

In this instrument, underlining indicates new text and striking through indicates deleted text.

Annex A

COMMISSION IMPLEMENTING REGULATION (EU) 2016/824 of 25 May 2016 laying down implementing technical standards with regard to the content and format of the description of the functioning of multilateral trading facilities and organised trading facilities and the notification to the European Securities and Markets Authority according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments

~~(Text with EEA relevance)~~

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Article -2

Application

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014.

Article -1

Interpretation

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
4. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.

Article 1

Definitions

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

1. 'relevant operator' means:
 - (a) an investment firm operating a multilateral trading facility (MTF);
 - (b) an investment firm operating an organised trading facility (OTF);
 - (c) a market operator operating an MTF;
 - (d) a market operator operating an OTF;
2. 'asset classes' means the categories of financial instruments as set out in Section C of Annex I to Directive 2014/65/EU.
3. 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article 2

Information to be provided on MTFs and OTFs

1. A relevant operator shall provide ~~its~~ the competent authority with the following information:
 - (a) the asset classes of financial instruments traded on the MTF or OTF;
 - (b) the rules and procedures for making financial instruments available for trading, together with details of the publication arrangements used to make that information available to the public;
 - (c) the rules and procedures to ensure the objective and non-discriminatory access to the trading facilities together with details on the publication arrangements used to make that information available to the public;
 - (d) the measures and procedures to ensure that sufficient information is publicly available to users of the MTF or OTF to form an investment judgement, taking into account both the nature of the users and the classes of financial instruments traded;
 - (e) the systems, procedures and arrangements to ensure compliance with the conditions laid down in UK law corresponding to Articles 48 and 49 of Directive 2014/65/EU;
 - (f) a detailed description of any arrangements to facilitate the provision of liquidity to the system such as market making schemes;
 - (g) the arrangements and procedures to monitor transactions as required by UK law corresponding to Article 31 of Directive 2014/65/EU;
 - (h) the rules and procedures for suspension and removal of financial instruments from trading as required by UK law corresponding to Article 32 of Directive 2014/65/EU;
 - (i) the arrangements to comply with pre-trade and post-trade transparency obligations that apply to the financial instruments traded and the trading functionality of the MTF or OTF; that information shall be accompanied by information on any intention to use waivers under Articles 4 and 9 of Regulation (EU) No 600/2014 and deferred publication under Articles 7 and 11

- of that Regulation;
- (j) the arrangements for the efficient settlement of the transactions effected under its systems and for ensuring that users are aware of their respective responsibilities in this regard;
 - (k) a list of the members or participants of the MTF or OTF which it operates.
2. A relevant operator shall provide ~~its~~ the competent authority with a detailed description of the functioning of its trading system specifying:
 - (a) whether the system represents a voice, electronic or hybrid functionality;
 - (b) in the case of an electronic or hybrid trading system, the nature of any algorithm or program used to determine the matching and execution of trading interests;
 - (c) in the case of a voice trading system, the rules and protocols used to determine the matching and execution of trading interests;
 - (d) a description explaining how the trading system satisfies each element of the definition of an MTF or an OTF.
 3. A relevant operator shall provide ~~its~~ the competent authority with information on how and in what instances the operation of the MTF or OTF will give rise to any potential conflicts between the interests of the MTF or OTF, its operator or its owners and the sound functioning of the MTF or OTF. The relevant operator shall specify the procedures and arrangements to comply with the requirements set out in UK law corresponding to Article 18(4) of Directive 2014/65/EU.
 4. A relevant operator shall provide ~~its~~ the competent authority with the following information on its outsourcing arrangements that relate to the management, operation or oversight of the MTF or OTF:
 - (a) the organisational measures to identify the risks in relation to those outsourced activities and to monitor the outsourced activities;
 - (b) the contractual agreement between the relevant operator and the entity providing the outsourced service in which the nature, scope, objectives, and service level agreements are outlined.
 5. A relevant operator shall provide ~~its~~ the competent authority with information on any links to or participation by a regulated market, MTF, OTF or systematic internaliser owned by the same relevant operator.

Article 3

Additional information to be provided on MTFs

In addition to the information set out in Article 2, a relevant operator shall provide ~~its~~ the competent authority with the following information relating to the requirements set out in UK law corresponding to Article 19(3) of Directive 2014/65/EU:

- (a) a description of the arrangements and the systems implemented to manage the risks to which the operator is exposed, to identify all significant risks to its operation and to put in place effective measures to mitigate those risks;
- (b) a description of the arrangements implemented to facilitate the efficient and timely

finalisation of the transactions executed under the operator's systems;

- (c) having regard to the nature and extent of the transactions concluded on the market and the range and degree of the risks to which the operator is exposed, a description of the financial resources considered sufficient to facilitate its orderly functioning.

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Article 6

Additional information to be provided on OTFs

In addition to Article 2, a relevant operator operating an OTF shall provide ~~its~~ the competent authority with the following information:

- (a) information on whether another investment firm is engaged to carry out market making on its OTF on an independent basis in accordance with UK law corresponding to Article 20(5) of Directive 2014/65/EU;
- (b) a detailed description of how and under what circumstances it executes orders on the OTF on a discretionary basis in accordance with UK law corresponding to Article 20(6) of Directive 2014/65/EU;
- (c) the rules, procedures and protocols which allow the operator to route the trading interest of a member or participant outside the facilities of the OTF;
- (d) a description of the use of matched principal trading which complies with UK law corresponding to Article 20(7) of Directive 2014/65/EU;
- (e) the rules and procedures to ensure compliance with UK law corresponding to Articles 24, 25, 27 and 28 of Directive 2014/65/EU for transactions concluded on the OTF where those rules are applicable to the relevant operator in relation to an OTF user.

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Article 8

Material changes

1. A relevant operator shall provide ~~its~~ the competent authority with a description of any material changes to the information previously submitted in accordance with this Regulation which would be relevant to an assessment of that operator's compliance with Directive 2014/65/EU and Regulation (EU) No 600/2014.
2. Where a relevant operator sends new information to ~~its~~ the competent authority to correct, update or clarify information previously submitted in accordance with this Regulation, it does not need to include information which is of a purely minor or technical nature that would not be relevant to an assessment of its compliance with UK law corresponding to Directive 2014/65/EU or Regulation (EU) No 600/2014.
3. An investment firm or market operator authorised to operate an MTF under Directive 2004/39/EC which is operating at the date of application of this Regulation shall, in

addition to paragraph 1 of this Article, provide ~~its~~ the competent authority with a description of any material changes to the information previously submitted to the competent authority in respect of that MTF under that Directive.

Article 9

Format for providing the description

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3. A relevant operator shall provide the information required by this Regulation to ~~its~~ the competent authority in an electronic format.

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~~Article 10~~

~~Notification to ESMA~~

~~A competent authority shall notify ESMA of the authorisation of a relevant operator as an MTF or an OTF in electronic format and in the format set out in Table 2 of the Annex.~~

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

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ANNEX

Formats

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~~Table 2~~

~~Information to be sent to ESMA~~

Notifying competent authority	Name of the relevant operator	Name of the MTF or OTF operated	MIC code	Services provided by MTF or OTF