



European Securities and
Markets Authority

Consultation Paper

Draft implementing technical standards under MiFID II



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in this Consultation Paper.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

In order to respond to this paper, please follow the instructions given in the document 'Reply form for the Consultation Paper on Draft Implementing Technical Standards under MiFID II' also published on the ESMA website.

ESMA will consider all comments received by 31 October 2015.

Publication of responses

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

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Legal Notice'.

Who should read this paper?

This document will be of interest to all stakeholders involved in the securities markets. It is primarily of interest to competent authorities and firms that are subject to MiFID II and MiFIR – in particular, investment firms and credit institutions performing investment services and activities but it is also important for trade associations and industry bodies, institutional and retail investors and their advisers, and consumer groups, as well as any market participant engaged in the dealing with or processing of financial instruments.

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1. Executive Summary

Reasons for publication

This consultation paper (CP) seeks stakeholders' views on Implementing Technical Standards (ITS) ESMA is required to draft under the Directive 2014/65/EU (MiFID II). Under Article 15 of Regulation (EU) No 1095/2010 of the European Parliament and Council establishing ESMA (ESMA Regulation), ESMA needs to conduct a public consultation before submitting draft ITS to the Commission.

The input from stakeholders will help ESMA in finalising the draft technical standards.

Contents

This CP seeks views on three draft ITS required under MiFID II on which ESMA has not yet consulted: 1) the suspension and removal of financial instruments from trading on a trading venue; 2) the notification and provision of information for data reporting services providers (DRSPs); and 3) the weekly aggregated position reports for commodity derivatives, emission allowances and derivatives thereof.

The draft ITS on suspension and removal of financial instruments from trading on venues covers the timing and format of publications and communications foreseen by MiFID II in case a suspension or removal of an instrument occurs.

The draft ITS on standard forms, templates and procedures for the notification and provision of information for DRSPs covers both the application for authorisation by DRSP applicants as well as the notification of members of the management body of a DRSP and of any changes to its membership.

The draft ITS on weekly aggregated position reports is intended to deliver transparency and support monitoring of the new position limits regime. Article 58 requires trading venues to produce and make public, subject to de minimis thresholds, a weekly report of the aggregate positions in commodity derivatives, emission allowances, and derivatives of emission allowances on that trading venue. In this CP, ESMA consults on the empowerment under Article 58(7) to prepare ITS in relation to sending the weekly position reports to ESMA at a specified time, for their centralised publication by ESMA.

Next Steps

On the basis of the responses to this CP, ESMA will revise the draft technical standards and send the final report to the European Commission for endorsement by 3 January 2016.

2. Format and timing of the communication and the publication of the suspension and removal of financial instruments from trading on a regulated market, an MTF or an OTF

Background/Mandate/Empowerment

1. Article 52(1) of MiFID II empowers a market operator (MO) to suspend or remove from trading financial instruments which no longer comply with the rules of the regulated market (RM), unless such a step would be likely to cause significant damage to investors' interests or the orderly functioning of the market.
2. According to Article 52(2) of MiFID II the NCA in whose jurisdiction the suspension or removal originated has to decide whether one of the three reasons to extend the suspension process (suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument in breach of the Market Abuse Regulation (MAR) Articles 7 and 17) to other regulated markets, MTFs, OTFs and SIs in its jurisdiction, applies. If the competent authority comes to the conclusion that none of the three reasons apply, the competent authority is not required to expand the suspension or removal and to communicate its decision to ESMA and the competent authorities of the other Member States.
3. If the suspension is due to one of the three reasons and in the event of a suspension originating from a MO, Article 52(2) MiFID II details the process that must then be followed:
 - i. The MO suspends the derivatives where this is necessary to support the objectives of the suspension or removal of the underlying financial instrument.
 - ii. The MO makes public its decision to suspend the financial instrument and any related derivatives and communicates relevant information to its relevant competent authority (CA).
 - iii. If the competent authority comes to the conclusion that the suspension is due to suspected market abuse, a take-over bid or non-disclosure of inside information about the issuer or financial instrument in breach of Article 7 and 17 MAR, the CA orders suspension of the financial instrument and any related derivatives on other RMs, MTFs, OTFs and SIs in its jurisdiction trading the suspended instruments or any related derivatives, unless this could cause significant damage to investors' interests or the orderly functioning of the market.
 - iv. The CA makes public such a suspension decision and communicates it to ESMA and other CAs ('notified CAs') including an explanation if the decision was not to follow the suspension.

- v. The notified CAs order suspension of trading on other RMs, MTFs, OTFs and SIs in their jurisdictions trading the suspended instruments or any related derivatives, unless this could cause significant damage to investors' interests or the orderly functioning of the market in the notified CAs jurisdiction.
 - vi. The notified CAs communicate their decision on whether to follow the suspension to ESMA and other CAs, including an explanation if the decision was not to follow the suspension.
4. The process detailed above also applies – in general - in the case of removal of a financial instrument and any related derivatives from trading and when a suspension is lifted.
 5. Article 52(2) of MiFID II also stipulates that the above notification process applies in the case where the decision to suspend or remove a financial instrument from trading is taken by the NCA pursuant to Article 69(2) of MiFID II.
 6. Article 32 of MiFID II applies the same rules as outlined above where the operator of an MTF or OTF suspends or removes a financial instrument and related derivatives from trading. All the explanations and statements in this section in respect of Article 52 shall be read as applying to Article 32 as well.
 7. This regime is without prejudice to the power of NCAs to initiate a suspension or removal from trading at their own initiative under Article 69(2)(m) and (n) of MiFID II.

Article 52(2), MiFID II

2. In order to ensure that the obligation to suspend or remove from trading such derivatives is applied proportionately, ESMA shall develop draft regulatory technical standards to further specify the cases in which the connection between a derivative relating or referenced to a financial instrument suspended or removed from trading and the original financial instrument implies that the derivative are also to be suspended or removed from trading, in order to achieve the objective of the suspension or removal of the underlying financial instrument.

ESMA shall develop draft implementing technical standards to determine the format and timing of the communications and publications referred to in Paragraph 2.

Analysis following feedback from stakeholders

8. ESMA had already published first proposals in respect of this ITS in its MiFID II Discussion Paper (DP) published in May 2014¹. The proposals in this CP take into account the comments received from stakeholders at the time.
9. ESMA notes that Article 52 MiFID II requires determining the format and timing of communications and publications in ten distinct scenarios:
 - i. the communication by MOs to CAs of the decision to suspend/remove a financial instrument and any derivatives related to the originally suspended instrument;
 - ii. the publication by MOs of a suspension or a removal of a financial instrument and any derivatives related to the originally suspended instrument;
 - iii. the communication by the CA to ESMA and to other CAs of a decision to suspend or remove or a decision not to suspend/remove (including an explanation if the decision was not to follow the suspension) in respect of the same and/or related instruments traded on another trading venue or SI in the same jurisdiction;
 - iv. the publication by the CA of a decision to suspend or remove or a decision not to suspend/remove (including an explanation if the decision was not to follow the suspension) in respect of the same and/or related instruments traded on another trading venue or SI in the same jurisdiction;
 - v. the communication of the decision by notified CAs whether to follow the suspension or removal to ESMA and to other CAs, including an explanation if the decision was not to follow the suspension;
 - vi. the communication of the lifting of a suspension by MOs to CAs (following a communication under i));
 - vii. the publication of the lifting of a suspension (following a publication under ii));
 - viii. the communication of the lifting of a suspension by a CA to ESMA and other CAs (following a communication under iii));
 - ix. the publication by a CA of the lifting of a suspension (following a publication under iv)); and
 - x. the communication of the decision by notified CAs whether to also lift a suspension to ESMA and other CAs (following a communication under v)).
10. According to Article 52(2)(subparagraph 6) of MiFID II, the whole notification procedure shall also apply if the original suspension or removal had been effected by a CA pursuant to Article 69(2)(m, n) of MiFID II. Therefore a CA would need to communicate such suspension or removal to ESMA and other CAs and the other CAs would need to

¹ <http://www.esma.europa.eu/content/Discussion-Paper-MiFID-II-MiFIR>.

communicate to ESMA and other CAs whether they also suspend/remove the financial instrument and any derivatives related to the originally suspended instrument. The same applies to the lifting of the initial suspension.

Format and timing of communications

11. ESMA needs to set forth the timing and format of communications of suspensions, removals and the lifting of suspensions by trading venue operators to competent authorities and the publications by trading venue operators of such suspensions, removals and lifting of suspensions.
 12. Regarding the timing, based on views voiced in response to the DP, ESMA proposes that the communication to a competent authority as well as the publication of a suspension, removal or lifting of a suspension shall be effected immediately after taking the decision as respondents to the public consultation were broadly in agreement with that proposal.
 13. Regarding the format, ESMA has further developed its proposal, which was widely supported in the responses to the DP, that the publication of the suspension, removal or lifting of a suspension shall be published on the website of the trading venue operator. Furthermore, a description of the relevant fields was developed. As the publication of the decisions can occur through a variety of means, it is important to ensure that the suspensions and removals are not disseminated before the relevant publication of the decision on the website, except in exceptional circumstances.
 14. Regarding the format of the communications to the competent authorities, ESMA considers it useful to request the submission of information in a format which ensures a quick and seamless processing by competent authorities so they can easily take their decision in respect of the suspension, removal or lifting of suspensions in respect of the derivatives instruments and effect follow-up communications and publications, therefore, an electronic format is mandated.
 15. Articles 32 and 52 of MiFID II mandate the mandatory suspension and removal of sufficiently related derivatives. According to the RTS developed under those Articles a derivative is sufficiently related with an instrument, where that instrument is its sole underlying. As it may be appropriate to extend a suspension or removal to other instruments, it is useful to include a field called “other related instruments” so that the notification and the publication of the relevant action could encompass a removal or suspension of other instruments, related to the first ones.
- Q1. Do you agree with the draft ITS on the timing and format of communications and publications?**

3. Standard forms, templates and procedures that apply in relation to data reporting services providers

Article 61(5), MiFID II

2. *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 2 of this Article and in Article 63(4).*

[...]

1. Under Article 61(5) of the Directive 2014/65/EU (Directive), ESMA is responsible for developing draft implementing technical standards (ITS) to determine the standard forms, templates and procedures that apply in relation to data reporting services providers (DRSPs). In particular, the ITS shall cover the notification and provision of information by a DRSP applicant when applying to be authorised and in relation to subsequent changes to its management body.
2. Overall, the purpose of the ITS is to facilitate the consistent handling of DRSP applications across the Union and to help applicants to structure their applications in such a way as to enable competent authorities to more effectively assess applications.
3. In drafting the ITS, ESMA has given consideration to the draft ITS that have been prepared pursuant to Article 7(5) of the Directive². Those draft ITS apply to applications to become authorised as an investment firm. In ESMA's view, there are strong similarities between the procedure for applying to be authorised, the information to be provided and the notifications which must be made under the two provisions. ESMA has therefore sought to align the two sets of draft ITS to the greatest extent possible.
4. For example, in line with the investment firm draft ITS, both the competent authority and the DRSP applicant must provide the contact details of a designated contact person/point. This is to make it clear to potential applicants who they should contact at the competent authority regarding applying to become a DRSP and to allow the competent authority to direct follow up enquiries to a single point of contact at the DRSP applicant.
5. Additionally, similar notification requirements apply to DRSPs and investment firms once authorised. For example, a DRSP must notify its competent authority of changes to its management body prior to the change taking effect or where this is not possible, within 10 working days of the change taking effect. This is to allow the competent authority to

² [http://www.esma.europa.eu/system/files/2015-esma-1006 - mifid ii final report on mifid ip technical standards.pdf](http://www.esma.europa.eu/system/files/2015-esma-1006_-_mifid_ii_final_report_on_mifid_ip_technical_standards.pdf)

assess whether such a change would adversely impact the ability of the DRSP to continue to meet its obligations under Article 63 of the Directive.

Q2. Do you agree with the draft implementing technical standards for data reporting services providers? Please provide reasons.

4. Commodity derivatives – Position reporting

Background/Mandate/Empowerment

Article 58, MiFID II

1. *Member States shall ensure that an investment firm or a market operator operating a trading venue which trades commodity derivatives or emission allowances or derivatives thereof:*

- (a) make public a weekly report with the aggregate positions held by the different categories of persons for the different commodity derivatives or emission allowances or derivatives thereof traded on their trading venue, specifying the number of long and short positions by such categories, changes thereto since the previous report, the percentage of the total open interest represented by each category and the number of persons holding a position in each category in accordance with paragraph 4 and communicate that report to the competent authority and to ESMA; ESMA shall proceed to a centralised publication of the information included in those reports;*
- (b) provide the competent authority with a complete breakdown of the positions held by all persons, including the members or participants and the clients thereof, on that trading venue, at least on a daily basis.*

The obligation laid down in point (a) shall only apply when both the number of persons and their open positions exceed minimum thresholds.

2. *Member States shall ensure that investment firms trading in commodity derivatives or emission allowances or derivatives thereof outside a trading venue provide the competent authority of the trading venue where the commodity derivatives or emission allowances or derivatives thereof are traded or the central competent authority where the commodity derivatives or emission allowances or derivatives thereof are traded in significant volumes on trading venues in more than one jurisdiction at least on a daily basis with a complete breakdown of their positions taken in commodity derivatives or emission allowances or derivatives thereof traded on a trading venue and equivalent OTC contracts, as well as of those of their clients and the clients of those clients until the end client is reached, in accordance with Article 26 of Regulation (EU) No .../2014* and, where applicable, of Article 8 of Regulation (EU) No 1227/2011.*

3. *In order to enable monitoring of compliance with Article 57(1), Member States shall require members or participants of regulated markets, MTFs and clients of OTFs to report to the investment firm or market operator operating that trading venue the details of their own positions held through contracts traded on that trading venue at least on a daily basis, as well as those of their clients and the clients of those clients until the end client is reached.*

4. *Persons holding positions in a commodity derivative or emission allowance or*

derivative thereof shall be classified by the investment firm or market operator operating that trading venue according to the nature of their main business, taking account of any applicable authorisation, as either:

- (a) investment firms or credit institutions;*
- (b) investment funds, either an undertaking for collective investments in transferable securities (UCITS) as defined in Directive 2009/65/EC, or an alternative investment fund manager as defined in Directive 2011/61/EC;*
- (c) other financial institutions, including insurance undertakings and reinsurance undertakings as defined in Directive 2009/138/EC, and institutions for occupational retirement provision as defined in Directive 2003/41/EC;*
- (d) commercial undertakings;*
- (e) in the case of emission allowances or derivatives thereof, operators with compliance obligations under Directive 2003/87/EC.*

The reports referred to in point (a) of paragraph 1 shall specify the number of long and short positions by category of persons, any changes thereto since the previous report, percent of total open interest represented by each category, and the number of persons in each category.

The reports referred to in point (a) of paragraph 1 and the breakdowns referred to in paragraph 2 shall differentiate between:

- (a) positions identified as positions which in an objectively measurable way reduce risks directly relating to commercial activities; and*
- (b) other positions.*

[...]

7. ESMA shall develop draft implementing technical standards to specify the measures to require all reports referred to in point (a) of paragraph 1 to be sent to ESMA at a specified weekly time, for their centralised publication by the latter.

1. To achieve transparency and support monitoring of the new position limits regime prescribed under Article 57 of MiFID II, Article 58 requires production and submission of daily reports and a weekly report.
2. Daily position reports: Members and participants of trading venues must report to the trading venue on a daily basis a complete breakdown of their positions in commodity derivatives, emission allowances, and derivatives of emission allowances, as well as those of their clients, their clients' clients, and so on down to the end user. The trading

venue must then provide those reports to the national competent authority (NCA). In addition, investment firms which undertake trading in commodity derivatives, emission allowances or derivatives of emission allowances outside a trading venue must report on a daily basis their positions in all commodity derivatives, emission allowances and derivatives of emission allowances, as well as those of their clients, their clients' clients, and so on down to the end user to the relevant NCA.

3. Weekly position reports: Article 58(1)(a) of MiFID II requires that trading venues produce and make public, subject to de minimis thresholds (Article 58(1) subparagraph 2 of MiFID II), a weekly report of the aggregate positions in commodity derivatives, emission allowances, and derivatives of emission allowances on that trading venue. For the purpose of Article 58, "aggregate" means the summation of all positions in an individual contract that is listed on a trading venue. When required, one report must be prepared for each contract for publication.
4. Article 58 requires ESMA to develop two ITS in respect of the weekly position report required under Article 58(1)(a):
 - i. Article 58(5) of MiFID II requires ESMA to prepare a draft ITS specifying the format of the weekly position reports. ESMA consulted on these ITS in its consultation paper published on 14 December 2014 (see ESMA Consultation Paper Annex B, draft ITS 31, Annex II, page 405 for proposal).
 - ii. Article 58(7) of MiFID II requires ESMA to prepare a draft ITS in relation to sending the weekly position reports to ESMA at a specified weekly time, for their centralised publication.
5. This CP is issued in respect of the empowerment under Article 58(7) of MiFID II only. Article 58(7) requires these reports to be sent by trading venues to their relevant competent authority and to ESMA "at a specified weekly time" and that ESMA receives the reports submitted by trading venues "for their centralised publication".

Timing of reports

6. ESMA proposes that trading venues should submit their weekly reports to ESMA by 23.59 CET on Monday of each week for the previous calendar week in order to publish data on a calendar week basis. Where Monday is not a working day for the trading venue and the trading venue is unable to send the report before the deadline of 23.59 CET on Monday, the trading venue should submit the report as soon as possible on its next working day and no later than 23.59 CET of that working day.

Q3. Do you agree with the proposed time and day for submission? If not, please explain why and provide an alternative time and/or day.

Format of report

7. ESMA proposed the below format and fields in its Consultation Paper issued in December 2014 (Annex B, draft ITS 31) for the weekly report.

{Name of Trading Venue}		{Date of the Report}										
{Name of Commodity Derivative Contract}												
		Total	Investment Firms		Investment Funds		Other Financial Institutions		Commercial Undertakings		Emission Operators	
			Long	Short	Long	Short	Long	Short	Long	Short	Long	Short
Current week's report	Risk Reducing											
	Other											
	Total											
Changes from last week's report (+/-)	Risk Reducing											
	Other											
	Total											
Percentage of open interest	Risk Reducing											
	Other											
	Total											
Number of Position Holders in each category	Risk Reducing											
	Other											
	Total											
	Total											

8. Market operators and investment firms operating a trading venue on which commodity derivatives, emission allowances and derivatives thereof are traded will be required to send aggregate position reports to ESMA and to their NCA on a weekly basis in the above format. (Reports are required only for commodity derivatives, emissions allowances and derivatives thereof where the number of persons holding the contract and the total size of open position exceeds the thresholds which the European Commission will set in accordance with Article 58(6) MiFID II). This data must be provided in a common machine-readable XML format.

Q4. Do you have any comments on the format or fields for the weekly position report?

Data validation and error management

9. MiFID II does not provide for ESMA to check the reports transmitted to it for errors but ESMA considers establishing a minimum automatic validation process is a prerequisite of ensuring sound reporting, and is therefore considering the following checks:
 - i. if the transmitted file cannot be extracted by ESMA, the ESMA system will notify the sender and the sender will be required to amend and resubmit the records.
 - ii. the ESMA system will check the files transmitted comply with format specifications and if they do not, the ESMA system will notify the sender and the sender will be required to amend and resubmit the records.
 - iii. the ESMA system will perform some basic consistency checks, for example, the period start date and end date are valid dates, the end date is later than the start date etc. If an error is identified, the ESMA system will notify the sender and the sender will be required to amend and resubmit the records.
 10. Where validation errors are identified the sent data will not be stored or published by ESMA. Where the data passes all validations, the ESMA system will send a confirmation receipt to the sender. Only reports for which a confirmation receipt has been sent will be stored and published by ESMA. Lack of either confirmation receipt or error notice would mean there has been a delivery failure which would require further investigation and resubmission by the sender.
 11. In its technical advice to the European Commission, ESMA proposed that the weekly reports should be reported by trading venues as soon as feasibly practical but no later than three weeks after a contract exceeds both thresholds and then for a period of three months after a contract fails to exceed both the thresholds. In the event of a contract not exceeding the thresholds during that period, the requirement to report positions for that contract would cease. Such an approach, if adopted by the European Commission, would mean that the number of position holders may, from time to time, fall beneath the reporting thresholds. ESMA proposed in its technical advice that in order to reduce the risks of a breach of confidentiality towards such position holders, where there are 4 or fewer position holders active in a given category, the number of position holders in that category is not reported.
 12. If the European Commission does adopt the approach proposed by ESMA, this would have implications for the validation checks the ESMA system could perform. For example, if the number of position holders is only reported where the value is 5 or more ESMA will assume that missing values in this field will be due to this reason and therefore reports will not be rejected. Equally reported values of 4 or less will not be considered invalid and will be published (as reporting venues have no obligation to report them but may do).
- Q5. Do you have any comments on the validation and error management checks proposed?**

Publishing data

13. ESMA will publish data on a weekly basis on ESMA's website. Users of the data will be able to search historical data on the ESMA website with a functionality to filter for example, by week, trading venue or commodity derivative product identifier. ESMA will retain the data for a minimum of 5 years.
 14. ESMA will publish the reports on its website as soon as possible after they have been received and validated.
- Q6. Do you agree with ESMA's proposals? Please specify those proposals with which you do not agree, with the reasons why, and provide an alternative proposal.**

ANNEX: Draft Implementing Technical Standards

ITS 1: Draft implementing technical standards on format and timing of the communications and the publication regarding the suspension and removal of financial instruments from trading on a Regulated Market, an MTF or an OTF



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

[...]

COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down implementing technical standards with regard to the format and timing of the communications and the publication of the suspension and removal of financial instruments from trading on a regulated market, an MTF or an OTF according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments

of []

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU⁽¹⁾, and in particular Articles 32(3) and 52(3) thereof,

Whereas:

- (1) Directive 2014/65/EU establishes an elaborate system by which suspensions, their respective liftings and removals from trading are to be published and communicated in a timely and efficient manner.
- (2) Publication by trading venue operators and competent authorities on websites ensures ease of access whilst not imposing significant costs. Publication can also occur by additional means, simultaneously with or after publication on the website but website publication should be the primary means of publication and simultaneous dissemination of the information in the Union.
- (3) Due to the need of speedy and accurate communication, enabling a good functioning of the system, this implementing standard sets out uniform formats that enable all relevant information to be easily and efficiently communicated and published.
- (4) Competent authorities should use these formats for all communications except in seriously exceptional circumstances such as the closure of an entire market where competent authorities may use alternative means to ensure timely communication of suspensions.
- (5) The communication formats in the annex to this regulation differentiate between sufficiently related derivatives and other related financial instruments. Sufficiently related derivatives should be understood as those derivatives where the connection between the derivative and the suspended instrument implies that the derivative should also be suspended as specified in [insert reference to suspension RTS].
- (6) The new legislation of the European Parliament and of the Council on markets in financial instruments set out in Directive 2014/65/EU and Regulation (EU) No 600/2014 of the European Parliament and of the Council² applies from 3 January 2017. To ensure consistency and legal certainty, this Regulation should apply from the same date.
- (7) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (8) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group

¹ OJ L 173, 12.6.2014, p. 173

² 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)

established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council³,

HAS ADOPTED THIS REGULATION:

Article 1 **Subject matter**

This Regulation sets down the format and timing for the following communications and publications:

- (a) the publication by the trading venue operator of its decision to suspend or remove a financial instrument and, if relevant, related derivatives from trading or to lift a suspension;
- (b) the communication of the decisions referred to in point (a) to the relevant competent authority;
- (c) publication by a competent authority of its decision to suspend trading or remove from trading a financial instrument and, if relevant, related derivatives or to lift a suspension;
- (d) communication by a competent authority to ESMA and other competent authorities of the decision to suspend trading or to remove from trading a financial instrument and, if relevant, related derivatives or to lift a suspension;
- (e) communication by the notified competent authorities of their respective decisions on whether to follow the decisions referred to in point (d) to ESMA and other competent authorities.

Article 2 **Definitions**

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

- (a) 'trading venue operator' means:
 - (i). a market operator,
 - (ii). an investment firm or a market operator operating an MTF or an OTF;
- (b) 'notified competent authority' means a competent authority that has received a notification from another competent authority pursuant to Articles 32(2) or 52(2) of Directive 2014/65/EU;

³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

Article 3

Format of the publication and communication by trading venue operators

1. A trading venue operator shall publish the decisions referred to in point (a) of Article 1 on its website in the format set out in Table 1 of the Annex.
2. A trading venue operator shall communicate the decisions referred to in point (a) of Article 1 to the relevant competent authority in a standard machine readable format approved by that competent authority using the format set out in Table 1 of the Annex.

Article 4

Timing of the publications and communications by trading venue operators

1. A trading venue operator shall publish the decisions referred to in point (a) of Article 1 immediately.
2. A trading venue operator shall not, except in exceptional circumstances, publish the decisions referred to in point (a) of Article 1 by additional means prior to publication on its website.
3. A trading venue operator shall communicate the decisions referred to in point (a) of Article 1 to the relevant competent authority simultaneously with its publication or immediately thereafter.

Article 5

Format of the publications and communications by competent authorities

1. A competent authority shall publish the decision referred to in point (c) of Article 1 on a website in the format set out in Table 2 of the Annex.
2. A competent authority shall, except in exceptional circumstances, communicate the decisions referred to in points (d) and (e) of Article 1 in a standard machine readable format using the formats set out in Tables 2 and 3 of the Annex.

Article 6

Timing of the publications and communications by competent authorities

1. A competent authority shall publish a decision referred to in point (c) of Article 1 immediately.

2. A competent authority shall communicate a decision referred to in points (d) and (e) of Article 1 simultaneously with its publication or immediately thereafter.

3. A notified competent authority shall communicate a decision referred to in point (e) of Article 1 as soon as reasonably practicable after having received a communication referred to in point (d) of Article 1 that relates to instruments admitted to trading or traded in its jurisdiction.

Article 7

Entry into force and application

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

It shall apply from 3 January 2017.

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

Done at Brussels,

For the Commission

The President

On behalf of the President

[Position]

ANNEX

Symbol table (to be applied to all Tables below)

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumeric characters	Free text field.
{COUNTRYCODE_2}	2 alphanumeric characters	2 letter country code, as defined by ISO 3166-1 alpha-2 country code
{DATE_TIME_FORMAT}	ISO 8601 date and time format	<p>Date and time in the following format: YYYY-MM-DDThh:mm:ss.Z.</p> <ul style="list-style-type: none"> - 'YYYY' is the year; - 'MM' is the month; - 'DD' is the day; - 'T' – means that the letter 'T' shall be used - 'hh' is the hour; - 'mm' is the minute; - 'ss.' is the second; - Z is UTC time. <p>Dates and times shall be reported in UTC.</p>
{ISIN}	12 alphanumeric characters	ISIN code, as defined in ISO 6166
{LEI}	20 alphanumeric characters	Legal entity identifier as defined in ISO 17442
{MIC}	4 alphanumeric characters	Market identifier as defined in ISO 10383
{COMPETENT AUTHORITY}	6 alphanumeric characters	Acronyms for competent authorities as in http://www.esma.europa.eu/bos

Table 1

Format of the publication by a trading venue operator of its decision to suspend or remove the financial instrument and related derivatives from trading; and of its decision to lift a suspension of a financial instrument and related derivatives;

Format of the communication by a trading venue operator to the relevant competent authority of its decision to suspend or remove the financial instrument and related derivatives from trading; and of its decision to lift a suspension of a financial instrument and related derivatives;

Data Field	Comments
Started on	{DATE_TIME_FORMAT}
Ended on	{DATE_TIME_FORMAT}
Ongoing	"True" - Yes "False" – No
Action type	Suspension, removal, lifting of a suspension.
Date and time of the communication	{DATE_TIME_FORMAT}
Issuer	{ALPHANUM-350} {LEI}
Instrument identifier	{ISIN}
Instrument full name	{ALPHANUM-350}
Trading venue	{MIC}
Reasons for the decision	{ALPHANUM-350}
Related derivatives	{ISIN}
Comments	{ALPHANUM-350}

Table 2

Format of the publication by Competent Authorities of the decision to suspend or remove a financial instrument and related derivatives from trading and to lift a suspension of a financial instrument and related derivatives

Format of the communication by Competent Authorities of the decision to suspend or remove a financial instrument and related derivatives from trading and to lift a suspension of a financial instrument and related derivatives

Data Field	Comments
Competent authority	{COMPETENT AUTHORITY}
Member State of the competent authority	{COUNTRYCODE_2} {ALPHANUM-350}
Trading venue(s)	{MIC}
Started on	{DATE_TIME_FORMAT}
Ended on	{DATE_TIME_FORMAT}
Ongoing	“True” - Yes “False” – No
Action	Suspension, removal, lifting of a suspension.
Date and time of the communication	{DATE_TIME_FORMAT}
Issuer	{ALPHANUM-350} {LEI}
Instrument identifier	{ISIN}
Reasons for the decision	{ALPHANUM-350}
Competent authority initiating the current action	{COMPETENT AUTHORITY}
Member State of the competent authority initiating the current	{COUNTRYCODE_2}

action	
Instrument full name	{ALPHANUM-350}
Sufficiently related derivatives	{ISIN}
Other related instruments	{ISIN}
Comments	{ALPHANUM-350}

Table 3

Format of the communication to ESMA and other competent authorities by competent authorities of their decisions on whether to follow a suspension, a removal or a lifting of a suspension

Data Field	Comments
Competent authority	{COMPETENT AUTHORITY}
Member State of the competent authority	{COUNTRYCODE_2}
Date and time of the communication	{DATE_TIME_FORMAT}
Started on	{DATE_TIME_FORMAT}
Ended on	{DATE_TIME_FORMAT}
Original action	Suspension, removal, lifting of a suspension.
Issuer	{LEI}
Identifier	{ISIN}
Decision to follow (if applicable)	"True" – Yes, follow or "False" – No, not follow
Reasons for the decision not to follow a removal, suspension or lifting thereof, if applicable	{ALPHANUM-350}
Instrument full name	{ALPHANUM-350}
Sufficiently related derivatives	{ISIN}
Other related instruments	{ISIN}
Comments	{ALPHANUM-350}

ITS 2: Draft implementing technical standards under Article 61(5) of Directive 2014/65/EU



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

[...]

COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down implementing technical standards with regard to the standard forms, templates and procedures for the authorisation of data reporting services providers and related notifications according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments

of []

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU⁽¹⁾, and in particular Article 61(5) thereof.

Whereas:

- (1) It is appropriate to set out common standard forms, templates and procedures to ensure the common understanding and enforcement among Member States' competent authorities of the authorisation process regarding the provision of data reporting services and ensuring efficient information flows. To facilitate communications between the applicant and the competent authority, competent authorities should designate a contact point specifically for the purpose of the application process and should publish the information on the contact point on their website.
- (2) To facilitate the expeditious handling of data reporting services provider applications, applications should be sent in electronic and/or paper format.
- (3) Clear time limits should be defined for the submission of information on changes to the management body of a data reporting services provider in order to allow competent authorities to assess whether the changes may pose a threat to the effective, sound and prudent management of the data reporting services provider and the adequate consideration of the interests of its clients and the integrity of the market.
- (4) Data reporting services providers should be exempt from the requirement to submit information on a change to the management body before that change takes effect, if the change is due to factors not within the control of the data reporting services provider, such as in the case of the death of a management body member.
- (5) This Regulation sets out requirement to applicants for all types of data reporting services. However, since the organisational requirements for approved publication arrangements (APAs), consolidated tape providers (CTPs) and approved reporting mechanisms (ARMs) differ in some respects, an applicant should only be required to include in its application the information needed for assessing the application for the data reporting service it intends to provide.
- (6) Directive 95/46/EC of the European Parliament and of the Council (2) should apply to the processing of personal data by the Member States in the application of this Regulation.
- (7) The new legislation of the European Parliament and of the Council on markets in financial instruments set out in Directive 2014/65/EU and Regulation (EU) No 600/2014⁽³⁾ applies

¹ OJ L 173, 12.6.2014, p. 173

² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

³ Regulation (EU) No 600/2014 of the European Parliament and of the Council" with the following footnote: "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).

from 3 January 2017. To ensure consistency and legal certainty, this Regulation should apply from the same date.

- (8) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (9) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Designated contact point and format

1. Competent authorities shall designate a contact point for handling all information received from applicants seeking authorisation as a data reporting services provider or notifying changes of information already provided. Updated information on the contact point shall be made public on the competent authorities' websites.
2. Competent authorities shall publish on their websites whether applications to provide data reporting services, notifications of the members of the management body and any related additional information may be submitted on paper, electronically or both.

Article 2

Submission of the application and notification to the competent authority

1. An applicant for authorisation to provide data reporting services shall provide all necessary information to the competent authority by filling in the application form set out in Annex I.
2. An applicant for authorisation to provide data reporting services shall notify the competent authority of all members of its management body by filling in the notification form set out in Annex II.

⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

3. An applicant for authorisation to provide data reporting services shall ensure that the submitted information clearly identifies which specific requirement of this Regulation it refers to and in which document that information is provided.

4. Where a requirement of this Regulation or Regulation (EU) on **[Insert reference to DRSP RTS]** is not applicable to the data reporting service that the applicant is applying for, the applicant shall state this in the application form set out in Annex I.

Article 3

Receipt of the application form and acknowledgement of receipt

Within 10 working days from the receipt of the application, the competent authority shall send in paper or by electronic means an acknowledgement of receipt to the applicant, including the contact details of the department or section or person within the competent authority to whom the applicant can direct further queries regarding the application.

Article 4

Notification of changes to the membership of the management body

A data reporting services provider shall notify the competent authority of any change to the membership of its management body before such change takes effect, or when this is materially impossible, within 10 working days after the change by filling in the notification form set out in Annex III.

Article 5

Request for additional information

When additional information is required to proceed with the assessment of the application, the competent authority shall send a request to the applicant indicating the information to be provided.

Article 6

Entry into force and application

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

It shall apply from 3 January 2017.



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

Done at Brussels, []

For the Commission

The President

On behalf of the President

[Position]



ANNEX I
Application form for a data reporting services provider

Reference number:

Date:

FROM:

Name of the applicant:

Address:

Legal Entity Identifier(where applicable):

(Contact details of the designated contact person at the applicant)

Full Name:

Telephone:

Email:

TO:

Member State:

Competent authority:

Address:

(Contact details of the designated contact point at the competent authority)

Address:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with **Article 2** of the Commission Implementing Regulation (EU) No .../... laying down implementing technical standards with regard to standard forms, templates and procedures for the authorisation of data reporting services providers please find attached the authorisation application.

• Person at the applicant in charge of preparing the application:

Full Name:

Status/position:

Telephone:

E-mail:

Date:

Signature:

• Nature of the application (tick the relevant box(es)):

- Authorisation – Approved Reporting Mechanism (ARM)
- Authorisation – Approved Publication Arrangement (APA)
- Authorisation – Consolidated Tape Provider (CTP)

CONTENT

Please insert the information referred to under Commission Delegated Regulation [RTS on DRSPs]. Please set out that information under the appropriate section or make reference to the relevant annexes containing the information.

Information on the organisation (Article 2 of Commission Implementing Regulation [RTS on DRSPs])

.....

Information on corporate governance (Article 3 of Commission Delegated Regulation [RTS

on DRSPs))

.....

Information on conflicts of interest (Article 5 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on organisational requirements regarding outsourcing (Article 6 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on business continuity and back-up facilities (Article 7 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on testing and capacity (Article 8 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on security (Article 9 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on management of incomplete or potentially erroneous information by APAs and CTPs (Article 10 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on management of incomplete or potentially erroneous information by ARMs (Article 11 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on connectivity of ARMs (Article 12 of Commission Delegated Regulation [RTS on DRSPs])

.....

Information on other services provided by CTPs (Article 13 of Commission Delegated Regulation [RTS on DRSPs])

.....
Information on publication arrangements (Chapter 3 of Commission Delegated Regulation [RTS on DRSPs])
.....



ANNEX II
Notification form for the list of members of the management body

Reference number:

Date:

FROM:

Name of the applicant:

Address:

Legal Entity Identifier (where applicable):

(Contact details of the designated contact person at the applicant)

Full Name:

Telephone:

Email:

TO:

Member State:

Competent authority:

Address:

(Contact details of the designated contact point at the competent authority)

Address:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with **Article 2** of the Commission Implementing Regulation (EU) No .../... laying down implementing technical standards with regard to standard forms, templates and procedures for the authorisation of data reporting services providers please find attached the notification relating to the members of the management body.

• Person at the applicant in charge of preparing the application:

Full Name:

Status/position:

Telephone:

E-mail:

Date:

Signature:

List of members of the management body

Member 1

Full name.....

Date and place of birth

Personal national identification number or equivalent thereof.....

Private address:.....

Contact details (Telephone and email address).....

Position.....

Curriculum vitae attached to application: Yes / No

Professional experience and other relevant experience

Educational qualification and relevant training

Criminal records attached to this application OR self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(d) of Commission Delegated Regulation [RTS on DRSPs].....

Self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(e) of Commission Delegated Regulation [RTS on DRSPs].....

Minimum time (approximate) that will be devoted to the performance of the person's functions within the data reporting services provider.....

Declaration of any potential conflicts of interest that may exist or arise in performing the duties and how these conflicts are managed.....

Information pursuant to the guidelines developed under Article 63 (3) of Directive 2014/65/EU and any additional information necessary for the assessment that the member is of sufficiently good repute, possesses sufficient knowledge, skills and experience and commits sufficient time to perform the duties.....

.....

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Member [n]

Full name.....

Date and place of birth

Personal national identification number or equivalent thereof.....

Private address:.....

Contact details (Telephone and email address).....

Position.....

Curriculum vitae attached to application: Yes / No

Professional experience and other relevant experience

Educational qualification and relevant training

Criminal records attached to application OR self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(d) of Commission Delegated Regulation [RTS on DRSPs]

Self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(e) of Commission Delegated Regulation [RTS on DRSPs].....

Minimum time (approximate) that will be devoted to the performance of the person's functions within the data reporting services provider.....

Declaration of any potential conflicts of interest that may exist or arise in performing the duties and how these conflicts are managed.....

Information pursuant to the guidelines developed under Article 63 (3) of Directive 2014/65/EU and any additional information necessary for the assessment that the member is of sufficiently good repute, possesses sufficient knowledge, skills and experience and commits sufficient time to perform the duties.....

.....

.....

Effective date



ANNEX III

Notification form for changes to the membership of the management body

Reference number:

Date:

FROM:

Name of the data reporting services provider:

Address:

Legal Entity Identifier (where applicable):

(Contact details of the designated contact person at the data reporting services provider)

Full name:

Telephone:

Email:

TO:

Member State:

Competent Authority:

Address:

(Contact details of the designated contact point at the competent authority)

Address:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with **Article 4** of the Commission Implementing Regulation (EU) No .../... laying down implementing technical standards with regard to standard forms, templates and procedures for the authorisation of data reporting services providers please find attached the notification on changes to the membership of the management body.

• Person at the data reporting services provider in charge of preparing the notification:

Full name:

Status/position:

Telephone:

E-mail:

Date:

Signed:

Information on member(s) leaving the management body

Member 1

Full name.....

Contact details (Telephone and email address).....

Position.....

Effective date of departure from management body.....

Reasons for the departure from management body.....

Member [n]

Full name.....

Contact details (Telephone and email address).....

Position.....

Effective date of departure from management body.....

Reasons for the departure from management body.....

Information on new member(s) of the management body

Member 1

Full name.....

Date and place of birth

Personal national identification number or equivalent thereof.....

Private address:.....

Contact details (telephone and email address).....

Position.....

Curriculum vitae attached to application: Yes / No

Professional experience and other relevant experience

Educational qualification and relevant training

Criminal records attached to this application OR self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(d) of Commission Delegated Regulation [RTS on DRSPs].....

Self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(e) of Commission Delegated Regulation [RTS on DRSPs].....

Minimum time (approximate) that will be devoted to the performance of the person's

functions within the data reporting services provider.....

Declaration of any potential conflicts of interest that may exist or arise in performing the duties and how these conflicts are managed.....

Information pursuant to the guidelines developed under Article 63 (3) of Directive 2014/65/EU and any additional information necessary for the assessment that the member is of sufficiently good repute, possesses sufficient knowledge, skills and experience and commits sufficient time to perform the duties.....
.....
.....

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Member [n]

Full name.....

Date and place of birth

Personal national identification number or equivalent thereof.....

Private address:.....

Position.....

Curriculum vitae attached to application: Yes / No

Professional experience and other relevant experience

Educational qualification and relevant training

Criminal records attached to this application OR self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(d) of Commission Delegated Regulation [RTS on DRSPs].....

Self-declaration of good repute and authorisation to the competent authority to make enquiries under Article 4(e) of Commission Delegated Regulation [RTS on DRSPs].....

Minimum time (approximate) that will be devoted to the performance of the person's functions within the data reporting services provider.....

Declaration of any potential conflicts of interest that may exist or arise in performing the duties and how these conflicts are managed.....

Information pursuant to the guidelines developed under Article 63 (3) of Directive 2014/65/EU and any additional information necessary for the assessment that the member is of sufficiently good repute, possesses sufficient knowledge, skills and experience and commits sufficient time to perform the duties.....

.....

.....

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Complete updated list of members of the management body

Name	Position	Effective date

ITS 3: Draft implementing technical standards on the format and timing of weekly position reports



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

[...]

COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down implementing technical standards with regard to the format and the timing of position reports by investment firms and market operators of trading venues according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments

of []

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU¹), and in particular Article 58(7) thereof,

Whereas:

- (1) In order to bring greater transparency to markets in commodity derivatives, emission allowances and derivatives thereof, market operators and investment firms operating a trading venue on which these financial instruments trade should submit a weekly report to the European Securities and Markets Authority (ESMA) showing the aggregate number of persons holding the contract and the total open position for each commodity derivative, emission allowance or derivative thereof which exceeds the thresholds specified in [insert reference to the regulation on thresholds].
- (2) Market operators and investment firms operating a trading venue should provide the weekly reports to ESMA in a standard machine-readable format by a set time to facilitate the publishing of the reports by ESMA.
- (3) Market operators and investment firms operating a trading venue should submit these reports to ESMA in respect of the positions held at the close of business of the previous calendar week by 23.59 CET of the Monday of each successive week to ensure a timely aggregate publication of all reports in the Union in respect of the previous calendar week. If the Monday of the successive week is not a working day market operators and investment firms may submit those reports later in order not to impose overly burdensome requirements. ESMA should in any case not publish these reports before they have been published individually by the respective trading venues.
- (4) The new legislation of the European Parliament and of the Council on markets in financial instruments set out in Directive 2014/65/EU and Regulation (EU) No 600/2014² applies from 3 January 2017. To ensure consistency and legal certainty, this Regulation should apply from the same date.
- (5) This Regulation is based on the draft implementing technical standards submitted by ESMA to the Commission.
- (6) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group

¹ OJ L 173, 12.6.2014, p. 173.

² 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).

established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council³,

HAS ADOPTED THIS REGULATION:

Article 1
Reporting formats

Market operators and investment firms operating a trading venue which trades commodity derivatives, emission allowances or derivatives thereof shall submit the reports required by Article 58(1)(a) of Directive 2014/65/EU in a common standard XML format and by using the template set out in Annex I to [insert reference to position reporting ITS].

Article 2
Aggregated position reporting deadlines

1. Market operators and investment firms operating a trading venue which trades commodity derivatives, emission allowances or derivatives thereof shall send the weekly aggregated position report required by Article 58(1)(a) of Directive 2014/65/EU to ESMA no later than 23.59 CET on Monday of each successive week.
2. In derogation to paragraph 1, if that Monday is not a working day for the reporting market operator or investment firm, that market operator or investment firm shall submit the report as soon as possible and no later than 23.59 CET on the next working day.

Article 3
Entry into force and application

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

It shall apply from 3 January 2017.

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

Done at Brussels, [...]

For the Commission

³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).



The President

On behalf of the President

[Position]