



Plenary sitting

A9-0039/2023

2.3.2023

*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (COM(2021)0726 – C9-0438/2021 – 2021/0384(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Danuta Maria Hübner

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (COM(2021)0726 – C9-0438/2021 – 2021/0384(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0726),
 - having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0438/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - after consulting the European Central Bank,
 - after consulting the European Economic and Social Committee,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0039/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

* Amendments: new or replacement text is marked in ***bold italics***, and deletions are indicated by the symbol **■**.

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2014/65/EU on markets in financial instruments

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the European Central Bank²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In its 2020 CMU Action Plan³, 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 Plan⁴, 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.
- (2) In its roadmap on 'The European economic and financial system: fostering openness, strength and resilience' of 19 January 2021⁵, 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 Council⁶ and of Regulation (EU) No 600/2014 of the European Parliament and of the Council⁷. As part of efforts to strengthen the international role of the Euro, the Commission also announced that 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.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], 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: <https://data.consilium.europa.eu/doc/document/ST-12898-2020-REV-1/en/pdf>,

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).

- (3) Regulation (EU) No 600/2014 was amended by Regulation (EU) XX/XXXX of the European Parliament and of the Council⁸ removing the main obstacles that have prevented the emergence of a consolidated tape. That Regulation therefore introduced mandatory contributions of market data to the consolidated tape provider and enhanced the data quality including harmonizing the synchronisation of the business clock. In addition, that Regulation reduced the recourse to possibilities to waive pre-trade transparency for venues and systematic internalisers. Furthermore, it introduced enhancements to the trading obligations and the prohibition of the practice of receiving payment for forwarding client orders for execution. Since Directive 2014/65 also contains provisions related to consolidated tape and transparency, the amendments to Regulation (EU) No 600/2014 should be reflected in Directive 2014/65/EU.
- (4) Article 1(7) of Directive 2014/65/EU requires operators of systems in which multiple third-party buying and selling trading interests in financial instruments are able to interact ('multilateral systems') to operate in accordance with the requirements concerning regulated markets ('RMs'), multilateral trading facilities ('MTFs'), or organised trading facilities ('OTFs'). However, market practice, as evidenced by the European Securities and Markets Authority ('ESMA') in its final report on the functioning of the organised trading facility⁹ has shown that the principle of multilateral trading activity requiring a license has not been upheld in the Union, which has led to an uneven playing field between licensed and unlicensed multilateral systems. In addition, that situation has created legal uncertainty for certain market participants as to the regulatory expectations for such multilateral systems. To provide market participants with clarity, safeguard a level-playing field, improve the internal market functioning and ensure a uniform application of the requirement that hybrid systems can only perform multilateral trading activities where they are licensed as a regulated market, a multilateral trading facility ('MTF') or an organised trading facility ('OTF'), the content of Article 1(7) of Directive 2014/65/EU should be moved from Directive 2014/65/EU to Regulation (EU) No 600/2014.
- (5) Article 2(1), point (d), point (ii), of Directive 2014/65/EU, exempts persons dealing on own account from the requirement to be licensed as an investment firm or credit institution, unless those persons have direct electronic access to a trading venue. Articles 17(5) and 48(7) of Directive 2014/65/EU require that providers of direct electronic access are licensed investment firms or credit institutions. Investment firms or credit institutions that do provide direct electronic access are responsible for ensuring that their clients comply with the requirements laid down in Articles 17(5) and 48(7) of Directive 2014/65/EU. That gatekeeper function is effective and makes it unnecessary for clients of the direct electronic access provider, including persons dealing on own account, to become subject to Directive 2014/65/EU. In addition, removing that requirement would contribute to a level playing field between third country persons accessing EU venues via direct electronic access, for which Directive 2014/65/EU does not require a license, and persons established in the Union.

⁸ Regulation (EU) XX/XXXX 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 (COM 727)

⁹ https://www.esma.europa.eu/sites/default/files/esma70-156-4225_mifid_ii_final_report_on_functioning_of_otf.pdf.

- (6) Due to the removal of multilateral systems from the scope of Article 1(7) of Directive 2014/65/EU and into Regulation (EU) 600/2014, it is equally logic to move the corresponding definition of ‘multilateral system’ into that Regulation.
- (6a) *Article 4(1), point (20), of Directive 2014/65/EU provides that an investment firm shall be considered to be a systematic internaliser only when it is deemed to perform its activities on an organised, frequent, systematic and substantial basis or when it chooses to opt-in under the systematic internaliser regime. The quantitative criteria, related to the transaction reporting role of systematic internalisers, have led to a significant increase in the number of systematic internalisers in the Union and in the regulatory burden both on ESMA, which is required to assess the quantitative criteria for investment firms that qualify as systematic internalisers, and on investment firms themselves. In particular, the regulatory burden disproportionately affects smaller investment firms, which would benefit from a lighter and more flexible regime. Article 4(1), point (20), should therefore limit the systematic internaliser regime to investment firms that meet the qualitative criteria or investment firms that choose to opt-in to the systematic internaliser regime. Complementing those changes, Regulation (EU) ... /...⁺ amending Regulation (EU) No 600/2014 introduces the concept of a ‘designated reporting entity’, decoupling the systematic internaliser status from the function of making transactions public through an approved publication arrangement.*
- (7) Article 27(3) **and (6)** of Directive 2014/65/EU **contain** the requirement for execution platforms to publish a list of details relating to best execution. Factual evidence and feedback from stakeholders has shown that those reports are rarely read and do not enable investors or any users of those reports to make meaningful comparisons based on the information provided in those reports. As a consequence, Directive (EU) 2021/338 of the European Parliament and of the Council¹⁰ suspended the reporting requirement **under Article 27(3)** for two years in order for that requirement to be reviewed. Regulation (EU) XX/XXXX¹¹ has amended Regulation (EU) No 600/2014 to remove the obstacles that have prevented the emergence of a consolidated tape. **█** The data that the consolidated tape is expected to provide are **pre-trade and post-trade information regarding all transactions in shares and ETFs, and post-trade information regarding all transactions in bonds and derivatives**. That information can be used for proving best execution. The reporting requirement laid down in Article 27(3) of Directive 2014/65/EU will therefore no longer be relevant and should therefore be deleted.
- (7a) *More generally, Article 27 of Directive 2014/65/EU contains provisions related to the obligation to execute orders on terms most favourable to the client (‘best execution’). However, different interpretations of that Article by national competent authorities have led to widely diverging application of best execution requirements and of market practice supervision. That divergence is particularly evident in the different regulation across the Union of practices related to receiving payments for forwarding*

⁺ **OJ: Please insert in the text the number of the Regulation contained in document PE-CONS .../... (2021/0385(COD)).**

¹⁰ Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (OJ L 68, 26.2.2021, p. 14).

¹¹ COM 727

client orders for execution ('payment for order flows'). Regulation (EU) .../...⁺ amending Regulation (EU) No 600/2014 bans the payment for order flows across the Union. However, feedback from regulators and stakeholders has shown that best execution requirements for professional clients could also benefit from further clarification. ESMA should develop draft regulatory technical standards on the criteria that should be taken into account for the purpose of defining and assessing the order execution policy under Article 27(5) and (7) of Directive 2014/65/EU.

- (8) The correct functioning of market data consolidation via a consolidated tape depends on the quality of the data the consolidated tape provider receives. Regulation (EU) No 600/2014 sets out requirements for the quality of data that contributors to the consolidated tape should adhere to. In order to ensure that investment firms and market operators operating an MTF or an OTF, and regulated markets, effectively meet those requirements, Member States should require that those investment firms and market operators have the necessary arrangements in place to do so.
- (9) The receipt of high quality data is of the utmost importance for the functioning of the consolidated tape and the internal market. That includes the need for all market data contributors and the consolidated tape provider to timestamp their data in a synchronized manner and thus to synchronise their business clocks. Regulation (EU) XX/XXX¹² has therefore amended Regulation (EU) 600/2014 to extend that requirement, which under Directive 2014/65/EU only applied to trading venues and their members, to systematic internalisers, APAs and CTPs. Since that requirement is now laid down in Regulation (EU) 600/2014, it can be removed from Directive 2014/65/EU.
- (10) Within the framework regulating the Union's markets in financial instruments, many substantive requirements laid down in Regulation (EU) No 600/2014 are supervised and sanctioned at national level and in accordance with Articles 69 and 70 of Directive 2014/65/EU. Regulation (EU) XX/XXXX¹³ has amended Regulation (EU) No 600/2014 to include new rules on the volume cap mechanism, on mandatory contributions of core market data to the consolidated tape, on data quality standards to which those contributions are subject and on the ban on receiving payments for forwarding client orders for execution. As the supervision of the relevant entities lies with national authorities, those new substantive requirements should be added to the list in Directive 2014/65/EU of provisions for which the Member States should provide sanctions at national level.
- (10a) *The current ancillary activity exemption was amended by Directive (EU) 2021/338. That Directive also sets out that instead of a regulatory technical standard, the criteria for establishing when an activity is to be considered to be ancillary to the main business at group level would be established through a Commission delegated act. Commission Delegated Regulation (EU) 2021/1833 entered into force on 3 August 2021 and reduced the administrative burden for persons that trade in commodity derivatives or emission allowances or derivatives thereof on a professional basis to ascertain if they are eligible for the ancillary activity exemption. This exemption entails that they are not required to obtain authorisation as an investment firm when***

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS .../... (2021/0385(COD)).

¹² COM 727

¹³ COM 727

their trading activity is ancillary to their main business. All Union commodity firms can currently benefit from that exemption. Considering the size and nature of the business of some of these entities, and following the energy crisis of 2022, the Commission should review the ancillary activity exemption and how that rule has affected liquidity in and the orderly functioning of commodity markets. A review of this exemption was also mentioned in ESMA's answer to the Commission's call for advice to address the excessive volatility in energy derivatives markets. The Commission might also consider whether to mandate ESMA to revise or replace the current exemption test to ensure that the biggest entities are duly licenced and supervised as investment firms for their trading and investment service provision activities.

- (10b) Directive 2014/65/EU contains rules that require trading venues to implement mechanisms designed to limit excessive volatility in the markets, notably trading halts and price collars. However, the extreme circumstances that energy and commodity derivatives markets have experienced throughout the energy crisis of 2022 have led to a very low number of activations of those mechanisms and have shown that there is a lack of transparency around the activation of those mechanisms by the relevant trading venues in the Union, as highlighted in ESMA's answer to the Commission's call for advice to address the excessive volatility in energy derivatives markets. Market participants would benefit from further information and more transparency on the circumstances that lead to trading being halted and on the main principles for establishing the technical parameters connected to the activation of those mechanisms. In addition, ESMA should consider to what extent the level of discretion left to trading venues regarding to the activation of those mechanisms should be reduced. These considerations should be carefully weighted against the necessity to account for the differences in liquidity of different asset classes and sub-classes, the nature of the market model and the types of users of different trading venues across the Union. In addition, national competent authorities should carefully monitor the use of those mechanisms by trading venues and make use of their supervisory powers as appropriate.*
- (10c) Directive (EU) 2021/338 also modified the regime on position limits and position management controls. Following the energy crisis of 2022 and the resulting higher and more frequent margin calls and extreme volatility, a comprehensive revision of the appropriateness of the position limits and position management controls regime to assess whether they are still conducive to the prevention of market abuse and the support for orderly pricing and settlement conditions is warranted. To ensure that all relevant elements are considered when carrying out the review, ESMA should consider not just the effectiveness of the regimes but also the appropriateness of the definition of a critical or significant position and of the limitation of the scope. In carrying out its analysis, ESMA should consider that commodity derivatives markets play an important role in ensuring that market participants can properly risk manage the necessary investments for the energy transition, and that setting the right parameters is very important to ensure that the Union has competitive liquid commodity derivatives markets that ensure the strategic autonomy of the Union, while preventing market abuse and supporting orderly pricing and settlement conditions.*

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Amendments to Directive 2014/65/EU

Directive 2014/65/EU is amended as follows:

1. in Article 1, paragraph 7, is deleted;
2. **Article 2 is amended as follows:**
 - (a) in paragraph 1, point (d), point (ii) is replaced by the following:**

‘(ii) are members of or participants in a regulated market or an MTF, **with the exception of non-financial entities that execute transactions on a trading venue for the purpose of liquidity management or that are objectively measurable as reducing risks directly related to the commercial activities or treasury financing activities of those non-financial entities or their groups;**’;
 - (b) in paragraph 4, the first two subparagraphs are replaced by the following:**

‘4. **By [18 months after the entry into force of this amending Directive], the Commission shall adopt a delegated act in accordance with Article 89 in order to supplement this Directive by specifying, for the purpose of point (j) of paragraph 1 of this Article, the criteria for establishing when an activity is to be considered to be ancillary to the main business at group level.**

Those criteria shall take into account the following elements:

 - (a) whether the net outstanding notional exposure in commodity derivatives or emission allowances or derivatives thereof for cash settlement traded in the Union, excluding commodity derivatives or emission allowances or derivatives thereof traded on a trading venue, is below an annual threshold of EUR 3 billion; or**
 - (b) whether the capital employed by the group to which the person belongs is predominantly allocated to the main business of the group; or**
 - (c) whether or not the size of the activities referred to in point (j) of paragraph 1 exceeds the total size of the other trading activities at group level; or**
 - (ca) whether and to what extent the investment services are provided for hedging purposes.’;**
3. in Article 4 **Article 4**, paragraph 1 is amended as follows:
 - (a) point (19) is replaced by the following:**

‘(19) multilateral system’ means a multilateral system as defined in Article 2(1), point (11), of Regulation (EU) No 600/2014;’;
 - (b) point (20) is replaced by the following:**

‘(20) **‘systematic internaliser’ means an investment firm which, on an organised, frequent, systematic and substantial basis, deals on own account when executing client orders outside a regulated market, an MTF or an OTF without operating a multilateral system; the definition of a systematic internaliser shall apply only where the qualitative criteria indicating that an investment firm performs its activities on**

an organised, frequent, systematic and substantial basis are met, or where an investment firm chooses to opt-in under the systematic internaliser regime;’;

3a. *in Article 16, the following paragraph is inserted:*

‘10a. An investment firm that is a market data contributor within the meaning of Article 2(1), point (34a), of Regulation (EU) No 600/2014 shall have arrangements in place to ensure it meets the data quality standards set out in Article 22b of that Regulation.’;

3b. *Article 18 is amended as follows:*

(a) the following paragraph is inserted:

‘2a. Member States shall require market operators and investment firms operating an MTF or an OTF to establish and maintain effective arrangements to verify that issuers of transferable securities that are traded under its systems have obtained the ISO 17442 Legal Entity Identifier.’;

(b) paragraph 8 is replaced by the following:

‘8. Where a transferable security that has been admitted to trading on a regulated market is also traded on an MTF or an OTF without the consent of the issuer, the issuer shall not be subject to the obligation set out in paragraph 2a or to any obligation relating to initial, ongoing or ad hoc financial disclosure with regard to that MTF or an OTF.’;

4. *Article 27 is amended as follows:*

(-a) paragraph 2 is deleted;

(a) paragraph 3 is replaced by the following:

‘3. In the case of financial instruments that are subject to the trading obligation set out in Articles 23 and 28 Regulation (EU) No 600/2014, Member States shall require that, following execution of a transaction on behalf of a client, the investment firm shall inform the client where the order was executed.’;

(aa) paragraph 6 is deleted;

(b) █ paragraph 10 is replaced by the following:

‘10. ESMA shall develop draft regulatory technical standards on the criteria to be taken into account when defining and assessing the order execution policy under paragraphs 5 and 7, taking into account whether the orders are executed on behalf of retail or professional clients.

Those criteria shall include at least the following:

(a) factors determining the choice of execution venues included in the order execution policy;

(b) the periodicity of assessing and updating the order execution policy;

(c) ways of defining classes of financial instruments under paragraph 5.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [nine months after the date of entry into force of this amending Directive].

Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph of this Article in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.’;

5. in Article 31(1), the following sentence is added:

‘Investment firms and market operators operating an MTF or an OTF shall have arrangements in place to ensure they meet the data quality standards as set out in Article 22b of Regulation (EU) No 600/2014.’;

6. in Article 47(1), the following points (g) *and (ga) are* added:

‘(g) to have arrangements in place to ensure they meet the data quality standards as set out in Article 22b of Regulation (EU) No 600/2014.

(ga) to have at least three materially active members or users, each having the opportunity to interact with all the others in respect to price formation.’;

6a. *Article 48 is amended as follows:*

(a) paragraph 5 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘Member States shall require a regulated market to be able to temporarily halt or constrain trading in emergency situations or if there is a significant price movement in a financial instrument on that market or a related market during a short period and, in exceptional cases, to be able to cancel, vary or correct any transaction. Member States shall require a regulated market to ensure that the parameters for halting trading are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users, and is sufficient to avoid significant disruptions to the orderliness of trading.’;

(ii) the following subparagraphs are added:

‘Member States shall require a regulated market to publicly disclose on its website information on the circumstances leading to trading being halted and on the principles for establishing the main technical parameters used to do so.

Member States shall ensure that, where a trading venue does not use the measures referred to in the first subparagraph despite a significant price movement affecting a financial instrument or related financial instruments leading to disorderly trading conditions on one or several markets, competent authorities are able to take appropriate measures to re-establish the normal functioning of the markets, including the powers referred to in Article 69(2) points (m), (n), (o) and (p).’;

(b) paragraph 12 is amended as follows:

(i) in the first subparagraph, the following points are added:

‘(ga) the principles for establishing the main technical parameters regulated markets shall consider, taking into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users when establishing their mechanisms to halt trading in accordance with paragraph 5;

(gb) the information that trading venues shall disclose, including templates regarding the parameters and circumstances triggering the use of circuit breakers

that trading venues shall report to competent authorities in accordance with paragraph 5.';

(ii) the second subparagraph is replaced by the following:

' ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the date of entry into force of this amending Directive].';

6b. *in Article 49(2), the following point is added:*

'(ba) in the case of shares with a non-EEA international securities identification number, or shares referred to in Article 23(1), point (a), for which the venue that is the most relevant market in terms of liquidity is in a third country, have the same tick size that applies on that venue.';

7. Article 50 is deleted;

7a. *in Article 51(3), the first subparagraph is replaced by the following:*

'In addition to the obligations set out in paragraphs 1 and 2, Member States shall require the regulated market to establish and maintain effective arrangements to verify that issuers of transferable securities that are admitted to trading on the regulated market have obtained the ISO 17442 Legal Entity Identifier and comply with their obligations under Union law in respect of initial, ongoing or ad hoc disclosure obligations.';

7b. *Article 57 is amended as follows:*

(a) in paragraph 8, the first subparagraph is replaced by the following:

'8. Member States shall ensure that an investment firm or a market operator operating a trading venue which trades commodity derivatives or derivatives on emission allowances applies position management controls, including powers for the trading venue to:';

(b) the following paragraph is added:

'15. By 31 December 2025, ESMA shall submit to the Commission a report with a comprehensive assessment of the position limit and position management controls regimes. The report shall assess:

(a) the effectiveness of the position limit and position management controls regimes to achieve the objectives mentioned in the first subparagraph of paragraph 1 of this Article;

(b) what constitutes a critical or significant position; and

(c) the appropriateness of the limitation of the scope of position limits to agricultural commodity derivatives and critical or significant commodity derivatives that are traded on trading venues, and to economically equivalent OTC contracts, as set out in Article 57.

The report shall notably rely on the data provided competent authorities to ESMA in accordance with paragraphs 5 and 10 of this Article.

Based on the report produced by ESMA and an impact assessment, the Commission shall, if appropriate, submit to the European Parliament and the Council a

legislative proposal concerning targeted changes on position limit and position management controls regimes.’;

7c. *in Article 58, paragraph 1 is amended as follows:*

(a) in the first subparagraph, point (a) is replaced by the following:

‘(a) make public two weekly reports, of which one excluding options, 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, the total trading volume per day, expressed as the number of derivatives contracts bought or sold in a given trading day, for each category, and the number of persons holding a position in each category in accordance with paragraph 4;’;

(b) the following subparagraph is inserted after the first subparagraph:

‘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 communicates the reports referred to in point (a) of the first subparagraph to the competent authority and to ESMA. ESMA shall proceed to a centralised publication of the information included in those reports.’;

8. in Article 70(3), point (a), point (xxx) is deleted;

9. in Article 70(3), point (b), the following points (iia), (xvia), (xvib), (xvic) and (xxviiia) are inserted:

‘(iia) Article 5;’;

‘(xvia) Article 22a;’;

‘(xvib) Article 22b;’;

‘(xvic) Article 22c ;’ ;

‘(xxviiia) Article 39a ;’.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP please insert the date = 12 months after the date of entry into force of the CTP Regulation] at the latest.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3
Entry into force

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

Article 4
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Directive 2014/65/EU on markets in financial instruments
References	COM(2021)0726 – C9-0438/2021 – 2021/0384(COD)
Date submitted to Parliament	25.11.2021
Committee responsible Date announced in plenary	ECON 27.1.2022
Rapporteurs Date appointed	Danuta Maria Hübner 2.12.2021
Discussed in committee	10.10.2022 17.11.2022
Date adopted	1.3.2023
Result of final vote	+: 52 –: 6 0: 1
Members present for the final vote	Rasmus Andresen, Anna-Michelle Asimakopoulou, Manon Aubry, Gunnar Beck, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Valentino Grant, Claude Gruffat, José Gusmão, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, France Jamet, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtsov, Aurore Lalucq, Aušra Maldeikienė, Siegfried Mureşan, Denis Nesci, Luděk Niedermayer, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Eva Maria Poptcheva, Evelyn Regner, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Johan Van Overtveldt, Stéphanie Yon-Courtin, Roberts Zīle
Substitutes present for the final vote	Marc Angel, Nicola Beer, Karima Delli, Herbert Dorfmann, Gianna Gancia, Eider Gardiazabal Rubial, Elisabetta Gualmini, Valérie Hayer, Chris MacManus, Fulvio Martusciello, Jessica Polfjård, Clara Ponsatí Obiols, René Repasi
Substitutes under Rule 209(7) present for the final vote	Joachim Kuhs, Alessandro Panza
Date tabled	2.3.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

52	+
ECR	Michiel Hoogeveen, Denis Nesci, Johan Van Overtveldt, Roberts Zile
ID	Gianna Gancia, Valentino Grant, Alessandro Panza
NI	Enikő Győri, Clara Ponsatí Obiols
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Herbert Dorfmann, Markus Ferber, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Aušra Maldeikienė, Fulvio Martusciello, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Jessica Polfjärd, Ralf Seekatz
Renew	Nicola Beer, Gilles Boyer, Giuseppe Ferrandino, Valérie Hayer, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Eva Maria Poptcheva, Stéphanie Yon-Courtin
S&D	Marc Angel, Jonás Fernández, Eider Gardiazabal Rubial, Elisabetta Gualmini, Eero Heinäluoma, Aurore Lalucq, Evelyn Regner, René Repasi, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
Verts/ALE	Rasmus Andresen, Karima Delli, Claude Gruffat, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtasun

6	-
ECR	Dorien Rookmaker
ID	Gunnar Beck, Joachim Kuhs
The Left	Manon Aubry, José Gusmão, Chris MacManus

1	0
ID	France Jamet

Key to symbols:

+ : in favour

- : against

0 : abstention