

## Annex C

### COMMISSION DELEGATED REGULATION (EU) 2017/577 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations

~~(Text with EEA relevance)~~

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#### Article -3

#### **Definitions**

1. In this Regulation, 'exit day' has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article -2

#### **Application**

This Regulation applies to:

1. those persons described in Article 1(2) of Regulation 600/2014/EU;
2. approved publication arrangements (APAs) as defined in Article (2)(1)(34) of Regulation 600/2014/EU and consolidated tape providers (CTPs) as defined in Article (2)(1)(35) of Regulation 600/2014/EU;
3. the Financial Conduct Authority as a competent authority.

#### Article -1

#### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU (as that directive applied in the European Union immediately before exit day) that definition shall apply for the purposes of this Regulation except where it is defined in article 2 of Regulation 600/2014/EU in which case that definition shall apply for the purposes of this Regulation.
2. The definition of all other terms defined in article 2 of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.
4. References to the day of entry into application of Regulation (EU) No 600/2014 mean the date of application of that Regulation in the European Union.

## Article 1

### Subject matter and scope

1. This Regulation sets out, the details of the data requests to be sent by ~~competent authorities~~ the FCA and the details of the reply to those requests to be sent by trading venues, approved publication arrangements (APAs) and consolidated tape providers (CTPs), for the purposes of calculating and adjusting the pre-trade and post-trade transparency and trading obligation regimes and in particular for the purposes of determining the following factors:

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- (g) for equity and equity-like instruments, the total volume of trading for the previous 12 months and of the percentages of trading carried out under both the negotiated trade and reference price waivers across the ~~Union~~ UK and on each trading venue in the previous 12 months;

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## Article 2

### Content of the data requests and information to be reported

1. For the purpose of carrying out calculations that occur at pre-set dates or in pre-defined frequencies, trading venues, APAs and CTPs shall provide ~~their competent authorities~~ the FCA with all the data required to perform the calculations set out in the following Regulations:
  - (a) Delegated Regulation (EU) 2017/587;
  - (b) Delegated Regulation (EU) 2017/583;
  - (c) Delegated Regulation (EU) 2017/567;
  - (d) Delegated Regulation (EU) 2017/565.
2. ~~Competent authorities~~ The FCA may request, where necessary, additional information for the purpose of monitoring and adjusting the thresholds and parameters referred to in points (a) to (f) and (h) of Article 1 from trading venues, APAs and CTPs.

3. ~~Competent authorities~~ The FCA may request all the data ~~ESMA~~ it is required to take into consideration in accordance with Delegated Regulation (EU) 2016/2020 for non-equity financial instruments, including data on the following:

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## Article 6

### **Reporting requirements for trading venues and CTPs for the purpose of the volume cap mechanism**

1. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014, trading venues shall submit the following data to the ~~competent authority~~ FCA:
  - (a) the total volume of trading in the financial instrument executed on that trading venue;
  - (b) the total volumes of trading in the financial instrument executed on that trading venue falling under the waivers of Article 4(1)(a) or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively, with total volumes reported separately for each waiver.
2. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014 and where requested by the ~~competent authority~~ FCA, CTPs shall submit to the ~~competent authority~~ FCA the following data:
  - (a) the total volumes of trading in the financial instrument executed on all trading venues in the ~~Union~~ UK with total volumes reported separately for each trading venue;
  - (b) the total volumes of trading executed on all trading venues in the ~~Union~~ UK falling under the waivers of Article 4(1)(a) or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively, with total volumes reported separately for each waiver and for each trading venue.
3. Trading venues and CTPs shall report the data set out in paragraphs 1 and 2 to the competent authority using the formats provided in the Annex. They shall, in particular, ensure that the trading venue identifiers they provide are sufficiently granular to enable the ~~competent authority~~ FCA and ~~ESMA~~ to identify the volumes of trading executed under the reference price waiver and, for liquid financial instruments, under the negotiated trade waiver of each trading venue and allow for the calculation of the ratio set out under Article 5(1)(a) of Regulation (EU) No 600/2014.

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6. Trading venues shall submit the data referred to in paragraphs 1 to 5 to the ~~competent authority~~ FCA on the first and the sixteenth day of each calendar month by 13:00 CET. Where the first or the sixteenth day of the calendar month is a non-working day for the trading venue, the trading venue shall report the data to the ~~competent authority~~ FCA by 13:00 CET on the following working day.
7. Trading venues shall submit to the ~~competent authority~~ FCA the total volumes of trading determined in accordance with paragraphs 1 to 5 in respect of the following time periods:
  - (a) for the reports to be submitted on the sixteenth day of each calendar month, the execution period is from the first day to the fifteenth day of the same calendar month;
  - (b) for the reports to be submitted on the first day of each calendar month, the execution period is from the sixteenth day to the last day of the previous calendar month.

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9. Trading venues and CTPs shall respond to any ad hoc request from ~~competent authorities~~ the FCA on the volume of trading in relation to the calculation to be performed for monitoring the use of the reference price or negotiated trade waivers by close of business on the next working day following the request.

#### ~~Article 7~~

#### ~~Reporting requirements for competent authorities to ESMA for the purposes of the volume cap mechanism and the trading obligation for derivatives~~

- ~~1. Competent authorities shall provide ESMA with the data received from a trading venue or a CTP in accordance with Article 6 by 13:00 CET on the next working day following its receipt.~~
- ~~2. The Competent authorities shall provide ESMA with the data received from a trading venue, APA or CTP for the purpose of determining whether derivatives are sufficiently liquid as referred to in Article 1(h) without undue delay and no later than three working days following the receipt of the relevant data.~~

#### Article 8

#### Reporting requirements for ESMA for the purpose of the volume cap mechanism

- 1. For the purposes of this Article:
  - (a) the term ‘transitional period’ has the same meaning as under Article 5(3A) of Regulation 600/2014/EU); and

(b) the ‘relevant area’ in relation to a financial instrument means the United Kingdom and such other countries or regions as have been specified by the FCA by direction for the purposes of Article 5 of Regulation (EU) 600/2014.

1. ~~ESMA~~ After the transitional period, the FCA shall publish the measurements of the total volume of trading for each financial instrument that is traded on a trading venue in the previous 12 months and of the percentages of trading under both the negotiated trade and reference price waivers across the ~~Union~~ relevant area and on each trading venue in the previous 12 months, in accordance with paragraphs 4, 5 and 6 of Article 5 of Regulation (EU) No 600/2014, no later than 22.00 CET on the ~~fifth~~ tenth working day following the end of the reporting periods set out in Article 6(6) of this Regulation.
2. The publication referred to in paragraph 1 shall be free of charge and in a machine-readable and human-readable format as defined in Article 14 of Commission Delegated Regulation (EU) 2017/571 and in paragraphs 4 and 5 of Article 13 of Delegated Regulation (EU) 2017/567.
3. Where a financial instrument is traded in more than one currency across the ~~Union~~ relevant area, ~~ESMA~~ the FCA shall convert all volumes into euros using average exchange rates calculated on the basis of the daily euro foreign exchange reference rates published by the European Central Bank on its website in the previous 12 months. Those converted volumes shall be used for the calculation and publication of the total volume of trading and of the percentages of trading under both the negotiated trade and reference price waivers across the ~~Union~~ relevant area and on each trading venue as referred to in paragraph 1.

## Article 9

### **Entry into force and application**

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

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