Commission Delegated Regulation (EU) 2018/63 of 26 September 2017 amending Delegated Regulation (EU) 2017/571 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/63

of 26 September 2017

amending Delegated Regulation (EU) 2017/571 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers

(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 65(8)(c) thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2017/571[(2)] sets out the organisational requirements for data reporting services providers, including consolidated tape providers (CTPs) for equity instruments. Since the details specifying the publication arrangements for the consolidated tape for non-equity instruments, such as bonds, structured finance products, emission allowances and derivatives are closely linked to the provisions of Delegated Regulation (EU) 2017/571, it is appropriate to also specify the scope of the consolidated tape for non-equity instruments in the same Delegated Regulation and therefore to amend Delegated Regulation (EU) 2017/571.

(2) In order to establish a framework that provides commercial incentives for operating a consolidated tape for non-equity instruments, CTPs should be allowed to operate a consolidated tape covering only one asset class or several asset classes.

(3) CTPs should ensure that they publish the required information on transactions covering at least 80 per cent of the total volume and number of transactions published in the preceding six months for each relevant asset class by approved publication arrangements (APAs) and trading venues. This approach ensures that CTPs publish information that is of significance from a user perspective while avoiding high costs stemming from including all information published by all APAs and all trading venues.

(4) CTPs should be allowed sufficient time to meet the coverage ratios set out in this Regulation in case they need to add new trading venues and APAs to their data stream.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/63. (See end of Document for details)*

(5) For reasons of consistency and a smooth functioning of the financial markets, it is necessary that the provisions relating to non-equity CTPs and the national provisions transposing Directive 2014/65/EU apply from the same date. To ensure a smooth transition to the new regime, it is necessary that the first period for determining the coverage ratios to be reached by the CTP covers the period starting from 1 January 2019.

(6) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

(7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/571 is amended as follows:

(1) the following Article 15a is inserted:

Article 15a

Scope of the consolidated tape for bonds, structured finance products, emission allowances and derivatives

1 A CTP shall include in its electronic data stream the data of one or more of the following asset classes:

- a bonds, excluding exchange traded commodities (ETCs) and exchange traded notes (ETNs);
- b ETC and ETNs bond types;
- c structured finance products;
- d securitised derivatives;
- e interest rate derivatives;
- f foreign exchange derivatives;
- g equity derivatives;
- h commodity derivatives;
- i credit derivatives;
- j contracts for differences;
- k C10 derivatives;
- l emission allowance derivatives;
- m emission allowances.

2 A CTP shall include in its electronic data stream the data made public pursuant to Articles 10 and 21 of Regulation (EU) No 600/2014 that meet both of the following coverage ratios:

- a the number of transactions published by a CTP in an asset class listed in paragraph 1 represents at least 80 % of the total number of transactions in the

relevant asset class published in the Union by all APAs and all trading venues during the assessment period referred to in paragraph 3;

b the volume of transactions published by a CTP in an asset class listed in paragraph 1 represents at least 80 % of the total volume of transactions in the relevant asset class published in the Union by all APAs and all trading venues during the assessment period referred to in paragraph 3.

For the purposes of point (b), the volume of transactions shall be determined in accordance with the measure of volume specified in Table 4 of Annex II to Commission Delegated Regulation (EU) 2017/583[(4)].

3 A CTP shall assess the coverage ratios set out in paragraph 2 every six months, based on data covering the preceding 6 months. The assessment periods shall start on 1 January and 1 July each year. The first period shall cover the first six months of the year 2019.

4 A CTP shall ensure that it reaches the minimum coverage ratios set out in paragraph 2 as soon as possible, and in any case not later than:

a 31 January of the calendar year following the period covering 1 January to 30 June;

b 31 July of the calendar year following the period covering 1 July to 31 December.;

(2) Article 21 is replaced by the following:

Article 21

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 2018.

However, Article 15a(4) shall apply from 1 January 2019 and Articles 14(2), 15(1), (2) and (3), and 20(b) shall apply from 3 September 2019.

Article 2

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*.

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