

# Public Statement

## Transition for the application of the MiFID II/MiFIR review – No.2

ESMA is issuing this public statement in relation to the application of certain provisions following the review of MiFIR<sup>1</sup> and MiFID II<sup>2</sup>.

This statement follows the first [Public Statement on the transition for the application of the MiFID II/MiFIR review](#) issued by ESMA on 27 March 2024. In full coordination with European Commission services, it aims at providing practical guidance to markets participants on:

- the application of the provisions of the MiFID II amended by the MiFID II review in relation to commodity derivatives and derivatives on emission allowances and to the new regime applicable to Systematic Internalisers (SI regime);
- the 'single' volume cap mechanism (VCM) in MiFIR as amended by the MiFIR review; and
- the application of the revised transparency rules for bonds, structured finance products, emission allowances, and equity instruments introduced by the MiFIR review.

Notwithstanding potential changes in the timing for the adoption of delegated and implementing acts by the European Commission, market participants are expected to comply with the provisions as amended by the MiFID II/MiFIR review, unless otherwise specified.

As a general rule, the revised MiFID II provisions apply when the relevant changes are transposed into national law.

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<sup>1</sup> 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; Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014

<sup>2</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments; Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments

## Commodity derivatives and derivatives on emission allowances

### a) Position management controls

The MiFID II review extended the scope of the position management requirements under Article 57(8) of MiFID II, previously limited to trading venues trading commodity derivatives, to trading venues which trade derivatives on emission allowances.

In December 2024, ESMA submitted to the European Commission the amending draft RTS on position management controls<sup>3</sup> extending the requirements for the ongoing monitoring of the positions held by market participants and the setting of accountability levels to derivatives on emission allowances.<sup>4</sup> The amendments to the RTS on position management controls are a direct consequence of the change to the Level 1 text. ESMA therefore expects trading venues to take into account the position management controls in relation to derivatives of emission allowances included in the amending draft RTS until the current RTS is revised.

### b) Position reporting

Revised Article 58 of MiFID amended the scope of position reporting by introducing a new obligation to publish a second weekly position report for trading venues trading options. In December 2024, ESMA submitted an amendment to ITS 4<sup>5</sup> to the European Commission to implement those changes.

ESMA is finalising the development of IT systems to enable trading venues to proceed with the reporting of weekly position reports in accordance with the amended requirements. The relevant documentation containing technical specifications to be used for reporting purposes by trading venues were [published](#) by ESMA on 25 September 2025. ESMA will communicate separately on the test phase for reporting as per the new requirements. The planned go live of the amended reporting and register is scheduled for 1 April 2026.

As per the amended Level 1 text, investment firms are no longer required to report positions in emission allowances under Annex II of ITS 4.

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<sup>3</sup> Commission Delegated Regulation (EU) 2022/1299 of 24 March 2022 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of position management controls by trading venues.

<sup>4</sup> [https://www.esma.europa.eu/sites/default/files/2024-12/ESMA74-2134169708-7577\\_Final\\_Report\\_on\\_the\\_amendments\\_to\\_certain\\_technical\\_standards\\_for\\_commodity\\_derivatives.pdf](https://www.esma.europa.eu/sites/default/files/2024-12/ESMA74-2134169708-7577_Final_Report_on_the_amendments_to_certain_technical_standards_for_commodity_derivatives.pdf)

<sup>5</sup> Commission Implementing Regulation (EU) 2017/1093 of 20 June 2017 laying down implementing technical standards with regard to the format of position reports by investment firms and market operators

## SI regime

The MiFID II review removed the quantitative test under Article 4(1)(20) of MiFID II as further specified in Articles 12 to 16 of Commission Delegated Regulation on organisational requirements and operating conditions for investment firms<sup>6</sup>, for determining whether an investment firm qualifies as a Systematic Internaliser.

As anticipated with the [start of the Designated Publishing Entity \(DPE\) regime](#), the mandatory SI regime based on a quantitative test is no longer applicable, and investment firms are relieved from performing that test.

However, investment firms meeting the qualitative requirements for equity instruments or opting into the regime will need to register as an SI. When notifying information to their respective National Competent Authorities (NCAs), those investment firms are invited to base such notification on the template in the draft ITS on the content and format of the Systematic Internaliser Notification<sup>7</sup>, pending adoption by the European Commission and the publication of the final ITS in the Official Journal of the EU.

ESMA has also amended or removed the Q&As on the application of the SI regime that are no longer relevant under the new framework. The updated Q&As are available in ESMA's Q&A tool.<sup>8</sup>

## Volume cap mechanism

The single volume cap mechanism (VCM) has replaced the current double VCM and has become operational with the first calculation results [published](#) on 9 October 2025.

ESMA has therefore updated the Q&As on the previous double VCM, ensuring alignment with the single VCM framework. These updates are now available in ESMA's Q&A tool.<sup>9</sup>

More information on the VCM is available in the dedicated [announcement](#) and on the [ESMA webpage](#).

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<sup>6</sup> Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser

<sup>7</sup> See Final Report of 10 April 2025: [https://www.esma.europa.eu/sites/default/files/2025-04/ESMA74-2134169708-7780\\_Final\\_Report\\_on\\_SI\\_notification\\_\\_volume\\_cap\\_and\\_circuit\\_breakers.pdf](https://www.esma.europa.eu/sites/default/files/2025-04/ESMA74-2134169708-7780_Final_Report_on_SI_notification__volume_cap_and_circuit_breakers.pdf)

<sup>8</sup> Q&As 1577, 1578, 1579, 1513, 1581, 1582, 1586, 1590 have been amended.

<sup>9</sup> Q&As 1574, 1575, 1576, 1512 have been amended.

## **Application of the revised rules on equity and non-equity transparency**

The Commission Delegated Regulation amending RTS 1 and RTS 2<sup>10</sup> stipulates that most of the revised transparency requirements in respect of bonds, structured finance products, emission allowances, and equity instruments would apply from 2 March 2026, following its publication in the Official Journal of the EU.

However, concerning RTS 1, 20 days after the publication in the Official Journal of the amending Commission Delegated Regulation, two main provisions will start applying: (i) Article 13 - give-up and give in transactions will be excluded from the post-trade transparency reporting when executed off-venue and (ii) Articles 11a and 11b - systematic internalisers will have to comply with new quoting obligations.

In this respect, ESMA has published an [announcement](#) on the standard market size (SMS) for liquid instruments on the basis of the amended Table 3 and the new Table 3a of Annex II of RTS 1 on 8 October 2025. These values will determine the new quoting obligation for systematic internalisers according to Articles 11a and 11b of RTS 1.

While these amendments are still to be published in the Official Journal of the EU, market participants are invited to anticipate the application of the MiFIR provisions related to the transparency requirements for these instruments as of 2 March 2026.

## **Discontinuation of FITRS and DVCAP reporting flows**

Since 2018, the transparency and volume cap regimes have relied on data reported by trading venues to ESMA specifically for these purposes. As clarified in the [statement](#) of 7 February 2025, going forward ESMA intends to discontinue these reporting flows and rely on the transaction data that is already reported to NCAs and ESMA under Article 26 of MiFIR.

ESMA plans to discontinue the reporting of volume cap data with 31 December 2025 being the last reporting day, and FITRS quantitative data on equity instruments, bonds, structured finance products and emission allowances with 31 March 2026 being the last reporting day, while the submission of FITRS reference data will remain unchanged in the interim period. This approach is aligned with ESMA's broader burden reduction efforts, and avoids introducing unnecessary changes until further options on streamlining financial reporting are properly assessed, following [ESMA's call for evidence](#) that was launched in June 2025.

Market participants are invited to take the FITRS reporting instructions published on the ESMA [webpage](#) into consideration for further details.

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<sup>10</sup> Commission Delegated Regulation amending the regulatory technical standards laid down in Delegated Regulations (EU) 2017/583 and (EU) 2017/587 as regards transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances, and equity instruments

## Background

Article 54(3) of MiFIR as amended by the MiFIR review foresees the continued application of the delegated acts that are currently in place until these delegated acts are revised<sup>11</sup> as a general rule. ESMA aims to provide as much clarity as possible to market participants on this transitional regime.

This public statement complements [ESMA's Public Statement](#) on the transition for the application of the MiFID II/MiFIR review, and the [Commission interpretative notice](#) on the MiFIR review transitional provision.

Explanatory notes regarding the applicable MiFIR provisions can be found in [ESMA's Interactive Single Rulebook](#).<sup>12</sup> They will be updated upon entry into force of the relevant amendments to MiFIR provisions.

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<sup>11</sup> Article 54(3) of MiFIR: The provisions of the delegated acts adopted pursuant to Regulation (EU) No 600/2014 as applicable before 28 March 2024 shall continue to apply until the date of application of the delegated acts adopted pursuant to Regulation (EU) No 600/2014 as applicable from that date