27db, ESMA shall initiate a new selection procedure within six months from the end of the unsuccessful selection or authorisation procedure.</u></p> <p>[TM 3: check if not overlapping with line 305]</p> <p>[TM 13.07: in case of not authorisation has been added to the scope of this para 5]</p> <p>[TM 28.09: adjusted for clarification]</p>
Article 1(15), amending provision, numbered paragraph (6)				
216	<p>6. The selected CTPs shall comply at all times with the organisational requirements set out in Article 27h</p>	<p><i>deleted</i></p>	<p>6. The selected CTPs shall comply at all times with the organisational requirements set out in Article 27h</p>	<p><i>deleted</i></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and with the conditions set out in the decision of ESMA authorising the CTP referred to in paragraph 3. A CTP that is no longer able to comply with those requirements and conditions, including the requirements and conditions on system disruptions and intrusions, shall inform ESMA thereof without undue delay.		and with the conditions set out in the decision of ESMA authorising the CTP referred to in paragraph 3. A CTP that is no longer able to comply with those requirements and conditions, including the requirements and conditions on system disruptions and intrusions, shall inform ESMA thereof without undue delay.	
Article 1(15), amending provision, numbered paragraph (7)				
217	7. The withdrawal of the authorisation referred to in Article 27e shall only take effect as of the moment that a new CTP has been selected and authorised in accordance with paragraphs 1 to 4.	<i>deleted</i>	7. The withdrawal of the authorisation referred to in Article 27e shall only take effect as of the moment that a new CTP has been selected and authorised in accordance with paragraphs 1 to 4.	<i>deleted</i>
217a			<u>7a. Three years after the selection procedure under paragraph 1 point (a) and (b) is completed, ESMA shall assess the market demand and impact of the consolidated tape on the functioning of the market, and based on that assessment, report to the Commission on the opportunity of improving the consolidated tape by requiring</u>	<i>deleted</i>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 230/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>additional data to be published by the consolidated tape provider while maintaining the opt-in mechanism referred to in Article 22a paragraph 1a.</u> ;	
Article 1(15), amending provision				
217b		<u>(15a) the following Article is inserted:</u>		[TM 30.08: intro deleted since it was merged with the intro of 27da]
Article 1(15), amending provision				
217c		<u>'Article 27db</u> <u>Process for the authorisation of CTPs</u>		<u>Article 27db</u> <u>Procedures for granting and refusing applications for authorisation of CTPs</u>  [Title changed in be aligned with the one of Article 27d]
Article 1(15), amending provision				
217d		<u>1. The application referred to in Article 27da shall provide all the information necessary to enable ESMA to confirm that the applicant has put in place, at the time of initial authorisation, all the necessary arrangements to fulfil the criteria set out in Article</u>		<u>1. The application for authorisation referred to in Article 27da(4) shall provide all the information necessary to enable ESMA to confirm that the applicant has put in place, at the time of the application for authorisation, all the necessary</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 231/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>27da(2) and to comply with the organisational requirements set out in Article 27h.</u>		<u>arrangements to fulfil the criteria set out in Article 27da(2).</u>  [TM 13.07: first subpara of para 1 copied in Article 27(da)2a]  [TM 20.07: last sentence of subparagraph 1 removed as per the additions made below on the joint applications]  [TM 29.078: cross reference to Article 27h deleted]  [TM 20.07: wording provided by the COM adjusted]  [TM 20.07: Secr and DLA to assess where to place this addition within the article]  [TM 30.08: changes to be made as per the comment received from DG COMP on the involvement of the COM- to align also line 227b - provision moved eventually to 27da]
Article 1(15), amending provision				
217e		<u>ESMA shall assess whether the application for authorisation is complete within 20 working days of its receipt.</u>		<u>1b. ESMA shall assess whether the application for authorisation is complete within 20 working days of its receipt.</u>
Article 1(15), amending provision				
217f		<u>Where the application is not complete, ESMA shall set a</u>		<u>Where the application for authorisation is not complete,</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>deadline by which the applicant is to provide additional information.</u>		<u>ESMA shall set a deadline by which the applicant is to provide additional information.</u>
Article 1(15), amending provision				
217g		<u>After assessing the application as complete, ESMA shall notify the CTP accordingly. Within three months from the receipt of a complete application, ESMA shall assess the compliance of the applicant with this Title. It shall adopt a fully reasoned decision granting or refusing authorisation and shall notify the applicant accordingly within five working days of the date of adoption of such reasoned decision. Such reasoned decision shall specify the conditions under which the CTP shall operate and, in particular, the level of fees referred to in Article 27da(2)(g), as indicated by the applicant, and, for shares, the level of the participation as referred to in Article 27h(1), point (c).</u>		<p><u>After assessing the application for authorisation as complete, ESMA shall notify the applicant accordingly.</u></p> <p><u>Ic. Within three months of the receipt of a complete application for authorisation, ESMA shall assess the compliance of the applicant with this Title. ESMA shall adopt a fully reasoned decision granting or refusing authorisation and shall notify the applicant accordingly within five working days of the date of adoption of such reasoned decision. Such reasoned decision shall specify the conditions under which the applicant shall operate.</u></p> <p>[3 months period for adopting a reasoned decision or refusing clarified]</p> <p>[TM 29.08: last part adjusted in relation to the revenue distribution scheme of Article 27h]</p> <p>[TM 04.09: last part regarding particular details of reasoned decision deleted - <b>to consider to include "in</b></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>particular the level of fees” in the recitals]</i>
Article 1(15), amending provision				
217h		<u><i>2. Once authorised by ESMA, the CTP shall be granted a transition period of three months to ensure the operational and technical set-up in accordance with the respective regulatory technical standards before the consolidated tape begins to operate. During this transition period, the CTP shall allow data providers to connect and test the connection to the CTP for data contribution.</i></u>		<u><i>2. Following the authorisation in accordance with paragraph 1c, ESMA may grant the applicant authorised as CTP a transition period to put in place the necessary operational and technical set-up.</i></u>  <i>[TM 05.07: to insert in recitals an explanation on the justification for a transition period]</i>
Article 1(15), amending provision				
217i		<u><i>3. The selected CTPs shall comply at all times with the organisational requirements set out in Article 27h and with the conditions set out in the decision of ESMA authorising the CTP referred to in paragraph 1, fourth subparagraph of this Article. A CTP that is no longer able to comply with those requirements and conditions, including the requirements and conditions on system disruptions and intrusions, shall inform ESMA thereof without undue delay.</i></u>		<u><i>3. The CTP shall comply at all times with the requirements set out in Article 27h and with the conditions set out in the reasoned decision of ESMA authorising the CTP referred to in paragraph 1c of this Article.</i></u>  <u><i>A CTP that is no longer able to comply with those requirements and conditions referred to in the first subparagraph, shall inform ESMA thereof without undue delay.</i></u>  <i>[TM 29.08: adjusted for clarity]</i>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 234/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(15), amending provision				
217j		<u>4. The withdrawal of the authorisation referred to in Article 27e shall only take effect when a new CTP has been selected and authorised in accordance with Articles 27da and 27db.</u>		<u>4. The withdrawal of the authorisation referred to in Article 27e shall only take effect once a new CTP has been selected and authorised for the asset class concerned in accordance with Articles 27da and 27db.</u>
Article 1(15), amending provision				
217k		<u>5. ESMA shall develop draft regulatory technical standards to determine:</u>		<u>5. ESMA shall develop draft regulatory technical standards to determine:</u>
Article 1(15), amending provision				
217l		<u>(a) the information to be provided under paragraph 1, including the programme of operations;</u>		<u>(a) the information to be provided under paragraph 1 and 1a;</u> <i>[TM 29.08: second part deleted- not applicable]</i>
Article 1(15), amending provision				
217m		<u>(b) the information included in the notifications under Article 27f(2).</u>		<u>(b) the information included in the notifications under Article 27f(2) as regards CTPs.</u> <i>[TM 29.08 adjusted in order to include CTPs in the scope]</i>
Article 1(15), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
217n		<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>		<u>ESMA shall submit those draft regulatory technical standards to the Commission by ...[nine months after entry into force of this amending Regulation]</u>  [TM 20.07: addition proposed by the COM]  <u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>
Article 1(15), amending provision				
217o		<u>6. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the notification or provision of information provided for in paragraph 1 of this Article and in Article 27f(2).</u>		<u>6. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the notification or provision of information provided for in paragraph 1 of this Article and in Article 27f(2) as regards for CTPs.</u>  [TM 29.08: adjusted to cover CTPs- the same done in Article 27d for APAs and ARMs]  <u>ESMA shall submit those draft implementing technical standards to the Commission by ... [nine months after the date of entry into</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 236/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u><a href="#">force of this amending Regulation</a></u> .  [TM 13.09: further standard text on ITS added and dates inserted]
Article 1(15), amending provision				
217p		<u><a href="#">Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</a></u>		<u><a href="#">Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</a></u> ;
Article 1(15), amending provision				
217q		<u><a href="#">(15b) In Article 27e, the following paragraph is inserted:</a></u>		<u><a href="#">(15b) In Article 27e, the following paragraph is added:</a></u>
Article 1(15), amending provision				
217r		<u><a href="#">‘2a. A data reporting services provider from which registration has been withdrawn shall ensure orderly substitution, including the transfer of data to other data reporting services providers, the</a></u>		<u><a href="#">‘3. A data reporting services provider from which authorisation has been withdrawn shall ensure orderly substitution, including the transfer of data to other data reporting services providers, the</a></u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 237/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>due notice to its clients and the redirection of reporting flows to other data reporting services providers prior to the withdrawal.</u> ’;		<u>due notice to its clients and the redirection of reporting flows to other data reporting services providers prior to the withdrawal.</u> ’;
Article 1(15), amending provision				
217s		<u>(15c) Article 27f is amended as follows:</u>		<u>(15c) in Article 27f, paragraph 4 is replaced by the following:</u>
Article 1(15), amending provision				
217t		<u>(a) in paragraph 1, the third subparagraph is replaced by the following:</u>		<u>(a) in paragraph 1, the third subparagraph is replaced by the following:</u>
Article 1(15), amending provision				
217u		<u>‘Where a market operator seeks authorisation to operate an APA or an ARM pursuant to Article 27c, where if it fulfils the criteria for derogation of ESMA supervision and where the members of the management body of the APA, or the ARM are the same as the members of the management body of the regulated market, those persons are deemed to comply with the requirements laid down in the first subparagraph.’;</u>		<u>‘Where a market operator seeks authorisation to operate an APA or an ARM pursuant to Article 27d, where it is excluded from ESMA supervision under Article 2(3) and where the members of the management body of the APA, or the ARM are the same as the members of the management body of the regulated market, those persons are deemed to comply with the requirements laid down in the first subparagraph.’;</u>  [TM 30.08: cross reference to 27c replaced by 27d]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 238/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 13.09: CTPs should be covered by Art 27f - eventually text do not change so deleted]
Article 1(15), amending provision				
217v		<u>(b) paragraph 4 is replaced by the following:</u>		<u>(b) paragraph 4 is replaced by the following:</u>
Article 1(15), amending provision				
217w		<u>'4. ESMA, or the national competent authority where relevant, shall refuse or withdraw authorisation if it is not satisfied that the person or persons who effectively direct the business of the data reporting services provider are of sufficiently good repute, or if there are objective and demonstrable grounds for believing that proposed changes to the management body of the data reporting services provider pose a threat to its sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.'</u>		<u>'4. ESMA, or the national competent authority where relevant, shall refuse or withdraw authorisation if it is not satisfied that the person or persons who effectively direct the business of the data reporting services provider are of sufficiently good repute, or if there are objective and demonstrable grounds for believing that proposed changes to the management body of the data reporting services provider pose a threat to its sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.'</u>
Article 1(15), amending provision				
217x		<u>(c) the following paragraphs are inserted:</u>		<u>(c) the following paragraphs are inserted:</u>
Article 1(15), amending provision				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 239/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
217y		<u>'4a. An APA shall have objective, non-discriminatory and publicly disclosed requirements for access to its services by undertakings that are subject to the transparency obligations under Article 20(1) and Article 21(1).</u>		<u>'4a. An APA shall have objective, non-discriminatory and publicly disclosed requirements for access to its services by undertakings that are subject to the transparency obligations under Article 20(1) and Article 21(1).</u>
Article 1(15), amending provision				
217z		<u>An APA shall publicly disclose the prices and fees associated with the data reporting services provided under this Regulation. It shall disclose separately the prices and fees of each service provided, including discounts and rebates and the conditions to benefit from those reductions. It shall allow reporting entities to access specific services separately.</u>		<u>An APA shall publicly disclose the prices and fees associated with the data reporting services provided under this Regulation. It shall disclose separately the prices and fees of each service provided, including discounts and rebates and the conditions to benefit from them. It shall allow reporting entities to access specific services separately.</u>
Article 1(15), amending provision				
217aa		<u>4b. APAs shall keep and preserve records relating to their business for at least five years. The information concerning the first two years shall be kept in an easily accessible place, and the APA shall provide such records to ESMA without delay upon request.'</u>		<u>4b. APAs shall keep and preserve records relating to their business for at least five years. APAs shall promptly make those records available to the relevant competent authority or ESMA upon request.'</u>  [Language aligned with Article 31 MiFIR]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 13.09: new paras 4a and 4b to be placed in article 27g]
Article 1(16)				
				<p><u>(15d) in Article 27g is modified as follows:</u></p> <p><u>(i) the following paragraphs are inserted:</u></p> <p><u>‘4a. An APA shall have objective, non-discriminatory and publicly disclosed requirements for access to its services by undertakings that are subject to the transparency obligations under Article 20(1) and Article 21(1).</u></p> <p><u>An APA shall publicly disclose the prices and fees associated with the data reporting services provided under this Regulation. It shall disclose separately the prices and fees of each service provided, including discounts and rebates and the conditions to benefit from them. It shall allow reporting entities to access specific services separately.</u></p> <p><u>4b. APAs shall keep and preserve records relating to their business for at least five years. APAs shall promptly make those records available to the relevant competent authority or ESMA upon request.’;</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 241/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><a href="#">(ii) paragraph 7 is deleted;</a></u></p> <p>[TM 28.08: DA on RCB deleted as is covered by Article 13]</p> <p>[TM 13.09: new paras 4 and 4a inserted initially in article 27f moved to 27g]</p>
218	(16) Article 27h is replaced by the following:	(16) Article 27h is replaced by the following:	(16) Article 27h is replaced by the following:	(16) Article 27h is replaced by the following:
Article 1(16), amending provision, first paragraph				
219	‘Article 27h	‘Article 27h	‘Article 27h	‘Article 27h
Article 1(16), amending provision, second paragraph				
220	Organisational requirements for consolidated tape providers	Organisational requirements for <del>consolidated tape providers</del> <u>CTPs</u>	Organisational requirements for consolidated tape providers	Organisational requirements for <del>consolidated tape providers</del> <u>CTPs</u>
				[TM 05.07: title adjusted as per the discussions on Article 27da]
Article 1(16), amending provision, numbered paragraph (1)				
221	1. CTPs shall, in accordance with the conditions for authorisation referred to in Article 27da:	1. CTPs shall, in accordance with the conditions for authorisation referred to in Article 27da:	1. CTPs shall, in accordance with the conditions for authorisation referred to in Article 27da:	1. CTPs shall, in accordance with the conditions for authorisation referred to in Article 27da:
Article 1(16), amending provision, numbered paragraph (1), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
222	(a) collect all market data provided through contributions in relation to the asset class for which they are authorised;	(a) collect all market data provided through contributions in relation to the asset class for which they are authorised;	(a) collect all market data provided through contributions in relation to the asset class for which they are authorised;	(a) collect all market data provided through contributions in relation to the asset class for which they are authorised;
Article 1(16), amending provision, numbered paragraph (1), point (b)				
223	(b) collect monthly subscription fees from users;	(b) collect monthly subscription fees from users, <u>while providing free access to retail investors, academics and civil society organisations using the data for research purposes as well as public authorities for the execution of regulatory and supervisory competences</u> ;	(b) collect monthly <u>or annually</u> subscription fees from users;	<i>[TM1: delete monthly or annually; keep the EP text]</i>  (b) collect <u>monthly subscription</u> fees from <u>subscribers, while providing free access to retail investors, academics, civil society organisations and competent authorities</u> ;
Article 1(16), amending provision, numbered paragraph (1), point (c)				
224	(c) in the case of market data concerning shares, redistribute part of their revenues for the purposes of covering the cost related to mandatory contribution and of ensuring a fair level of participation for regulated markets, and in particular smaller regulated markets, in the revenue generated by the consolidated tape, in accordance with Article 27da(4);	(c) in the case of market data concerning shares <u>and ETFs</u> , redistribute part of their revenues for the purposes of covering the cost related to mandatory contribution and, <u>when applicable</u> , of ensuring a <u>fair reasonable</u> level of participation for regulated markets; a234nd <u>SME Growth Markets</u> , in particular smaller regulated markets, in the revenue generated by the consolidated tape, in accordance with Article 27 <del>da(4)</del> <u>da(3)</u> ;	(c) in the case of market data concerning shares, redistribute part of their revenues for the purposes of covering the cost related to mandatory contribution and of ensuring a fair level of participation for <u>regulated markets trading venues</u> , and in particular smaller regulated markets, <u>SME Growth Markets and others trading venues providing initial admission to trading of shares and trading</u>	(c) in the case of market data concerning shares <u>and ETFs</u> , redistribute part of their revenue, in accordance with <u>Article 27da(4); paragraph 5 and the revenue redistribution scheme put forward in the selection procedure</u> .  <i>[TM 04.07: to double check the last part of point c in relation to Article 27da]</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>venues providing the best bid and offers available</u>, in the revenue generated by the consolidated tape, in accordance with <del>Article 27da(4)</del><u>paragraph 5</u>.</p>	<p>[TM 20.07: line reviewed as per the changes made in Article 27h]</p>
Article 1(16), amending provision, numbered paragraph (1), point (d)				
225	<p>(d) make consolidated core market data, for the provision of which the CTP is selected in accordance with Article 27da, available in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible;</p>	<p>(d) make consolidated core market data, for the provision of which the CTP is selected in accordance with Article 27da, available in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible;</p>	<p>(d) <del>make consolidated core</del><u>in case of</u> market data,<del>for the provision of which the CTP is selected in accordance with Article 27da,</del> <del>available in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible</del><u> concerning asset classes other than shares, redistribute part of their revenue fairly for the purpose of covering the costs, including loss of revenue, related to mandatory contribution, and of ensuring a fair level of participation for trading venues in the revenue generated by the consolidated tape;</u></p>	<p>[TM1: Council to check language and potentially delete “including loss of revenue”]</p> <p>(d) <del>make consolidated core</del><u>in the case of</u> market data, <del>for the provision of which the CTP is selected in accordance with Article 27da, available in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible</del><u> concerning asset classes other than shares and ETFs, be allowed to redistribute part of their revenue fairly for the purpose of covering the costs, [including loss of revenue, related to mandatory contribution], and of ensuring a fair level of participation for trading venues in the revenue generated by the consolidated tape;</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>["loss of revenue" is important to some MS. Should not be removed until we find a solution]</p> <p>[TM3: Council to consider to move this provision to the Recitals with some rewording, and in relation with new subparagraph 3a after line 213]</p> <p>[TM 04.07: PCY to suggest wording to adjust recital in relation to loss of revenue]</p> <p>[TM 04.07: point d moved to end of the para]</p>
Article 1(16), amending provision, numbered paragraph (1), point (da)				
226	(e) ensure that the publication of the core market data complies with the applicable waivers and deferrals in Articles 4, 7, 11, 14, 20 and 21;	deleted	<p><del>(e)(da) ensure that the publication of the produce consolidated core market data complies with the applicable waivers and deferrals in Articles 4, 7, 11, 14, 20 and 21;</del></p>	<p>(e)(da) ensure that the publication of disseminate core market data and regulatory data to users as a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible.</p> <p><del>complies with the applicable waivers and deferrals in Articles 4, 7, 11, 14, 20 and 21;</del></p> <p>[TM 3: moved text form 226d]</p> <p>[TM 04.07: discussed and adjusted as per the outcome of the trilogue - second sentence moved to the end of the list]</p>
Article 1(16), amending provision, numbered paragraph (1), point (i)				
226a			<p><u>(i) for the provision of which the CTP is selected in accordance with Article 27da, while publishing the</u></p>	n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 245/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>market identifier code identifying the execution venue only in relation to trading venue and only the necessary regulatory data;</u>	[TM 04.07: covered by the previous line]
Article 1(16), amending provision, numbered paragraph (1), point (ii)				
226b			<u>(ii) for the determination of the best bid and offer spread for shares or ETFs on trading venues that offer trading in those instruments available at the time of the transaction on the trading venue where the share or ETF is traded and of the corresponding volume;</u>	n/a  [TM 04.07: covered by the previous line]
Article 1(16), amending provision, numbered paragraph (1), point (iii)				
226c			<u>(iii) for the determination of the European best bid and offer spread, defined as the best bid and offer spread for shares or ETFs traded on the central limit order book or periodic auction systems of the trading venues that offer trading in those instruments, at the time a transaction takes place on one of the venues where the shares or ETFs are traded and of the corresponding volume;</u>	n/a  [TM 04.07: covered by the previous line]  [TM3: Pending agreement on pre-trade data]
Article 1(16), amending provision				
226d				n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 246/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible.</i></u>	[TM 04.07: covered by the previous line]  [TM3: moved text to 226]
Article 1(16), amending provision, numbered paragraph (1), point (f)				
227	(f) ensure that the consolidated core market data is easily accessible, machine readable and utilisable for all users, including retail investors.	(f) ensure that the consolidated core market data is easily accessible, machine readable and utilisable for all users, including retail investors.	(f) ensure that the consolidated core market data is easily accessible, machine readable and utilisable for all users, including retail investors.	(f) ensure that the consolidated core market data is easily accessible, machine readable and utilisable for all users, including retail investors.
Article 1(16), amending provision, numbered paragraph (1), point (fa)				
227a		<u><i>(fa) ensure that the use of core market data is strictly limited to the collection, consolidation, and redistribution of such data; any additional value-added services shall be subject to additional licensing terms set out by each market data contributor;</i></u>		[TM1: delete]  TM 07.09: deleted]
Article 1(16), amending provision, numbered paragraph (1), point (fb)				
227b		<u><i>(fb) have systems in place that can effectively check trade reports for completeness, identify omissions and obvious errors, and request the re-transmission of erroneous reports.</i></u>		[TM1: possibly keep it]  <u><i>(fb) have systems in place that can effectively check the completeness of the data provided, identify</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>obvious errors, and request the re-submission of data;</u>
Article 1(16), amending provision, numbered paragraph (1), first paragraph				
				<p><u>(fc) where the CTP is controlled by a group of economic operators, have a compliance system in place to ensure that the operation of the consolidated tape does not result in a distortion of competition.</u></p> <p>[TM 13.07: fc added as per the changes included on 27da(2), point b, and 27da(2a)]</p> <p>[TM 30.08: to align with the changes to be applied in Art 27db]</p>
				<p><u>For the purposes of the first subparagraph, point (da), the CTP for shares and ETFs shall not publish the market identifier code when disseminating best bids and offers as close as to real time as technically possible to the public.</u></p> <p>[TM 04.07: sentenced moved from point (da), line 226]</p> <p>[TM 30.08: MIC deleted]</p>
228				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	For the purpose of establishing the participation in point (c), the revenue of the CTP shall be allocated among regulated markets according to a formula that reflects the proportion of pre-trade transparent liquidity in shares displayed by a regulated market relative to the average daily turnover in these shares in the Union.	For the <del>purpose of establishing the participation in</del> <u>purposes of</u> point (c), the <del>revenue of the CTP shall be allocated among regulated markets according to a formula that reflects the proportion of pre-trade transparent liquidity in shares displayed by a regulated</del> <u>level of revenue redistributed to each market data contributor shall take into account the contribution to the price formation process of the data provided to the CTP by that</u> market <del>relative to the average daily turnover in these shares in the Union</del> <u>data contributor in accordance with Article 22a</u> .	<del>For the purpose of establishing the participation in point (c), the revenue of the CTP shall be allocated among regulated markets according to a formula that reflects the proportion of pre-trade transparent liquidity in shares displayed by a regulated market relative to the average daily turnover in these shares in the Union.</del>	<u><b>1a. The CTP for financial instruments, other than shares and ETFs, may, the provision of which the CTP is selected in accordance with Article 27da, available in accordance with the data quality requirements set out in Article 22b to users into a continuous electronic data stream on non-discriminatory terms as close to real time as technically possible</b></u> <u>redistribute to data contributors part of the revenue fairly for the purpose of covering the costs, and of ensuring a fair level of participation for trading venues in the revenue generated by the consolidated tape.</u>  [TM 04.09: text reworked to cancel the references to costs of connection. The language regarding the fair distribution could be considered in the recitals]
Article 1(16), amending provision				
228a		<u>Smaller regulated markets and SME Growth Markets, independent and not part of any bigger exchange group, shall benefit from a more important remuneration in order to incentivize their contribution to the CTP.</u>		n/a  [covered by para 5]
Article 1(16), amending provision				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 249/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
228b		<u>Revenue generated from pre-trade and post-trade consolidated data streams shall be redistributed exclusively to the contributors to a given data stream.</u>		n/a
228c				
228d		<u>1a. ESMA shall develop draft regulatory technical standards to specify the features of the revenue redistribution scheme aimed at remunerating market data providers, such as the maximum amount per user of the consolidated tape that would contribute to the revenue redistribution scheme put in place by the CTP, and the arrangements regarding the allocation of revenues. In particular, when specifying the allocation of revenues, ESMA shall take into account the following aspects, in the following order of priority:</u>		Deleted  [TM1: technical agreement: Council to suggest a concrete wording proposal based on the discussion held at TM and considering the lines 228d-g and 234g-i]
Article 1(16), amending provision				
228e		<u>(i) a fixed reward per contributor, reflecting fixed costs linked to their contribution;</u>		deleted
Article 1(16), amending provision				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	228f	<u>(ii) revenue sharing towards smaller exchanges contributing to the CT;</u>		deleted
Article 1(16), amending provision				
	228g	<u>(iii) revenue sharing based on an allocation key based on the contribution to price formation that each contributor's data represents, giving consideration to the value and number of trades and quotes, the transparency of the underlying trading mechanism, and the extent to which a contributor's pre-trade and post-trade data is disseminated by the CTP.</u>		deleted
Article 1(16), amending provision				
	228h	<u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [six months after the date of entry into force of this amending Regulation].</u>		deleted
Article 1(16), amending provision				
	228i	<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with</u>		deleted

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 251/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<a href="#"><u>Articles 10 to 14 of Regulation (EU) No 1095/2010.</u></a>		
Article 1(16), amending provision, numbered paragraph (2)				
229	2. CTPs shall adopt and publish on their website service level standards covering all of the following:	2. CTPs shall adopt and publish on their website <a href="#"><u>on a quarterly basis</u></a> service level standards covering all of the following:	2. CTPs shall adopt and publish on their website service level standards covering all of the following:	2. CTPs shall adopt, publish on their website <a href="#"><u>and regularly update</u></a> service level standards covering all of the following:
Article 1(16), amending provision, numbered paragraph (2), point (a)				
230	(a) an inventory of market data contributors from whom market data are received;	(a) an inventory of market data contributors from whom market data are received;	(a) an inventory of market data contributors from whom market data are received;	(a) an inventory of <del>market</del> data contributors from whom market data are received;
Article 1(16), amending provision, numbered paragraph (2), point (aa)				
230a		<a href="#"><u>(aa) an assessment of the quality of data received per contributor;</u></a>		<i>deleted</i>
Article 1(16), amending provision, numbered paragraph (2), point (ab)				
230b		<a href="#"><u>(ab) the number of data quality incidents and the measures adopted to address them;</u></a>		<i>deleted</i>
Article 1(16), amending provision, numbered paragraph (2), point (b)				
231	(b) modes and speed of delivery of consolidated market data to users;	(b) modes and speed of delivery of consolidated market data to users;	(b) modes and speed of delivery of consolidated market data to users;	(b) modes and speed of delivery of consolidated market data to users;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(16), amending provision, numbered paragraph (2), point (c)				
232	(c) measures taken to ensure operational continuity in the provision of consolidated market data.	(c) measures taken to ensure operational continuity in the provision of consolidated market data.	(c) measures taken to ensure operational continuity in the provision of consolidated market data.	(c) measures taken to ensure operational continuity in the provision of consolidated market data.
Article 1(16), amending provision, numbered paragraph (3)				
233	3. CTPs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of market data between the market data contributors and the CTP and between the CTP and the users and to minimise the risk of data corruption and unauthorised access. CTPs shall maintain adequate resources and have back-up facilities in place to offer and maintain its services at all times.	3. CTPs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of market data between the market data contributors and the CTP and between the CTP and the users and to minimise the risk of data corruption and unauthorised access. CTPs shall maintain adequate resources and have back-up facilities in place to offer and maintain its services at all times.	3. CTPs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of market data between the market data contributors and the CTP and between the CTP and the users and to minimise the risk of data corruption and unauthorised access. CTPs shall maintain adequate resources and have back-up facilities in place to offer and maintain its services at all times.	3. CTPs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of <del>market</del> data between the <del>market</del> data contributors and the CTP and between the CTP and the users and to minimise the risk of data corruption and unauthorised access. CTPs shall maintain adequate resources and have back-up facilities in place to offer and maintain its services at all times.
Article 1(16), amending provision, numbered paragraph (3a)				
233a		<u><i>3a. CTPs shall publish a list of EEA International Securities Identification Number (ISIN) for all financial instruments that are covered by each CTP's mandate in accordance with this Regulation.</i></u>		<u><i>3a. For each of the asset classes referred to in Article 27da(1), the CTP shall publish a list of the financial instruments that are covered by the consolidated tape, indicating their identifying reference data.</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				[TM 04.07: to get back to this provision later]  [TM 04.09: text reworked]
Article 1(16), amending provision, numbered paragraph (3a)				
233b		<u>Each CTP shall offer free access to this list, and shall ensure that it is regularly reviewed and updated, to offer a comprehensive view of all the financial instruments covered by the consolidated tape.</u>		<u>Each CTP shall offer free access to its list, and shall ensure that the list is regularly reviewed and updated, in order to offer a comprehensive view of all the financial instruments covered by the consolidated tape.</u>  [TM 04.07: to get back to this provision later]
Article 1(16), amending provision, numbered paragraph (4)				
234	4. After 12 months of full operation of the CTP for shares, ESMA shall provide the Commission with a motivated opinion on the effectiveness and fairness of the level of participation of regulated markets in the revenues generated by the CTP as set out in accordance with the second subparagraph of paragraph 1. The Commission may request ESMA to provide further opinions, where necessary or appropriate. The Commission shall be empowered to adopt a delegated act in accordance with Article 50 to revise the allocation key for the	4. After <del>12</del> <sup>18</sup> months of full operation of the CTP for shares, ESMA shall provide the Commission with <del>an evidence-based</del> motivated opinion on the effectiveness and fairness of the level of participation of <del>regulated markets</del> <sup>market data contributors</sup> in the revenues generated by the CTP as set out in accordance with the second subparagraph of paragraph 1. The Commission may request ESMA to provide further opinions, where necessary or appropriate. The Commission shall be empowered to adopt a delegated act in accordance	4. After 12 months of full operation of the CTP for shares, ESMA shall provide the Commission with a motivated opinion on the effectiveness and fairness of the level of participation of <del>regulated markets</del> <sup>smaller trading venues as referred in paragraph 5 point (a)</sup> in the revenues generated by the CTP as set out in accordance with the second subparagraph of paragraph 1. The Commission may request ESMA to provide further opinions, where necessary or appropriate. The Commission shall be empowered to	<del>4. 18 months after of full operation of the CTP for shares and ETFs becomes operational, ESMA shall provide the Commission with an motivated opinion on the effectiveness and fairness of the level of participation of regulated markets smaller trading venues as referred in paragraph 5, point (a), in the revenues generated by the CTP as set out in accordance with the second subparagraph of paragraph 15. The Commission may request ESMA to provide further opinions, where necessary or appropriate. The Commission</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	revenue redistribution, where appropriate.;	with Article 50 to revise the allocation key for the revenue redistribution, where appropriate.;	adopt a delegated act in accordance with Article 50 to revise the allocation key for the revenue redistribution, where appropriate.; <u>In the context of the allocation key revision, the position of the smaller trading venues compared to the situation before they became market data contributors shall not be deteriorated.</u>	<del>shall be empowered to adopt a delegated act in accordance with Article 50 to revise the allocation key for the revenue redistribution, where appropriate.;</del>  <del>The revision of the allocation key referred to in the first subparagraph shall not result in a deterioration of the position of smaller trading venues, as compared with the situation before those trading venues became market data contributors.</del>  [TM3: last sentence added on the revision of the allocation key should go to the recital. In the first paragraph to change the text for a ESMA review of the RTS]  [TM 13.09: "fully" in first sentence deleted]  [TM 14.09: eventually deleted - covered in Article 52, point 14a]
Article 1(16), amending provision, numbered paragraph (4a)				
234a			<u>4a. The revenue shall be distributed to trading venues. The redistribution of revenue shall be based on total annual turnover. The total annual turnover of the trading venue under the preferential treatment shall be multiplied by weight that is</u>	<u>5. The CTP for shares and ETFs shall redistribute to data contributors part of the revenues generated by the consolidated tape, as indicated in the reasoned decision referred to in Article 27db(1c), according to the following criteria ("revenue distribution scheme"):</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 255/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>assigned to the conditions justifying the preferential treatment of the trading venue specified in second subparagraph. The weights shall be added cumulatively.</u></p>	<p>[TM3: Agreement in principle, language to be streamlined once the overall setup for the CT is agreed.]</p> <p>[TM 30.08: structured reworked for clarity]</p> <p>[TM 04.09: no cost related to connection as the CTP is to adapt to the connection and protocols of the data providers]</p> <p>[TM 20.07: after the COM proposal to replace “trading” by “transaction”, it was decided to keep the text as it stands and consider whether a recital is needed to clarify both terms]</p>
Article 1(16), amending provision, numbered paragraph (4a)				
234b			<p><u>The conditions justifying the preferential treatment of the trading venue are:</u></p>	<p><u>(a) whether the data contributor is a small regulated market or an SME growth market whose annual trading volume of shares represents 1 % or less of the annual trading volume of shares in the Union (“small trading venue”);</u></p>
Article 1(16), amending provision, numbered paragraph (4a), second subparagraph, point (1)				
234c				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>1. data are provided from regulated markets and SME growth markets, with the annual trading volume of shares traded at the trading venue equals to or is below 1 % of the annual trading volume of shares traded in the Union;</u>	<u>(b) whether the data contributor is a trading venue that has admitted to trading shares or ETFs on ... (five years before the date of entry into force of this amending Regulation) or thereafter; and</u>  [TM 04.09: to change in Article 22a “annual trading volume”]
Article 1(16), amending provision, numbered paragraph (4a), second subparagraph, point (2)				
234d			<u>2. best bids and offers from trading venues are provided to consolidated tape; and</u>	<u>(c) whether the data is provided by a trading venue and pertains to shares and ETFs traded on a trading system that applies pre-trade transparency.</u>  [TM 12.07: point b reworked as per the request of the Council] [TM 20.07: “on” and “or thereafter” added as per the suggestion of the COM] [TM 04.09: point b further reworked - discussion on the scope of point b and the application of multipliers still to be clarified]
Article 1(16), amending provision, numbered paragraph (4a), second subparagraph, point (3)				
234e			<u>3. data are provided from regulated markets, SME growth markets and multilateral trading</u>	<u>For the purposes of the revenue redistribution scheme, the CTP shall take into account the</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 257/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>facilities who offer and provide initial admission on regular basis for the share or ETF.</u></p>	<p><u>following trading volume ("the relevant trading volume"):</u></p> <p><u>(a) for the purposes of the first subparagraph, point (a), the total annual trading volume generated by that trading venue;</u></p> <p><u>(b) for the purposes of the first subparagraph, point (b):</u></p> <p><u>(i) in the case of small trading venues, their total annual trading volume;</u></p> <p><u>(ii) in the case of trading venues other than small trading venues, the trading volume pertaining to the shares and ETFs referred to in that point;</u></p> <p><u>(c) for the purposes of the first subparagraph, point (c), the volume pertaining to the shares and ETFs referred to in that point;</u></p> <p><u>The CTP shall determine the amount of the revenue to be redistributed to each data contributor under the revenue distribution scheme by multiplying the relevant trading volume by the weight assigned to each criterion set out in the first subparagraph, as specified in the regulatory technical standards adopted</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 258/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>pursuant to paragraph 6. The weights shall be added cumulatively.</u>
Article 1(16), amending provision, numbered paragraph (4a), second subparagraph, point (3)				
234f			<u>Conditions in point 1 shall have higher weight than conditions in point 2, and conditions in point 2 shall have higher weight than conditions in point 3.</u>	[TM 30.08: to consider to move subparagraph above to para 6]
Article 1(16), amending provision, numbered paragraph (4b), first subparagraph				
234g			<u>4b. ESMA shall develop draft regulatory technical standards to specify the preferential weights assigned to the conditions justifying the preferential treatment referred to in paragraph 5 and the mechanism of calculating the revenue sharing based on the weight system.</u>	<u>6. ESMA shall develop draft regulatory technical standards to::</u> <u>(i) specify the weights assigned to each criterion referred to in paragraph 5, first subparagraph;</u> <u>(ii) further specify the method for calculating amount of the revenue to be redistributed to each data contributor as referred to in paragraph 5, third subparagraph.</u>  <u>For the purposes of point (i) of this paragraph, the criterion set out in paragraph 5, first subparagraph, point (a), shall have a higher weight than the criterion set out in point (b) of that subparagraph, and the criterion set out in point (b) of</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 259/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>that subparagraph shall have a higher weight than the condition set out in point (c) of that subparagraph.</u>
Article 1(16), amending provision, numbered paragraph (4b), second subparagraph				
234h			<u>For the purposes of determining the preferential weights, ESMA shall assess characteristics of the trading venues, the data submitted and also potential loss of revenue of smaller trading venues as referred to in paragraph 5 point 1.</u>	[n/a]  [TM 04.07: deleted as it is considered covered by previous subparagraph]
Article 1(16), amending provision, numbered paragraph (4b), third subparagraph				
234i			<u>ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert a date 9 months as of entry into force].</u>	<u>ESMA shall submit those draft regulatory technical standards to the Commission by [nine months after the entry into force of this amending Regulation].</u>
Article 1(16), amending provision, numbered paragraph (4b), fourth subparagraph				
234j			<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in subparagraph (c) of paragraph 1 in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 1, point (c), in accordance with Articles 10</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 260/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<a href="#">to 14 of Regulation (EU) No 1095/2010.</a> ;
Article 1(17)				
235	(17) the following Article 27ha is inserted:	(17) the following Article 27ha is inserted:	(17) the following Article 27ha is <del>inserted</del> <u>added</u> :	(17) the following article <del>27ha</del> is inserted:
Article 1(17), amending provision, first paragraph				
236	‘Article 27ha Reporting obligations for consolidated tape providers	‘Article 27ha Reporting obligations for consolidated tape providers	‘Article 27ha Reporting obligations for consolidated tape providers	‘Article 27ha Reporting obligations for consolidated tape providers
Article 1(17), amending provision, numbered paragraph (1)				
237	1. CTPs shall, at the end of each quarter, publish on their website, which shall be accessible for free, performance statistics and incident reports relating to data quality and systems.	1. CTPs shall, at the end of each quarter, publish on their website, which shall be accessible for free, performance statistics and incident reports relating to data quality and systems.	1. CTPs shall, at the end of each quarter, publish on their website, which shall be accessible for free, performance statistics and incident reports relating to data quality and systems.	1. CTPs shall, <del>at the end of each quarter every year</del> , publish on their website, <del>which shall be accessible for free</del> , performance statistics and incident reports relating to data quality and <u>data</u> systems. <u>Those performance statistics and incident reports shall be accessible free of charge.</u>  [TM 04.09: wording changes on timeline of publication, and added ‘data’ for clarity]
Article 1(17), amending provision, numbered paragraph (2), first subparagraph				
238				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. 2. ESMA shall develop draft regulatory technical standards to specify the content, timing, format and terminology of the reporting obligation.	2. <del>2.</del> ESMA shall develop draft regulatory technical standards to specify the content, timing, format and terminology of the reporting obligation.	2. <del>2.</del> ESMA shall develop draft regulatory technical standards to specify the content, timing, format and terminology of the reporting obligation <u>under paragraph 1.</u>	2. <del>2.</del> ESMA shall develop draft regulatory technical standards to specify the content, timing, format and terminology of the reporting obligation <u>set out in paragraph 1.</u>
Article 1(17), amending provision, numbered paragraph (2), second subparagraph				
239	ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <u>OP please insert nine months after entry into force</u> <del>OP please insert nine months after entry into force</del> ].	ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert nine months after entry into force].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <u>18 months after the date of entry into force of this amending Regulation</u> <del>OP please insert nine months after entry into force</del> ].
Article 1(17), amending provision, numbered paragraph (2), third subparagraph				
240	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010. <del>;</del>	Power is delegated to the Commission to <u>supplement this Regulation by adopting</u> <del>adopt</del> the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;
Article 1(17), amending provision, numbered paragraph (3)				
241	3. CTPs shall keep and preserve records relating to their business for a period of no less than five years. Information concerning the first two years shall be kept in an easily	3. CTPs shall keep and preserve records relating to their business for a period of no less than five years. Information concerning the first two years shall be kept in an easily	3. CTPs shall keep and preserve records relating to their business for a period of no less than five years. Information concerning the first two years shall be kept in an easily	3. CTPs shall keep and preserve records relating to their business for <u>at least</u> <del>a period of no less than</del> five years. CTPs <u>shall promptly make those records available to the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	accessible place, and the CTP shall promptly provide ESMA with such records upon request.;	accessible place, and the CTP shall promptly provide ESMA with such records upon request.;	accessible place, and the CTP shall promptly provide ESMA <u>or competent authority</u> with such records upon request.;	<u>relevant competent authority or ESMA upon request.</u>  [TM 30.08: text adapted as per the changes made in Article 31(3)]
Article 1(18), amending provision				
241a		<u>(17a) in Article 27i, the following paragraphs are inserted:</u>		<u>(17a) in Article 27i, the following paragraphs are inserted:</u>
Article 1(18), amending provision				
241b		<u>'4a. An ARM shall have objective, non-discriminatory and publicly disclosed requirements for access to its services by undertakings that are subject to the reporting obligation set out in Article 26.</u>		<u>'4a. An ARM shall have objective, non-discriminatory and publicly disclosed requirements for access to its services by undertakings that are subject to the reporting obligation set out in Article 26.</u>
Article 1(18), amending provision				
241c		<u>An ARM shall publicly disclose the prices and fees associated with the data reporting services provided under this Regulation. It shall disclose separately the prices and fees of each service provided, including discounts and rebates and the conditions to benefit from those reductions. It shall allow reporting entities to access specific services separately. The prices and fees charged by an ARM shall be cost-related.</u>		<u>An ARM shall publicly disclose the prices and fees associated with the data reporting services provided under this Regulation. It shall disclose separately the prices and fees of each service provided, including discounts and rebates and the conditions to benefit from them. It shall allow reporting entities to access specific services separately. The prices and fees charged by an ARM shall be cost-related.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(18), amending provision				
241d		<u>4b. ARMs shall keep and preserve records relating to their business for at least five years. The information concerning the first two years shall be kept in an easily accessible place and ARM shall provide such records to ESMA without delay upon request.’;</u>		<u>4b. ARMs shall keep and preserve records relating to their business for at least five years. ARMs shall promptly make those records available to the relevant competent authority or ESMA upon request.’;</u>  [Language aligned with Article 31 MiFIR]  [TM 04.09: language accepted as proposed]
Article 1(18)				
242	(18) in Article 28(1), paragraph 1, the introductory wording is replaced by the following:	(18) in Article 28(1), paragraph 1, the introductory wording is replaced by the following:	(18) <del>in Article 28(1), paragraph 1, the introductory wording is replaced by the following</del> <u>28 is amended as follows:</u>	(18) <del>in Article 28(1), paragraph 1, the introductory wording is replaced by the following</del> <u>28 is amended as follows:</u>
Article 1(18), amending provision, point (a)				
242a		<u>(a) in paragraph 1, the introductory part is replaced by the following:</u>	<u>(a) in paragraph 1, the introductory wording is replaced by the following:</u>	<u>(a) in paragraph 1, the introductory wording is replaced by the following:</u>
Article 1(18), amending provision, point (a), numbered paragraph (1)				
243	‘1. Financial counterparties that meet the conditions set out in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012, and non-financial counterparties that meet the conditions set out in Article 10(1), second subparagraph, of that Regulation, shall conclude	‘1. <del>Financial counterparties that meet the conditions set out in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012, and non-financial counterparties that meet the conditions set out in Article 10(1), second subparagraph, of that Regulation, shall conclude</del>	‘ <del>1. Financial counterparties that meet the conditions set out in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012, and non-financial counterparties that meet the conditions set out in Article 10(1), second</del>	1. Financial counterparties <u>and non-financial counterparties that are subject to the clearing obligation under Title II of that</u> <del>meet the conditions set out in Article 4a(1), second subparagraph, of Regulation (EU) No 648/2012,</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>transactions, which are neither intragroup transactions as defined in Article 3 of that Regulation nor transactions covered by the transitional provisions laid down in Article 89 of that Regulation, with other such financial counterparties or other such non-financial counterparties in derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 of this Regulation and listed in the register referred to in Article 34 of this Regulation only on:;</p>	<p><del>Transactions, which are neither intragroup transactions as defined in Article 3 of that Regulation nor transactions covered by the transitional provisions laid down in Article 89 of that Regulation, with other such financial counterparties or other such non-financial counterparties in</del> <b>in OTC</b> derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 of this Regulation and listed in the register referred to in Article 34 of this Regulation <b>between counterparties as referred to in Article 4(1)(a) of Regulation (EU) No 648/2012 shall be concluded</b> only on:’;</p>	<p><del>subparagraph, of that Regulation, shall conclude Transactions, which are neither intragroup transactions as defined in Article 3 of that Regulation nor transactions covered by the transitional provisions laid down in Article 89 of that Regulation, with other such financial counterparties or other such non-financial counterparties in</del> <b>in OTC</b> derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 of this Regulation and listed in the register referred to in Article 34 of this Regulation <b>between counterparties as referred to in Article 4(1)(a) of Regulation (EU) No 648/2012 shall be concluded</b> only on:’;</p>	<p><del>and non-financial counterparties that meet the conditions set out in Article 10(1), second subparagraph, of that Regulation,</del> <b>Regulation (EU) No 648/2012</b> shall conclude transactions, <del>which are neither intragroup transactions as defined in Article 3 of that Regulation nor transactions covered by the transitional provisions laid down in Article 89 of that Regulation,</del> with other such financial counterparties or other such non-financial counterparties in derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 and listed in the register referred to in Article 34 only on:’;</p> <p>[18.07: as agreed by email after suggestion by the EC]</p> <p>[TM 04.09: language in the first sentence adjusted for clarity]</p>
Article 1(18), amending provision				
243a		<p><b><u>(b) the following paragraph 2a is inserted:</u></b></p>	<p><b><u>(b) paragraph 2 is deleted;</u></b></p>	<p><b><u>(aa) in paragraph 2, the first subparagraph is deleted;</u></b></p> <p>[TM 12.09: first para deleted since it is covered by the new text of para 1]</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>(b) the following paragraph is inserted;</u></p> <p>[TM 05.09: to double check why the Council proposed to deleted para 2]</p>
Article 1(18), amending provision				
243b		<p><u>'2a. Derivative transactions that are exempt from or otherwise not subject to the clearing obligation under Article 4 of Regulation (EU) No 648/2012 shall not be subject to the trading obligation.'</u></p>		<p><u>2a. Transactions in derivatives that are exempt from or not subject to the clearing obligation laid down in Article 4 of Regulation (EU) No 648/2012 shall not be subject to the trading obligation.</u></p> <p>[18.07: as agreed by emails after suggestion by the EC]</p> <p>[TM 04.09: second part of the para deleted for clarity - "even if" to be assessed by the EN DLA]</p>
Article 1(18a)				
243c			<p><u>(c) paragraph 4 is replaced by the following:</u></p>	<p>[TM 20.07: the intention of the Council was to modify current para 3 - deleted]</p>
Article 1(18), amending provision				
243d			<p><u>"4. Derivatives declared subject to the trading obligation pursuant to paragraph 1 shall be eligible to trading on a trading venue as referred to in paragraph 1 on a</u></p>	<p>[TM 20.07: deleted]</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>non-exclusive and non-discriminatory basis.</u> ;	
Article 1(18), amending provision				
243e			<u>(d) paragraph 5 is amended as follows:</u>	[TM 20.07: the intention of the Council was to modify current para 4] <u>(c) in paragraph 4, third subparagraph, point (b) is replaced by the following:</u>
Article 1(18), amending provision				
243f			<u>(i) point (b) is replaced by the following:</u>	n/a
Article 1(18), amending provision				
243g			<u>"(b) trading venues have clear and transparent rules so that derivatives are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable;"</u>	<u>"(b) trading venues have clear and transparent rules so that derivatives are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable;"</u>  [TM 20.07: decided to keep it - broader discretion to the COM, not limited to admission rules]
Article 1(18), amending provision				
243h			<u>(ii) point (c) is deleted;</u>	[TM 20.07: deleted]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(18a), amending provision				
243i			<u>(18a) Article 31 is replaced by the following:</u>	<u>(18a) Article 31 is amended as follows:</u>
Article 1(18a), amending provision				
243j			<u>"Article 31 Post-trade risk reduction services and intragroup transactions</u>	<u>(a) the title is replaced by the following:</u>  <u>'Post-trade risk reduction services</u>  [TM 20.07: both EP and Council agreed on the suggestion proposed by the COM]
Article 1(18a), amending provision, first paragraph				
243k		Article 31 Post-trade risk reduction services  3. The Commission shall adopt, by means of delegated acts in accordance with Article 50, measures specifying (i) the post-trade risk reduction services in scope of paragraph 1. (ii) the particulars of the transactions to be recorded pursuant to paragraph 2.	<u>1. Transparency obligation under Articles 8a, 10, and 21 of this Regulation, the trading obligation under Article 28, the best execution obligation in Article 27 of Directive 2014/65/EU and the obligation in Article 1(6) of Directive 2014/65/EU shall not apply to the following transactions in OTC derivatives that are:</u>	<u>(b) paragraph 1 is replaced by the following:</u> <u>1. The transparency obligations in Articles 8a, 10 and 21 of this Regulation, the trading obligation in Article 28 of this Regulation and the best execution obligation in Article 27 of Directive 2014/65/EU shall not apply to transactions in OTC derivatives that are part of post-trade risk reduction services.</u>  [18.07: suggestion of the COM pasted]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(18a), amending provision, first paragraph, point (a)				
243l			<u>(a) concluded during portfolio compression;</u>	n/a [covered by first paragraph  [to be specified in the recital that portfolio compression is a subset of post-trade risk reduction services]
Article 1(18a), amending provision, first paragraph, point (b)				
243m			<u>(b) part of post-trade risk reduction services;</u>	n/a [covered by first paragraph]
Article 1(18a), amending provision, first paragraph, point (c)				
243n			<u>(c) exempted from or otherwise not subject to the clearing obligation under Article 4 of Regulation (EU) No 648/2012; or</u>	n/a [covered in Article 28(2a)]
Article 1(18a), amending provision, first paragraph, point (d)				
243o			<u>(d) objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty as referred to in Article 10(3) of Regulation (EU) No 648/2012;</u>	n/a [TM 12.07: ES PCY to check with the CZ delegation about this addition]  [18.07: as per the suggestion of the COM by mail]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(18a), amending provision, second paragraph				
243p			<p><u>2. Investment firms and market operators that meet one of the conditions in paragraph 1 shall keep complete and accurate records of the transactions referred to in paragraph 1 that are not already recorded or reported in accordance with Regulation (EU) No 648/2012. Those records shall be made available promptly to the relevant competent authority or ESMA upon request.</u></p>	<p><u>(c) paragraph 2 is deleted;</u></p> <p><u>(d) paragraphs 3 and 4 are replaced by the following:</u></p> <p><u>3. Investment firms and market operators that are providers of post-trade risk reduction services shall ensure the maintenance of complete and accurate records of the transactions referred to in paragraph 1 that are not already recorded or reported in accordance with Regulation (EU) No 648/2012. Those investment firms and market operators shall promptly make those records available to the relevant competent authority or ESMA upon request.</u></p> <p>[18.07: suggestion of the COM pasted]</p> <p>[TM 30.08: text adjusted to the changes made in Art 27f and 27i]</p>
Article 1(18a), amending provision, third paragraph				
243q			<p><u>3. The Commission shall adopt by means of delegated acts in accordance with Article 50, measures specifying the following:</u></p>	<p><u>4. The Commission is empowered to adopt delegated acts in accordance with Article 50 to supplement this Regulation by specifying:</u></p> <p>[18.07: suggestion of the COM pasted]</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(18a), amending provision, third paragraph, point (a)				
243r			<u>(a) the elements of transactions concluded during portfolio compression in the scope of this Article;</u>	<u>(i) the post-trade risk reduction services in scope of paragraph 1;</u>
Article 1(18a), amending provision, third paragraph, point (b)				
243s			<u>(b) the post-trade risk reduction services in scope of this Article;</u>	<u>(ii) the particulars of the transactions to be recorded pursuant to paragraph 3.</u>
Article 1(18a), amending provision, third paragraph, point (c)				
243t			<u>(c) elements of transactions to be recorded pursuant to paragraph 2.;</u>	n/a
Article 1(19)				
244	(19) in Article 32, the following paragraphs 7, 8 and 9 are added:	(19) in Article 32, the following paragraphs 7, <u>7a</u> , 8 and 9 are added:	(19) <del>in Article 32, the following paragraphs 7, 8 and 9 are added</del> <u>is amended as follows:</u>	(19) <del>in Article 32, the following paragraphs 7, 8 and 9 are added</del> <u>is amended as follows:</u>
Article 1(19), amending provision (a)				
244a			<u>'(a) paragraph 2, point (a) is replaced by the following:</u>	<u>'(a) in paragraph 2, point (a) is replaced by the following:</u>
Article 1(19), amending provision (a), numbered paragraph (a)				
244b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(a) the class of derivatives pursuant to paragraph 1(a) or a relevant subset thereof must be traded on at least one trading venue as referred to in Article 28(1), and’;</u>	<u>(a) the class of derivatives pursuant to paragraph 1, point (a), or a relevant subset thereof must be traded on at least one trading venue as referred to in Article 28(1), and’;</u>
Article 1(19), amending provision (b)				
244c			<u>(b) paragraph 4, first subparagraph is replaced by the following:</u>	<u>(b) in paragraph 4, the first subparagraph is replaced by the following:</u>
Article 1(19), amending provision (b), numbered paragraph (4)				
244d			<u>4. ESMA shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation, identify and notify to the Commission the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1), but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012 or which is not traded on a trading venue referred to in Article 28(1) point (4). ESMA shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation,</u>	<u>‘ESMA shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation, identify and notify to the Commission the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1) of this Regulation, but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012.’</u>  [TM 05.09: reworked and linguistic revision - reference to article 28 deleted]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 272/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>identify and notify to the Commission the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1), but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012 or which is not traded on a trading venue referred to in Article 28(1).';</u>	
Article 1(19), amending provision (c)				
244e			<u>(c) the following paragraphs 7, 8 and 9 are added:</u>	<u>(c) the following paragraphs are added:</u>
Article 1(19), amending provision (c), numbered paragraph (7)				
245	'7. Where ESMA considers that the suspension of the clearing obligation as referred to in Article 6a of Regulation (EU) No 648/2012 is a material change in the criteria for the trading obligation to take effect, as referred to in paragraph 5 of this Article, ESMA may request the Commission to suspend the trading obligation laid down in Article 28(1) and (2) of this Regulation for the same classes of	'7. Where ESMA considers that the suspension of the clearing obligation as referred to in Article 6a of Regulation (EU) No 648/2012 is a material change in the criteria for the trading obligation to take effect, as referred to in paragraph 5 of this Article, ESMA may request the Commission to suspend the trading obligation laid down in Article 28(1) and (2) of this Regulation for the same classes of	7. Where ESMA considers that the suspension of the clearing obligation as referred to in Article 6a of Regulation (EU) No 648/2012 is a material change in the criteria for the trading obligation to take effect, as referred to in paragraph 5 of this Article, ESMA may request the Commission to suspend the trading obligation laid down in Article 28(1) and (2) of this Regulation for the same	7. Where ESMA considers that the suspension of the clearing obligation as referred to in Article 6a of Regulation (EU) No 648/2012 is a material change in the criteria for the trading obligation to take effect, as referred to in paragraph 5 of this Article, ESMA may request <u>that</u> the Commission <del>to</del> suspend the trading obligation laid down in Article 28(1) and (2) of this Regulation for the same

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	OTC derivatives that are subject to the request to suspend the clearing obligation.	OTC derivatives that are subject to the request to suspend the clearing obligation.	classes of OTC derivatives that are subject to the request to suspend the clearing obligation.	classes of OTC derivatives that are subject to the request to suspend the clearing obligation.  [TM 05.09: linguistic revision]
Article 1(19), amending provision (c), numbered paragraph (7a)				
245a		<u>7a. Where ESMA considers that certain events or developments which could adversely affect the liquidity available in the Union in certain or all derivatives that have been declared subject to the trading obligation, ESMA may request that the Commission temporarily suspend the application of the trading obligation laid down in Article 28(1) and (2) for those financial instruments.</u>		<u>7a. ESMA may request that the Commission suspend the trading obligation laid down in Article 28(1) and (2) for specific classes of OTC derivatives or for a specific type of counterparty, where such a suspension is necessary to avoid or address adverse effects to liquidity or serious threat to financial stability and to ensure the orderly functioning of financial markets in the Union and where that suspension is proportionate to those aims.</u>  [TM 05.09: linguistic revision]
Article 1(19), amending provision (c), numbered paragraph (7a)				
245b		<u>The temporary suspension referred to in the first subparagraph shall be valid for an initial period not exceeding three months from the date of publication of the implementing act referred to in paragraph 9. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for</u>		[TM 13.07: moved down after para 9]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>the temporary suspension continue to be applicable.</u>		
Article 1(19), amending provision, numbered paragraph (8)				
246	8. The request referred to in paragraph 7 shall not be made public.	8. The request referred to in <del>paragraph 7</del> <u>paragraphs 7 and 7a</u> shall not be made public.	8. The request referred to in paragraph 7 shall not be made public.	<u>8. The requests referred to in paragraphs 7 and 7a shall not be made public.</u>
Article 1(19), amending provision, numbered paragraph (9)				
247	9. After having received the request referred to in paragraph 7, the Commission shall, without undue delay and, on the basis of the reasons and evidence provided by ESMA, do either of the following:	9. After having received the request referred to in paragraph 7 <u>and 7a</u> , the Commission shall, without undue delay and, on the basis of the reasons and evidence provided by ESMA, do either of the following:	9. After having received the request referred to in paragraph 7, the Commission shall, without undue delay and, on the basis of the reasons and evidence provided by ESMA, do either of the following:	<u>9. After having received the requests referred to in paragraphs 7 and 7a, the Commission shall, without undue delay and, on the basis of the reasons and evidence provided by ESMA, do either of the following:</u>
Article 1(19), amending provision, numbered paragraph (9), point (a)				
248	(a) in an implementing act suspend the trading obligation for the classes of OTC derivatives that are subject to the request to suspend the clearing obligation;	(a) in an implementing act suspend the trading obligation for the classes of OTC derivatives that are subject to the request to suspend the clearing obligation;	(a) in an implementing act suspend the trading obligation for the classes of OTC derivatives that are subject to the request to suspend the clearing obligation;	(a) <u>by way of</u> an implementing act, suspend the trading obligation for <del>the</del> classes of OTC derivatives <u>or for types of counterparties that are subject to the request to suspend the clearing obligation;</u>  [TM 05.09: adjustment as per para 7a]
Article 1(19), amending provision, numbered paragraph (9), point (b)				
249	(b) reject the requested suspension.	(b) reject the requested suspension.	(b) reject the requested suspension.	(b) reject the requested suspension.
Article 1(19), amending provision, numbered paragraph (9), first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
250	<p>For the purposes of point (b), the Commission shall inform ESMA of the reasons why it rejected the requested suspension. The Commission shall immediately inform the European Parliament and the Council of that rejection and forward them the reasons provided to ESMA. The information provided to the European Parliament and the Council regarding the rejection and the reasons for that rejection shall not be made public.;</p>	<p>For the purposes of point (b), the Commission shall inform ESMA of the reasons why it rejected the requested suspension. The Commission shall immediately inform the European Parliament and the Council of that rejection and forward them the reasons provided to ESMA. The information provided to the European Parliament and the Council regarding the rejection and the reasons for that rejection shall not be made public.;</p>	<p>For the purposes of point (b), the Commission shall inform ESMA of the reasons why it rejected the requested suspension. The Commission shall immediately inform the European Parliament and the Council of that rejection and forward them the reasons provided to ESMA. The information provided to the European Parliament and the Council regarding the rejection and the reasons for that rejection shall not be made public.;</p>	<p>For the purposes of point (b), the Commission shall inform ESMA of the reasons why it rejected the requested suspension. The Commission shall immediately inform the European Parliament and the Council of that rejection and forward them the reasons provided to ESMA. The information provided to the European Parliament and the Council regarding the rejection and the reasons for that rejection shall not be made public.</p> <p><u><i>The suspension referred to in the first subparagraph shall be valid for an initial period of no more than three months from the date of publication of the implementing act referred to in the first subparagraph, point (a).</i></u></p> <p><u><i>Where the grounds for the suspension referred to in the first subparagraph continue to apply, the Commission may by way of an implementing act, extend that suspension for further periods of no more than three months, with the total period of the suspension of no more than 12 months.</i></u></p> <p><u><i>The implementing acts referred to in the first and fourth</i></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>subparagraphs shall be adopted in accordance with the examination procedure referred to in Article 51.</u> ;  [TM 05.09: language adjusted]
Article 1(20)				
251	(20) the following Article 32a is inserted:	(20) the following Article 32a is inserted:	(20) the following Article 32a is <del>inserted</del> <u>added</u> :	(20) the following Article 32a is inserted:
Article 1(20), amending provision, first paragraph				
252	‘Article 32a Stand-alone suspension of the trading obligation	‘Article 32a Stand-alone suspension of the trading obligation	‘Article 32a Stand-alone suspension of the trading obligation	‘Article 32a Stand-alone suspension of the trading obligation  [07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]
Article 1(20), amending provision, numbered paragraph (1)				
253	1. At the request of the competent authority of a Member State, the Commission may suspend the derivatives trading obligation with respect to certain investment firms in accordance with the procedure referred to in Article 51 and after having consulted ESMA. The competent authority shall indicate why it considers that the conditions	1. At the request of the competent authority of a Member State, the Commission may <u>adopt an implementing act to</u> suspend the derivatives trading obligation with respect to certain investment firms in accordance with the procedure referred to in Article 51 and after having consulted ESMA. The competent authority shall indicate	1. At the request of the competent authority of a Member State, the Commission may <del>suspend the derivatives trading obligation with respect to certain investment firms</del> <u>adopt an implementing act</u> in accordance with the procedure referred to in Article 51 and, after having consulted ESMA, <u>suspend</u>	1. At the request of the competent authority of a Member State, the Commission may, <u>by way of an implementing act</u> , suspend the derivatives trading obligation with respect to certain <del>investment firms</del> <u>financial counterparties</u> in accordance with the procedure referred to in Article 51 and, <u>where appropriate</u> , after having consulted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	for a suspension are met. In particular, the competent authority shall demonstrate that an investment firm within its jurisdiction:	why it considers that the conditions for a suspension are met. In particular, the competent authority shall demonstrate that an investment firm within its jurisdiction:	<u>the derivatives trading obligation with respect to the investment firms specified by the competent authority</u> . The competent authority shall indicate why it considers that the conditions for a suspension are met. In particular, the competent authority shall demonstrate that an investment firm within its jurisdiction:	ESMA. The competent authority shall indicate why it considers that the conditions for a suspension are met. In particular, the competent authority shall demonstrate <u>that a an investment firm a financial counterparty</u> within its jurisdiction:  [TM 05.09: linguistic revision]  [07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]  [TM 13.09: consider the involvement of ESMA on the suspension of DTO when necessary]
Article 1(20), amending provision, numbered paragraph (1), point (a)				
254	(a) regularly receives requests for a quote for the derivatives subject to the derivatives trading obligation;	(a) regularly receives requests for a quote for the derivatives subject to the derivatives trading obligation;	(a) <u>regularly acts as a market maker in an OTC derivative subject to the derivatives trading obligation and</u> regularly receives requests for a quote for the <del>derivatives subject to the derivatives</del> <u>OTC from a non-EEA counterpart which has no active membership on an EU trading venue that offers trading obligation in the OTC derivative;</u> <u>or</u>	(a) <u>regularly acts as a market maker in an OTC derivative subject to the derivatives trading obligation and</u> regularly receives requests for a quote for the derivatives subject to the derivatives trading obligation from a non-EEA <del>counterpart</del> <u>counterparty</u> which has no active membership on an <del>EU</del> <u>EEA</u> trading venue that offers trading in the <u>OTC</u> derivative subject to the trading obligation; <u>and/or</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]</p> <p>[TM 05.09: EU replaced by EEA]</p>
Article 1(20), amending provision, numbered paragraph (1), point (b)				
255	<p>(b) from a non-EEA counterpart which has no active membership on a EU trading venue that offers trading in the derivative subject to the trading obligation; and</p>	<p>(b) from a non-EEA counterpart which has no active membership on a EU trading venue that offers trading in the derivative subject to the trading obligation; and</p>	<p>(b) <del>from a non-EEA counterpart</del> <u>regularly trades an OTC derivative subject to the derivatives trading obligation, with non-EEA counterparty</u> which <del>has</del> <u>would be qualified as a financial counterparty if it were established in the EU which have</u> no active membership on <del>an</del> <u>EU</u> trading venue that offers trading in the <u>OTC derivative, and clears the OTC derivative on a central counterparty authorised in accordance with Regulation (EU) 648/2012.</u> <del>subject to the trading obligation; and</del></p>	<p>(b) regularly acts as a market maker in <del>the</del> <u>an OTC credit</u> derivative subject to the derivatives trading obligation <u>and:</u></p> <p><u>(i) intends to trade OTC credit derivatives subject to the derivatives trading obligation on own account on a trading venue only open to counterparties that are CCP clearing members as defined in Article 2, point 14, of Regulation (EU) No 648/2012 ('dealer-to-dealer' venue);</u></p> <p>[TM 05.09: direct member replaced by clearing member]</p> <p><u>(ii) intends to trade OTC credit derivatives subject to the derivatives trading obligation on own account with a counterparty which is a market maker and which has no active membership on an EEA dealer-to-dealer venue that offers trading in the OTC derivatives</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>subject to the trading obligation; and</u></p> <p><u>(iii) clears those OTC credit derivatives in a CCP authorised in accordance with Regulation (EU) No 648/2012.</u></p> <p><u>The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 51.</u></p> <p>[TM 13.07: wording of para 1 reworked as per the COM proposal- para 1a to be deleted - Council and EP to confirm the acceptance of the new wording]</p> <p>[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]</p> <p>[TM 05.09: point i and ii reworked for clarity]</p>
Article 1(20), amending provision, numbered paragraph (1), point (c)				
256	(c) regularly acts as a market maker in the derivative subject to the derivatives trading obligation.	(c) regularly acts as a market maker in the derivative subject to the derivatives trading obligation.	(c) <del>regularly acts as a market maker in the derivative subject to the derivatives trading obligation.</del>	n/a
Article 1(20), amending provision, numbered paragraph (1a),				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 280/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
256a		<u><i>1a. At the request of the competent authority of a Member State, the Commission may adopt an implementing act to suspend the derivatives trading obligation with respect to certain financial counterparties in accordance with the procedure referred to in Article 51 and after having consulted ESMA. The competent authority shall indicate why it considers that the conditions for a suspension are met. In particular, the competent authority shall demonstrate that the financial counterparty within its jurisdiction:</i></u>		n/a
Article 1(20), amending provision, Article 1(20), amending provision, numbered paragraph (1a), point (a)				
256b		<u><i>(a) regularly trades derivatives subject to the derivatives trading obligation on a specific market segment;</i></u>		n/a
Article 1(20), amending provision, Article 1(20), amending provision, numbered paragraph (1a), point (b)				
256c		<u><i>(b) regularly trades derivatives with a non-EEA market maker which has no active membership on an EU trading venue that offers trading in the derivative subject to the trading obligation;</i></u>		n/a
Article 1(20), amending provision, Article 1(20), amending provision, numbered paragraph (1a), point (c)				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 281/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
256d		<u><i>(c) clears those derivatives in a CCP authorised in accordance with Regulation (EU) No 648/2012.</i></u>		n/a
Article 1(20), amending provision, Article 1(20), amending provision, numbered paragraph (1a), point (c)				
256e		<u><i>The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 51.</i></u>		n/a
Article 1(20), amending provision, numbered paragraph (2), first subparagraph				
257	2. When assessing whether to suspend the trading obligation in accordance with paragraph 1, the Commission shall take into account whether such suspension of the trading obligation would have a distortive effect on the clearing obligation laid down in Article 4(1) of Regulation (EU) No 648/2012.	2. When assessing whether to suspend the trading obligation in accordance with <del>paragraph 1</del> <u>paragraphs 1 and 1a</u> , the Commission <u>shall consider whether to suspend it for specific markets only, and</u> shall take into account whether such suspension of the trading obligation would have a distortive effect on the clearing obligation laid down in Article 4(1) of Regulation (EU) No 648/2012.	2. When assessing whether to suspend the trading obligation in accordance with paragraph 1, the Commission shall take into account whether such suspension of the trading obligation would have a distortive effect on the clearing obligation laid down in Article 4(1) of Regulation (EU) No 648/2012.	2. When assessing whether to suspend the trading obligation in accordance with <del>paragraph 1</del> <u>paragraph 1</u> , the Commission <u>shall consider whether to suspend it for specific markets only, and</u> shall take into account whether such suspension of the trading obligation would have a distortive effect on the clearing obligation laid down in Article 4(1) of Regulation (EU) No 648/2012.  [07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]  [TM 05.09: adjusted text]
Article 1(20), amending provision, numbered paragraph (2), second subparagraph				
257a		<u><i>The Commission shall also contact the competent authorities of other Member States to assess whether</i></u>	<u><i>The Commission shall also contact other competent authorities from other Member States to assess</i></u>	<u><i>The Commission shall also contact other competent authorities from other Member States to assess</i></u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 282/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>investment firms in Member States other than that making the request in accordance with paragraph 1 are in a situation similar to those in the requesting Member State. The competent authorities of Member States that did not file a request pursuant to paragraph 1 and 1a may, after adoption of the implementing act mentioned in paragraph 1, request that investment firms that are in a situation similar to those in the requesting Member State are added to the implementing act. The competent authority of the Member State making that request shall indicate and demonstrate why it considers that the conditions for a suspension are also met.</u></p>	<p><u>whether investment firms in Member States other than that making the request in accordance with paragraph 1 are in a situation similar to those in the requesting Member State(s). Member States that did not file a request pursuant to paragraph 1 may, after adoption of the implementing act mentioned in paragraph 1, request that investment firms that are in a situation similar to those in the requesting Member State(s) are added to the implementing act. The competent authority of the Member State(s) making this request shall indicate and demonstrate why it considers that the conditions for a suspension are also met.</u></p>	<p><u>whether investment firms in Member States other than that making the request in accordance with paragraph 1 are in a situation similar to those in the requesting Member State. Member States that did not file a request pursuant to paragraph 1 may, after adoption of the implementing act mentioned in paragraph 1, request that investment firms that are in a situation similar to those in the requesting Member State are added to the implementing act. The competent authority of the Member State making that request shall demonstrate why it considers that the conditions for a suspension are also met.</u></p> <p>[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]</p> <p>[TM 05.09: text adjusted]</p>
Article 1(20), amending provision, numbered paragraph (2), second subparagraph				
257b			<p><u>If the derivatives trading obligation with respect to the investment firm specified by the competent authority is suspended then the derivatives trading obligation shall not apply in respect to its counterparty referred to in paragraph 1, points (a) or (b).</u></p>	<p><u>Where the derivatives trading obligation with respect to the investment firm specified by the competent authority is suspended, the derivatives trading obligation shall not apply with respect to its counterparty, as referred to in paragraph 1, point (a) or (b).</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]</p> <p>[TM 05.09: text adjusted]</p>
257c		<p><u>2a. The implementing acts referred to in paragraphs 1 and 1a shall be adopted in accordance with the examination procedure referred to in Article 51.</u></p>		n/a
Article 1(20), amending provision, numbered paragraph (3)				
258	<p>3. The implementing act referred to in paragraph 1 shall be accompanied by the evidence presented by the competent authority requesting the suspension.</p>	<p>3. The implementing act referred to in <del>paragraph 1</del><u>paragraphs 1 and 1a</u> shall be accompanied by the evidence presented by the competent authority requesting the suspension.</p>	<p>3. The implementing act referred to in paragraph 1 shall be accompanied by the evidence presented by the competent authority requesting the suspension.</p>	<p>3. The implementing act referred to in paragraph 1 shall be accompanied by the evidence presented by the competent authority requesting the suspension.</p> <p>[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]</p> <p>[TM 05.09: text adjusted]</p>
Article 1(20), amending provision, numbered paragraph (4)				
259	<p>4. The implementing act referred to in paragraph 1 shall be communicated to ESMA and shall be published in the ESMA register</p>	<p>4. The implementing act referred to in <del>paragraph 1</del><u>paragraphs 1 and 1a</u> shall be communicated to ESMA and shall be published in the ESMA</p>	<p>4. The implementing act referred to in paragraph 1 shall be communicated to ESMA and shall be published in the ESMA register</p>	<p>4. The implementing act referred to in paragraph 1 shall be communicated to ESMA and shall be published in the <del>ESMA</del> register</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	referred to in Article 34 of this Regulation.	register referred to in Article 34 of this Regulation.	referred to in Article 34 of this Regulation.	referred to in Article 34. <del>of this Regulation.</del>  [07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]  [TM 05.09: text adjusted]
Article 1(20), amending provision, numbered paragraph (5)				
260	5. The Commission shall regularly review whether the grounds for the suspension of the trading obligation continue to apply.;	5. The Commission shall regularly review whether the grounds for the suspension of the <u>derivatives</u> trading obligation continue to apply.;	5. The Commission shall regularly review whether the grounds for the suspension of the trading obligation continue to apply.;	5. The Commission shall regularly review whether the grounds for the suspension of the <u>derivatives</u> trading obligation continue to apply.;
				[07.08: as agreed at the TM 20.07, the wording of Article 32a was inserted as suggested by the COM in its mail of 19.07 at 18:22]
260a			<u>(20a) the wording of Article 34 is replaced by the following:</u>	[TM 05.09: deletion of changes to article 34]
260b			<u>"ESMA shall publish and maintain on its website a register specifying, in an exhaustive and unequivocal manner, the derivatives that are subject to the</u>	[TM 05.09: deletion of changes to article 34]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>obligation to trade on the venues referred to in Article 28(1), the venues where they are traded, and the dates from which the obligation takes effect.</u> ;	"
Article 1(21)				
261	(21) Article 35 is amended as follows:	(21) Article 35 is amended as follows:	(21) Article 35 is amended as follows:	(21) Article 35 is amended as follows:
Article 1(21), point (a)				
262	(a) in paragraph 1, first subparagraph, the introductory wording is replaced by the following:	(a) in paragraph 1, first subparagraph, the introductory wording is replaced by the following:	(a) in paragraph 1, first subparagraph, the introductory wording is replaced by the following:	(a) in paragraph 1, first subparagraph, the introductory wording is replaced by the following:
Article 1(21), point (a), amending provision, numbered paragraph (1)				
263	‘1. Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as	‘1. Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as	‘1. Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as	‘ <del>1</del> . Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed.	regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed.	regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed.	regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed.
Article 1(21), point (a), amending provision, numbered paragraph (1), first paragraph				
264	The requirement in the first subparagraph shall not apply to exchange-traded derivatives.	The requirement in the first subparagraph shall not apply to exchange-traded derivatives.	The requirement in the first subparagraph shall not apply to exchange-traded derivatives.	The requirement in the first subparagraph shall not apply to exchange-traded derivatives.
Article 1(21), point (a), amending provision, numbered paragraph (1), second paragraph				
265	The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:;	The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:;	The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:;	The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:;
Article 1(21), point (b)				
266	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:
Article 1(21), point (b), amending provision, numbered paragraph (3)				
267	‘3. The CCP shall provide a written response to the trading venue either within three months of permitting access, on condition that a relevant competent authority has granted	‘3. The CCP shall provide a written response to the trading venue either within three months of permitting access, on condition that a relevant competent authority has granted	‘3. The CCP shall provide a written response to the trading venue either within three months of permitting access, on condition that a relevant competent authority has granted	‘3. The CCP shall provide a written response to the trading venue either within three months of permitting access, on condition that a relevant competent authority has granted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	access pursuant to paragraph 4, or within three months of denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6(a). Where a CCP denies access, it shall provide full reasons in its response and inform its competent authority in writing of the decision. Where the trading venue is established in a Member State other than the one of the CCP, the CCP shall also provide such notification and reasoning to the competent authority of that trading venue. The CCP shall provide access within three months of providing a positive response to the access request.;	access pursuant to paragraph 4, or within three months of denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6(a). Where a CCP denies access, it shall provide full reasons in its response and inform its competent authority in writing of the decision. Where the trading venue is established in a Member State other than the one of the CCP, the CCP shall also provide such notification and reasoning to the competent authority of that trading venue. The CCP shall provide access within three months of providing a positive response to the access request.;	access pursuant to paragraph 4, or within three months of denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6(a). Where a CCP denies access, it shall provide full reasons in its response and inform its competent authority in writing of the decision. Where the trading venue is established in a Member State other than the one of the CCP, the CCP shall also provide such notification and reasoning to the competent authority of that trading venue. The CCP shall provide access within three months of providing a positive response to the access request.;	access pursuant to paragraph 4, or within three months of denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6, <u>point</u> (a). Where a CCP denies access, it shall provide full reasons in its response and inform its competent authority in writing of the decision. Where the trading venue is established in a Member State other than the one of the CCP, the CCP shall also provide such notification and reasoning to the competent authority of that trading venue. The CCP shall provide access within three months of providing a positive response to the access request.;
Article 1(21), point (b), amending provision				
267a		<u>(ba) paragraph 4 is replaced by the following:</u>		<u>(ba) paragraph 4 is amended as follows:</u>  [TM 05.09: presentation approached changed]
Article 1(21), point (b), amending provision, numbered paragraph (4)				
267b		<u>'4. The competent authority of the CCP or that of the trading venue shall grant a trading venue access to a CCP only where such access would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity</u>		<u>(i) the first subparagraph is replaced by the following:</u>  <u>'The competent authority of the CCP or that of the trading venue shall grant a trading venue access to a CCP only where such access</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>fragmentation, or would not adversely affect systemic risk.</u>		<u>would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity fragmentation, or would not adversely affect systemic risk.</u>
Article 1(21), point (b), amending provision, numbered paragraph (4)				
267c		<u>If a competent authority refuses access, it shall issue its decision within two months following receipt of the request referred to in paragraph 2 and provide full reasons to the other competent authority, the CCP and the trading venue including the evidence on which the decision is based.';</u>		<u>(ii) the second and third subparagraphs are deleted;</u>
Article 1(22)				
268	(22) Article 36 is amended as follows:	(22) Article 36 is amended as follows:	(22) Article 36 is amended as follows:	(22) Article 36 is amended as follows:
Article 1(22), point (a)				
269	(a) in paragraph 1, the first subparagraph is replaced by the following:	(a) in paragraph 1, the first subparagraph is replaced by the following:	(a) in paragraph 1, the first subparagraph is replaced by the following:	(a) in paragraph 1, the first subparagraph is replaced by the following:
Article 1(22), point (a), amending provision, first paragraph				
270				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	‘Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, to any CCP authorised or recognised by that Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement shall not apply to:	‘Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, to any CCP authorised or recognised by that Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement shall not apply to:	‘Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, to any CCP authorised or recognised by that Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement shall not apply to:	‘Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, to any CCP authorised or recognised <del>by</del> <u>in accordance with that</u> Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement <del>shall</del> <u>does</u> not apply to:  [TM 05.09: text adjusted]
Article 1(22), point (a), amending provision, first paragraph, point (a)				
271	(a) any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012;	(a) any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012;	(a) any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012;	(a) any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012;
Article 1(22), point (a), amending provision, first paragraph, point (b)				
272	(b) exchange-traded derivatives.;	(b) exchange-traded derivatives.;	(b) exchange-traded derivatives.;	(b) exchange-traded derivatives.;
Article 1(22), point (b)				
273	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(22), point (b), amending provision, numbered paragraph (3)				
274	<p>‘3. The trading venue shall provide a written response to the CCP within three months either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified pursuant to paragraph 6, point (a). When access is denied, the trading venue shall provide full reasons in its written response and forward that written response to its competent authority. Where the CCP is established in a different Member State than the trading venue, the trading venue shall also forward that written response to the competent authority of the CCP. The trading venue shall provide access within three months of providing a positive response to the access request.’;</p>	<p>‘3. The trading venue shall provide a written response to the CCP within three months either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified pursuant to paragraph 6, point (a). When access is denied, the trading venue shall provide full reasons in its written response and forward that written response to its competent authority. Where the CCP is established in a different Member State than the trading venue, the trading venue shall also forward that written response to the competent authority of the CCP. The trading venue shall provide access within three months of providing a positive response to the access request.’;</p>	<p>‘3. The trading venue shall provide a written response to the CCP within three months either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified pursuant to paragraph 6, point (a). When access is denied, the trading venue shall provide full reasons in its written response and forward that written response to its competent authority. Where the CCP is established in a different Member State than the trading venue, the trading venue shall also forward that written response to the competent authority of the CCP. The trading venue shall provide access within three months of providing a positive response to the access request.’;</p>	<p>‘3. The trading venue shall provide a written response to the CCP within three months either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified pursuant to paragraph 6, point (a). When access is denied, the trading venue shall provide full reasons in its written response and forward that written response to its competent authority. Where the CCP is established in a different Member State than the trading venue, the trading venue shall also forward that written response to the competent authority of the CCP. The trading venue shall provide access within three months of providing a positive response to the access request.’;</p>
Article 1(22), point (b), amending provision				
274a		<p><u><a href="#">(ba) paragraph 4 is replaced by the following:</a></u></p>		<p><u><a href="#">(ba) paragraph 4 is amended as follows:</a></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(22), point (b), amending provision				
274b		<u>'4. The competent authority of the trading venue or that of the CCP shall grant a CCP access to a trading venue only where such access would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity fragmentation, and where the trading venue has put in place adequate mechanisms to prevent such fragmentation, or would not adversely affect systemic risk.'</u>		<u>(i) the first subparagraph is replaced by the following:</u>  <u>'The competent authority of the trading venue or that of the CCP shall grant a CCP access to a trading venue only where such access would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity fragmentation, and where the trading venue has put in place adequate mechanisms to prevent such fragmentation, or would not adversely affect systemic risk.'</u>
Article 1(22), point (b), amending provision				
274c		<u>If a competent authority denies access it shall issue its decision within two months following receipt of the request referred to in paragraph 2 and provide full reasons to the other competent authority, the trading venue and the CCP including the evidence on which its decision is based.'</u>		<u>(ii) second and third subparagraphs are deleted.</u>  [TM 05.09: presentation adjusted]
Article 1(22), point (c)				
275	(c) paragraph 5 is deleted;	(c) paragraph 5 is deleted;	(c) paragraph 5 is deleted;	(c) paragraph 5 is deleted;
Article 1(23)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
276	(23) in Article 38, paragraph 1 is replaced by the following:	(23) in Article 38, paragraph 1 is replaced by the following:	(23) in Article 38, paragraph 1 is replaced by the following:	(23) in Article 38, paragraph 1 is replaced by the following:
Article 1(23), amending provision, numbered paragraph (1)				
277	‘1. A trading venue established in a third country may request access to a CCP established in the Union only if the Commission has adopted a decision in accordance with Article 28(4) relating to that third country.	‘1. A trading venue established in a third country may request access to a CCP established in the Union only if the Commission has adopted a decision in accordance with Article 28(4) relating to that third country.	‘1. A trading venue established in a third country may request access to a CCP established in the Union only if the Commission has adopted a decision in accordance with Article 28(4) relating to that third country.	‘1. A trading venue established in a third country may request access to a CCP established in the Union only if the Commission has adopted a decision in accordance with Article 28(4) relating to that third country.
Article 1(23), amending provision, numbered paragraph (1), first paragraph				
278	A CCP established in a third country may request access to a trading venue in the Union subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012.	A CCP established in a third country may request access to a trading venue in the Union subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012.	A CCP established in a third country may request access to a trading venue in the Union subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012.	A CCP established in a third country may request access to a trading venue in the Union subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012.
Article 1(23), amending provision, numbered paragraph (1), second paragraph				
279	CCPs and trading venues established in third countries shall only be permitted to make use of the access rights referred to in Articles 35 and 36 with regard to financial instruments covered by those Articles and provided that the Commission has adopted a decision in accordance with paragraph 3 of this Article, determining that the	CCPs and trading venues established in third countries shall only be permitted to make use of the access rights referred to in Articles 35 and 36 with regard to financial instruments covered by those Articles and provided that the Commission has adopted a decision in accordance with paragraph 3 of this Article, determining that the	CCPs and trading venues established in third countries shall only be permitted to make use of the access rights referred to in Articles 35 and 36 with regard to financial instruments covered by those Articles and provided that the Commission has adopted a decision in accordance with paragraph 3	CCPs and trading venues established in third countries shall only be permitted to make use of the access rights referred to in Articles 35 and 36 with regard to financial instruments covered by those Articles and provided that the Commission has adopted a decision in accordance with paragraph 3

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country.;	legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country.;	of this Article, determining that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third-country.;	of this Article, determining that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third-country.;
Article 1(24)				
280	(24) in Article 38g(1), the introductory wording is replaced by the following:	(24) in Article 38g(1), the introductory wording is replaced by the following:	(24) in Article 38g(1), the introductory wording is replaced by the following:	(24) in Article 38g(1), the introductory wording is replaced by the following:
Article 1(24), amending provision, first paragraph				
281	‘Where ESMA finds that a person listed in Article 38b(1), point (a), has not complied with any of the requirements laid down in Article 22a, Article 22b, or Title IVa, it shall take one or more of the following actions:;	‘Where ESMA finds that a person listed in Article 38b(1), point (a), has not complied with any of the requirements laid down in Article <a href="#">20</a> , <a href="#">21</a> , <a href="#">22</a> , 22a, Article 22b <a href="#">or 26</a> , or Title IVa, it shall take one or more of the following actions:;	‘Where ESMA finds that a person listed in Article 38b(1), point (a), has not complied with any of the requirements laid down in Article 22a, Article 22b, <a href="#">Article 22c</a> , or Title IVa, it shall take one or more of the following actions:;	‘Where ESMA finds that a person listed in Article 38b(1), point (a), has not complied with any of the requirements laid down in Article <a href="#">20</a> , <a href="#">21</a> , <a href="#">22</a> , 22a, <del>Article-22b</del> <a href="#">or 22c</a> , or <a href="#">in</a> Title IVa, it shall take one or more of the following actions:;
Article 1(25)				
282	(25) in Article 38h(1), the first subparagraph is replaced by the following:	(25) in Article 38h(1), the first subparagraph is replaced by the following:	(25) in Article 38h(1), the first subparagraph is replaced by the following:	(25) in Article 38h(1), the first subparagraph is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(25), amending provision, first paragraph				
283	‘Where ESMA, in accordance with Article 38k(5), finds that a person listed in Article 38b(1), point (a), has intentionally or negligently not complied with any of the requirements provided for in Article 22a, Article 22b, or in Title IVa, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article.;	‘Where ESMA, in accordance with Article 38k(5), finds that a person listed in Article 38b(1), point (a), has intentionally or negligently not complied with any of the requirements provided for in Article 22, 22a, Article 22b <i>or</i> 26, or in Title IVa, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article.;	‘Where ESMA, in accordance with Article 38k(5), finds that a person listed in Article 38b(1), point (a), has intentionally or negligently not complied with any of the requirements provided for in Article 22a, Article 22b, <i>Article 22c</i> , or in Title IVa, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article.;	‘Where ESMA, in accordance with Article 38k(5), finds that a person listed in Article 38b(1), point (a), has intentionally or negligently not complied with any of the requirements provided for in Article 22, 22a, <del>Article</del> 22b <i>or</i> 22c, or in Title IVa, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article.;
Article 1(26)				
284	(26) the following Article 39a is inserted:	(26) the following Article 39a is inserted:	(26) The following Article 39a is inserted:	(26) <del>the</del> following <del>article</del> <del>39a</del> is inserted:
Article 1(26), amending provision, first paragraph				
285	‘Article 39a Ban on payment for forwarding client orders for execution	‘Article 39a Ban on payment for forwarding client orders for execution	‘Article 39a Ban on payment for forwarding client orders for execution	‘Article 39a Ban on payment for forwarding client orders for execution  [TM 30.06: Article 39a agreed as follows]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(26), amending provision, second subparagraph				
286	Investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to such third party for their execution.;	Investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to <del>such</del> any third party for their execution.;	<u>1.</u> Investment firms acting on behalf of clients shall not receive any fee or commission or <del>non-monetary</del> nonmonetary benefits from any third party for forwarding client orders to <del>such</del> any third party for their execution.;	<u>1.</u> Investment firms acting on behalf of <u>retail</u> clients, <u>as defined in Article 4, point (11), of Directive 2014/65/EU, or professional clients as referred to in Section II of Annex II of that Directive</u> shall not receive any fee or commission or non-monetary benefits from any third party for <u>executing orders from those clients on a particular execution venue or for forwarding orders of those clients to any</u> third party for their execution <u>on a particular execution venue.</u>  [TM 30.06 as agreed at 3rd trilogue]
Article 1(26), amending provision, numbered paragraph (1), second subparagraph				
286a		<u>The first subparagraph shall not apply to fees, commissions or non-monetary benefits related to the forwarding of professional clients' orders for execution, where permitted under the approved and public tariff structure of a regulated market or MTF. ';</u>	<u>The first subparagraph shall not apply to rebates or discounts on the transaction fees of execution venues that do not result in negative fees that are settled with a payment or a non-monetary benefit.</u>	<u>The first subparagraph shall not apply to rebates or discounts on the transaction fees of execution venues, where permitted under the approved and public tariff structure of a trading venue, where they exclusively benefit the client. Such discounts or rebates shall not</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>result in a monetary benefit to the investment firm.</u></p> <p>[TM 30.06 as agreed at 3rd trilogue]</p>
Article 1(26), amending provision, numbered paragraph (2), first subparagraph				
286b			<p><u>2. A Member State may allow an investment firm acting on behalf of clients to receive any fee or commission, rebates, discounts or non-monetary benefits from any third party for forwarding client orders to any third party for their execution only in respect of a client domiciled or established in that Member State.</u></p>	<p><u>2. A Member State in which prior to [date of entry into force of the amending Regulation] investment firms acting on behalf of clients are established which receive a fee or commission or non-monetary benefits from any third party for executing client orders on a particular execution venue or for forwarding client orders to any third party for their execution on a particular execution venue, may exempt investment firms under its jurisdiction from the prohibition laid down in first paragraph 1 until 30 June 2026 when those investment firms provide investment services to clients domiciled or established in that Member State.</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>[TM 30.06 as agreed at 3rd trilogue. Suggestion from lawyer linguists in comment]</p> <p>[TM 28.08: language revision applied as suggested by DLA on 30.06]</p>
Article 1(26), amending provision, numbered paragraph (2), second subparagraph				
286c			<p><u>The Member State may impose on the investment firm executing retail client orders as referred to in first subparagraph additional conditions to the conditions set out in Article 27(1) and (2) of Directive 2014/65/EU in its national law.</u></p>	<p><u>A Member State which fulfils the condition set out in the first subparagraph shall notify ESMA by... [six months after the entry into force of this amending Regulation] about its decision to apply the exemption as referred to in the first subparagraph. ESMA shall maintain a list of Member States using this exemption. The list shall be made available to the public and updated regularly.</u></p> <p>[TM 30.06 as agreed at 3rd trilogue]</p> <p>[TM 28.08: DLA to check language of this line]</p>
Article 1(26), amending provision, numbered paragraph (3), third subparagraph				
286d			<p><u>The Member State shall notify ESMA about its decision to use the discretion as referred to in first subparagraph. ESMA shall maintain a list of Member States using this discretion. The list shall be made available to public and updated regularly. ';</u></p>	<p>[n/a]</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 298/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(27)				
287	(27) Article 50 is amended as follows:	(27) Article 50 is amended as follows:	(27) Article 50 is amended as follows:	(27) Article 50 is amended as follows:
Article 1(27), point (a)				
288	(a) paragraph 2 is replaced by the following:	(a) paragraph 2 is replaced by the following:	(a) paragraph 2 is replaced by the following:	(a) paragraph 2 is replaced by the following:
Article 1(27), point (a), amending provision, numbered paragraph (2)				
289	‘2. The power to adopt delegated acts as referred to in the following provisions shall be conferred for an indeterminate period from 2 July 2014: Article 1(9), Article 2(2) and (3), 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).;	‘2. The power to adopt delegated acts as referred to in the following provisions shall be conferred for an indeterminate period from 2 July 2014: Article 1(9), Article 2(2) and (3), <a href="#">5(9a)</a> , 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles <a href="#">22b(2)</a> , <a href="#">26(1a)</a> , 27(4), <del>27da(3)</del> , <a href="#">27g(7)</a> , 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).;	‘2. The power to adopt delegated acts as referred to in the following provisions shall be conferred for an indeterminate period from 2 July 2014: Article 1(9), Article 2(2) and (3), 13(2), 15(5), 17(3), <del>Article 19(2) and (3)</del> , and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).;	‘2. The power to adopt delegated acts <del>as</del> referred to in Article 1(9), Article 2(2) and (3), <a href="#">Article 5(9a)</a> , <a href="#">Article 8a(2a)</a> , <del>13(2)</del> , <del>15(5)</del> , <a href="#">Article 17(3)</a> , <del>Article 19(2) and (3)</del> , and Articles <del>22b(2)</del> 27(4), <del>27da(3)</del> , <a href="#">27g(7)</a> , <a href="#">Article 27h(4)</a> , <a href="#">Article 31(3)(4)</a> , <a href="#">Article 38k(10)</a> , <a href="#">Article 38n(3)</a> , <a href="#">Article 40(8)</a> , <a href="#">Article 41(8)</a> , <a href="#">Article 42(7)</a> , <a href="#">Article 45(10)</a> and <a href="#">Article 52(10)</a> <del>and (15)</del> , <del>the following provisions</del> shall be conferred for an indeterminate period from 2 July 2014.;
Article 1(27), point (b)				
290				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(b) in paragraph 3, the first sentence is replaced by the following:	(b) in paragraph 3, the first sentence is replaced by the following:	(b) in paragraph 3, the first sentence is replaced by the following:	(b) <del>in</del> paragraph 3, <del>the first sentence</del> is replaced by the following:
Article 1(27), point (b), amending provision, first paragraph				
291	<p>‘The delegation of power referred to in the following provisions may be revoked at any time by the European Parliament or by the Council: Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).;</p> <p>”</p>	<p>‘The delegation of power referred to in the following provisions may be revoked at any time by the European Parliament or by the Council: Article 1(9), Article 2(2) and (3), <u>5(9a)</u>, Articles 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles <del>22b(2)</del><u>26(1a)</u>, 27(4), <del>27da(3)</del>, <del>27g(7)</del>, 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).’;</p> <p>”</p>	<p>‘The delegation of power referred to in the following provisions may be revoked at any time by the European Parliament or by the Council: Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), <del>Article 19(2) and (3)</del>, and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10).’;</p> <p>”</p>	<p>‘The delegation of power referred to Article 1(9), Article 2(2) and (3), <u>Article 5(9a), Article 8a(2a), <del>13(2), 15(5)</del>, Article 17(3), <del>Article 19(2) and (3)</del>, and Articles <del>22b(2)</del> 27(4), <del>27da(3), 27g(7)</del>, <u>Article 27h(4), Article 31(3)(4), Article 38k(10), Article 38n(3), Article 40(8), Article 41(8), Article 42(7), Article 45(10) and Article 52(10) and (15)</u>, may be revoked at any time by the European Parliament or by the Council: <del>Article 1(9), Article 2(2) and (3), 5(9a), Articles 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10)</del>. <u>A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</u>’;</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(27), point (c)				
292	(c) in paragraph 5, the first sentence is replaced by the following:	(c) in paragraph 5, the first sentence is replaced by the following:	(c) in paragraph 5, the first sentence is replaced by the following:	(c) <del>in</del> paragraph 5, <del>the first sentence</del> is replaced by the following:
Article 1(27), point (c), amending provision, first paragraph				
293	<p>‘A delegated act adopted pursuant to Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.’;</p>	<p>‘A delegated act adopted pursuant to Article 1(9), Article 2(2) and (3), <u>Article 5(9a)</u>, Articles 13(2), 15(5), 17(3), Article 19(2) and (3), and Articles <del>22b(2)</del><u>26(1a)</u>, 27(4), <del>27da(3)</del>, <u>27g(7)</u>, 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.’;</p>	<p>‘A delegated act adopted pursuant to Article 1(9), Article 2(2) and (3), Articles 13(2), 15(5), 17(3), <del>Article 19(2) and (3)</del>, and Articles 22b(2), 27(4), 27da(3), 27g(7), 27h(4), 31(4), 38k(10), 38n(3), 40(8), 41(8), 42(7), 45(10) and 52(10) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.’;</p>	<p>‘A delegated act adopted pursuant to Article 1(9), Article 2(2) and (3), <u>Article 5(9a)</u>, <u>Article 8a(2a)</u>, <del>13(2)</del>, <del>15(5)</del>, <u>Article 17(3)</u>, <del>Article 19(2) and (3)</del>, <del>and</del> Articles <del>22b(2)</del> 27(4), <del>27da(3)</del>, <del>27g(7)</del>, <u>Article 27h(4)</u>, <u>Article 31(3)(4)</u>, <u>Article 38k(10)</u>, <u>Article 38n(3)</u>, <u>Article 40(8)</u>, <u>Article 41(8)</u>, <u>Article 42(7)</u>, <u>Article 45(10)</u> and <u>Article 52(10) and (15)</u>, shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. <u>That period shall be extended by three months at the initiative of the European Parliament or the Council.</u>’;</p>
Article 1(28)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
294	(28) Article 52 is amended as follows:	(28) Article 52 is amended as follows:	(28) Article 52 is amended as follows:	(28) Article 52 is amended as follows:
Article 1(28), point (a)				
295	(a) paragraphs 11 and 12 are replaced by the following:	(a) paragraphs 11 and 12 are replaced by the following:	(a) paragraphs 11 <del>and 12 are</del>	(a) paragraphs 11, 12 and <del>13</del> are <del>deleted.</del> <i>replaced by the following:</i>
Article 1(28), point (a), amending provision, numbered paragraph (11)				
296	'11. Three years after the first authorisation of a consolidated tape, the Commission shall, after having consulted ESMA, submit a report to the European Parliament and to the Council on the following:	'11. Three years after the first authorisation of a consolidated tape, the Commission shall, after having consulted ESMA, submit a report to the European Parliament and to the Council on the following:	'11. Three years after the first authorisation of a consolidated tape, the Commission shall, after having consulted ESMA, submit a report to the European Parliament and to the Council on the following:	n/a
Article 1(28), point (a), amending provision, numbered paragraph (11), point (a)				
				<u>(aa) paragraph 14 is replaced by the following:</u>
				<u>'14. By 30 June 2026, ESMA, in close cooperation with the expert stakeholder group referred to in Article 22b, shall assess the market demand for the consolidated tape for shares and ETFs, the impact of</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 302/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>that consolidated tape on the functioning of the market and on the attractiveness and international competitiveness of Union markets and firms, and whether the consolidated tape has delivered on its aim to decrease information asymmetries between market participants and to make the Union a more attractive location to invest. ESMA shall report to the Commission on the appropriateness of adding additional features to the consolidated tape, such as the dissemination of the market identifier code for pre-trade data. Based on that report, the Commission shall submit, where appropriate, a legislative proposal to the European Parliament and the Council.</u></p>
				<p><u>'14 a. Three years after the first authorisation of a consolidated tape, the Commission shall, after having consulted ESMA and the expert stakeholder group referred to in Article 22b, submit a report to the European Parliament and to the Council on the following:</u></p>
297				

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 303/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(a) the asset classes covered by a consolidated tape;	(a) the asset classes covered by a consolidated tape;	(a) the asset classes covered by a consolidated tape;	(a) the asset classes covered by a consolidated tape;
Article 1(28), point (a), amending provision, numbered paragraph (11), point (b)				
298	(b) the timeliness and delivery quality of market data consolidation;	(b) the timeliness and delivery quality of market data consolidation;	(b) the timeliness and delivery quality of market data consolidation;	(b) the timeliness and <del>the delivery</del> quality of <del>market-the</del> data <u>provided to the CTP</u>  <u>(ba) the timeliness of the dissemination and the quality of the core market data; consolidation;</u>  <i>[TM 05.09: language reworked]</i>
Article 1(28), point (a), amending provision, numbered paragraph (11), point (c)				
299	(c) the role of market data consolidation in reducing implementation shortfall;	(c) the role of market data consolidation in reducing implementation shortfall;	(c) the role of market data consolidation in reducing implementation shortfall;	(c) the role of <u>core</u> market data <del>consolidation</del> in reducing implementation shortfall;
Article 1(28), point (a), amending provision, numbered paragraph (11), point (d)				
300	(d) the number of subscribers to consolidated market data per asset class;	(d) the number of subscribers to consolidated market data per asset class;	(d) the number of subscribers to consolidated market data per asset class;	(d) the number of subscribers to <u>core</u> <del>consolidated</del> market data per asset class;
Article 1(28), point (a), amending provision, numbered paragraph (11), point (e)				
301	(e) the effect of market data consolidation on remedying	(e) the effect of market data consolidation on remedying	(e) the effect of market data consolidation on remedying	(e) the effect of <u>core</u> market data <del>consolidated</del> on remedying

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	information asymmetries between various capital market participants;	information asymmetries between various capital market participants;	information asymmetries between various capital market participants;	information asymmetries between various capital market participants;
Article 1(28), point (a), amending provision, numbered paragraph (11), point (f)				
302	(f) the appropriateness and functioning of the participation scheme for market data contributions;	(f) the appropriateness and functioning of the participation scheme for market data contributions;	(f) the appropriateness and functioning of the participation scheme for market data contributions;	<p><u>(ea) the appropriateness of the transmission protocols used for the provision of data to the CTP;</u></p> <p>(f) the appropriateness and functioning of the <del>participation</del> <u>revenue distribution</u> scheme, <u>in particular as regards data contributors that are small trading venues;</u></p> <p>[TM12.09: new point ea added as per the discussion for the choice of the transmission protocol by the CTP]</p> <p>[TM 14.09: inclusion of small trading venues- replacing para 4 of 27h]</p>
Article 1(28), point (a), amending provision, numbered paragraph (11), point (g)				
303	(g) the effects of the consolidated market data on investments in SMEs.	(g) the effects of the consolidated market data on investments in SMEs.	(g) the effects of the consolidated market data on investments in SMEs.;	(g) the effects of the <del>consolidated</del> <u>core</u> market data on investments in SMEs.
Article 1(28), point (a), amending provision, numbered paragraph (11), point (h)				
304	(h) the possibility that the tape facilitates the identification of financial instruments which display features aligned with Regulation [PO please insert reference to the	(h) the possibility that the tape facilitates the identification of financial instruments which display features aligned with Regulation [PO please insert reference to the	(h) the possibility that the tape facilitates the identification of financial instruments which display features aligned with Regulation [ <del>POOP</del> please insert reference to	Deleted

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 305/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Regulation on European green bonds]	Regulation on European green bonds]	the Regulation on European green bonds]. <sup>2</sup> ;	
Article 1(28), point (b)				
305	12. If by [OP insert date 1 year as of entry into force], no consolidated tape has emerged through the selection procedure organised by ESMA as referred to in Article 27da, the Commission shall review the framework and may accompany that review, where appropriate and after having consulted ESMA, with a legislative proposal setting out how ESMA should provide a consolidated tape.;	12. If by [ <u>OP insert date ... as of entry into force</u> <del>OP insert date 1 year as of entry into force</del> ], no consolidated <del>tape has</del> <u>tapes have</u> emerged through the selection <del>procedure</del> <u>procedures</u> organised by ESMA as referred to in Article 27da, the Commission shall review the framework and <del>may</del> <u>shall</u> accompany that review, where appropriate and after having consulted ESMA, with a legislative proposal <del>setting out how ESMA should provide a consolidated tape.</del> ;	<del>12.(b) If by [OP insert date 1 year as of entry into force], no consolidated tape has emerged through the selection procedure organised by ESMA as referred to in Article 27da, the Commission shall review the framework and may accompany that review, where appropriate and after having consulted ESMA, with a legislative proposal setting out how ESMA should provide a consolidated tape.</del> <u>paragraph 12 is deleted</u> ;	n/a  [TM 05.07: covered in the point a above]
Article 1(28), point (b)				
306	(b) paragraph 14 is deleted;	(b) <del>paragraph 14 is</del> <u>paragraphs 13, 14 and 15 are</u> deleted;	<del>(b)</del> <u>(c)</u> paragraph 14 is deleted;	n/a  [covered in line 295]
Article 1(28), point (c)				
306a		<u>(c) the following paragraph is added:</u>		[TM 08.06: EP amendments dropped]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(28), point (c)				
306b		<u><i>'15a. By 30 June 2025, ESMA shall assess whether setting minimum holding periods of options, futures, swaps, forwards and any other derivative contracts and instruments relating at least to wholesale energy products, agricultural products, or emission allowances would effectively limit the volatility on these markets and ensure convergence between prices of derivatives in the delivery month and spot prices for the underlying commodity, without prejudice to price discovery on the market for the underlying commodity.'</i></u>		<i>[TM 8 June: EP amendments dropped]</i>
Article 1(28), point (c)				
306c		<u><i>By 31 December 2025, on the basis of that report and taking into due account the goals of the capital markets union, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal to amend this Regulation by setting minimum holding periods as referred to in the first subparagraph.'</i></u>		<i>[TM 8 June: EP amendments dropped]</i>
Article 1(29)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>14b. By ... [12 months after the date of entry into force of this amending Regulation] the Commission shall, in close cooperation with ESMA, assess the possibility of extending the requirements of Article 26 of this Regulation to AIFMs as defined in Article 4(1), point (b), of Directive 2011/61/EU, and management companies, as defined in Article 2(1), point (b), of Directive 2009/65/EC, which provide investment services and activities, as defined in Article 4(1), point (2), of Directive 2014/65/EU and which execute transactions in financial instruments. In particular, the Commission shall include a cost-benefit analysis and an evaluation of the scope of such extension.</u></p> <p><u>On the basis of that assessment and taking into account the goals of the capital markets union, the Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation by extending the requirements of Article 26 as set out in the first subparagraph.'</u></p> <p>[TMs 12 and 13.07: the review clause of Article 26 is now inserted in Article 52]</p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 308/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>[TM 05.09: language reworked]</i>
				<p><u>14c. By ... [two years after the date of entry into force of this amending Regulation], ESMA shall submit to the Commission a report assessing the appropriateness of the volume cap set out in Article 5(1) and the necessity to remove or to extend it to other trading systems or execution venues which derive their prices from a reference price, taking into account international best practices, the competitiveness of Union financial markets, and the effects of that volume cap on the fair and orderly trading of markets, and on the efficiency of price formation.</u></p> <p><i>[TM 06.09: moved from Article 5 - COM extra wording to be added - to be checked by EP]</i></p>
				<p><u>(ab) paragraph 15 is amended as follows:</u></p> <p><u>(i) the introductory wording is replaced by the following:</u></p> <p><u>The Commission is empowered to adopt delegated acts in accordance with Article 50 in order to</u></p>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 309/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u>supplement this Regulation, by specifying measures in order to:</u></p> <p><u>(ii) point (a) to (d) are deleted;</u></p> <p><u>(iii) point (e) is replaced by the following:</u></p> <p><u>(e) ensure that the core market data is provided on a reasonable commercial basis, on both a consolidated and unconsolidated basis, and meets the needs of the users of that information across the Union;</u></p> <p><u>(iv) point (f) is deleted;</u></p> <p><u>(v) point (g) and (h) are replaced by the following:</u></p> <p><u>(g) specify arrangements applicable where the CTP no longer fulfils the selection criteria;</u></p> <p><u>(h) specify arrangements under which a CTP may continue to operate a consolidated tape as long as no new entity is authorised through the selection procedure.</u></p>
307	(29) in Article 54, paragraph 2 is deleted.	(29) in Article 54, paragraph 2 is deleted.	(29) in Article 54, paragraph 2 is deleted.;	(29) in Article 54, paragraph 2 is deleted.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 310/

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
307a			<u>29a. in Article 55, the third paragraph is replaced by the following:</u>	<u>29a. in Article 55, the third paragraph is replaced by the following:</u>
307b			<u>"Notwithstanding the second paragraph, Article 1(8) and (9), Article 2(2), Article 4(6), Article 5(6) and (9), Article 7(2), Article 9(5), Article 11(4), Article 12(2), Article 13(2), Article 14(7), Article 15(5), Article 17(3), Article 20(3), Article 21(5), Article 22(4), Article 23(3), Article 25(3), Article 26(9), Article 27(3), Article 28(4), Article 28(5), Article 29(3), Article 30(2), Article 31(4), Article 32(1), (5) and(6), Article 33(2), Article 35(6), Article 36(6), Article 37(4), Article 38(3), Article 40(8), Article 41(8), Article 42(7), Article 45(10), Article 46(7), Article 47(1) and (4), Article 52(10) and (12) and Article 54(1) shall apply immediately following the entry into force of this Regulation."</u>	<u>"Notwithstanding the second paragraph, Article 1(8) and (9), Article 2(2), Article 4(6), Article 5(6) and (9), Article 7(2), Article 9(5), Article 11(4), Article 12(2), Article 13(2), Article 14(7), Article 15(5), Article 17(3), Article 20(3), Article 21(5), Article 22(4), Article 23(3), Article 25(3), Article 26(9), Article 27(3), Article 28(4), Article 28(5), Article 29(3), Article 30(2), Article 31(4), Article 32(1), (5) and(6), Article 33(2), Article 35(6), Article 36(6), Article 37(4), Article 38(3), Article 40(8), Article 41(8), Article 42(7), Article 45(10), Article 46(7), Article 47(1) and (4), Article 52(10) and (12) and Article 54(1) shall apply immediately following the entry into force of this Regulation."</u>
Article 2				
307c				n/a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 311/317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><a href="#">Article 2</a></u> <u><a href="#">Amendments to Regulation (EU) No 575/2013</a></u>	[Article to be discussed in the framework of the CRR/D review]
Article 2, first paragraph				
307d			<u><a href="#">In Article 4 of the Regulation (EU) 575/2013, paragraph 1, point (b), points (i), (ii) and (iii) are replaced by the following:</a></u>	n/a [Article to be discussed in the framework of the CRR/D review]
Article 2, second paragraph, point (i)				
307e			<u><a href="#">(i) the total value of the consolidated assets of the undertaking is equal to or exceeds EUR 30 billion, excluding the assets, calculated on individual basis, of any subsidiary established in third country;</a></u>	n/a [Article to be discussed in the framework of the CRR/D review]
Article 1a(2), second paragraph, point (ii)				
307f			<u><a href="#">(ii) the total value of the assets of the undertaking is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in that group that are established in the EU and that individually have total assets of less than EUR 30 billion and</a></u>	n/a [Article to be discussed in the framework of the CRR/D review]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 312/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU is equal to or exceeds EUR 30 billion; or</u>	
Article 2, second paragraph, point (iii)				
307g			<u>(iii) the total value of the assets of the undertaking is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in the group that are established in the EU and that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU, is equal to or exceeds EUR 30 billion, where the consolidating supervisor, in consultation with the supervisory college, so decides in order to address potential risks of circumvention and potential risks for the financial stability of the Union;</u>	n/a  [Article to be discussed in the framework of the CRR/D review]
Article 1a(2), third paragraph				
307h			<u>for the purposes of points (b)(ii) and (b)(iii), where the undertaking</u>	n/a  [Article to be discussed in the framework of the CRR/D review]

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 313/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>is part of a third-country group, the total assets of each branch of the third-country group authorised in the Union that carry out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU shall be included in the combined total value of the assets of all undertakings that are considered for the calculation of the threshold as referred to in points b(ii) and b(iii).</u>	
Article 1a(2), fourth paragraph				
307i			<u>The consolidating supervisor shall inform the EBA of any decision made pursuant to point (b)(iii). The EBA shall monitor the range of supervisory practices in connection with this point and shall report to the Commission on its findings every three years.</u>	n/a [Article to be discussed in the framework of the CRR/D review]
Article 2				
308	Article 2 Entry into force and application	Article 2 Entry into force and application	Article <del>2</del> <sub>3</sub> Entry into force and application	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph				
309	This Regulation shall enter into force and apply on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force and apply on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force and apply on the twentieth day following that of its publication in the Official Journal of the European Union, <u>with the exception of Articles 1(1)(a), 1(1)(c) and 1(2)(a) and Article 1(10), for as far as it concerns the insertion of Article 22c in Regulation (EU) No 600/2014, which shall enter into force on the [MiFID implementation date].</u>	<u>This Regulation shall enter into force and apply on the twentieth day following that of its publication in the Official Journal of the European Union.</u>
Article 2				
309a			<u>Articles 2(1)(11) of Regulation (EU) No 600/2014 as applicable before entry into force of this Regulation will continue to apply to investment firms and market operators until the date of application of the delegated regulation based on Article 11(4) as amended by Article 1(6) of this Regulation.</u>	<u>n/a</u>
Article 2				
309b			<u>Article 11a of Regulation (EU) No 600/2014 will not apply to</u>	<u>n/a</u>

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (Text with EEA relevance) 2021/0385(COD) 20-03-2023 at 10h00 315/

317

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>investment firms and market operators until the date of application of the delegated regulation based on Article 11a(4) as inserted by Article 1(6a) of this Regulation.</u>	
Article 2				
309c			<u>Article 13 of Regulation (EU) No 600/2014 as applicable before entry into force of this Regulation will continue to apply to investment firms and market operators until the date of application of the delegated regulation based on Article 11(7) as amended by Article 1(6) of this Regulation.</u>	n/a
Article 2				
309d			<u>However, Article 1, point (26), shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation].</u>	n/a
Article 2, second paragraph				
310	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
311	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels,
Formula				
312	For the European Parliament	For the European Parliament	<i>For the European Parliament</i>	
Formula				
313	The President	The President	<i>The President</i>	
Formula				
314	For the Council	For the Council	<i>For the Council</i>	
Formula				
315	The President	The President	<i>The President</i>	