Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2017/575. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2017 No. 575 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Delegated Regulation (EU) 2017/575 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2017/575

of 8 June 2016

supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions

(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 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[(1)], and in particular point (a) of the first subparagraph of Article 27(10) thereof,

Whereas:

(1) With a view to providing both the public and investment firms with relevant data on execution quality to help them determine the best way to execute client orders, it is important to set out the specific content, format and the periodicity of data relating to the quality of execution of financial instruments subject to the trading obligation in Articles 23 and 28 of Regulation (EU) No 600/2014 of the European Parliament and of the Council[(2)] to be published by trading venues and systematic internalisers It is also important to set out the specific content, format and the periodicity of data relating to the quality of execution of other financial instruments which are not subject to the trading obligation and which execution venues are required to publish. In this respect, due regard should be given to the type of execution venue and the type of financial instrument concerned.

(2) In order to fully assess the extent of the quality of execution of transactions that take place in the Union, it is appropriate that execution venues which may be selected by investment firms to execute client orders comply with requirements on data to be provided by execution venues in accordance with this Regulation. To this effect, these execution venues should include regulated markets, multilateral trading facilities, organised trading facilities, systematic internalisers, market makers and other liquidity providers.

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(3) Differences in the type of execution venue and financial instruments require that the content of reporting should vary depending on several factors. It is appropriate to differentiate the amount and nature of reported data according to trading systems, trading modes and trading platforms to provide a proper context for the quality of execution obtained.

(4) To avoid inappropriate comparison between execution venues and ensure the relevance of collected data, execution venues should submit separate reports corresponding to segments that operate different order books or that are regulated differently or use different market segment identifiers.

(5) To ensure an accurate picture of the quality of execution that effectively occurred, trading venues should not publish among executed orders those traded over the counter and reported onto the trading venue.

(6) When market makers and other liquidity providers are reporting as execution venues for financial instruments which are not subject to the trading obligation, they should only publish information on the orders executed or the price quoted for their clients when the orders are either quoted or executed over the counter, or executed pursuant to Articles 4 and 9 of Regulation (EU) No 600/2014, excluding orders which are held in an order management facility of a trading venue pending disclosure.

(7) It is appropriate to consider that other liquidity providers should include firms that hold themselves out as being willing to deal on own account, and which provide liquidity as part of their normal business activity, whether or not they have formal agreements in place or commit to providing liquidity on a continuous basis.

(8) In order to have complete transparency on the quality of execution for transactions in relation to price, it is appropriate that the information provided in relation to price should exclude all commissions or accrued interest, where relevant.

(9) In determining appropriate information for assessing price quality, both daily average levels and point-in-time information should be required. This will provide participants with an appropriate context and a more complete picture when analysing the quality of execution obtained. In order to allow for price comparisons between financial instruments it is also necessary to specify the currency code of any reported transaction.

(10) To ensure regulatory consistency, it is not appropriate to require trading venues to provide details of transactions that remain, at the time of publication, subject to a deferral of publication in compliance with requirements on post trade transparency. It is appropriate that systematic internalisers, market makers and other liquidity providers be exempt from publishing point-in-time transaction data for any transactions above standard market size or above size specific to the financial instrument in order to avoid those venues becoming subject to undue risk of disclosing commercially sensitive information that might hinder their ability to hedge exposures and provide liquidity. For shares, exchange-traded funds and certificates deemed to be illiquid under Regulation (EU) No 600/2014, the standard market size threshold to be used is the minimum available standard market size for that type of financial instrument. To avoid uncertainty, it is appropriate to clarify that reference to large in scale and size specific to

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the financial instrument have the same meaning as set out in the post trade transparency requirements.

(11) It is essential to have full transparency on all costs charged when executing an order through a given venue. It is necessary to specify all costs in the execution of a client order relevant to the use of a specific venue and for which the client pays directly or indirectly. Those costs should include execution fees, including fees for the submission, modification or cancellation of orders or quotes withdrawals, as well as any fees related to market data access or use of terminals. The relevant costs may also include clearing or settlement fees or any other fees paid to third parties involved in the execution of the order when they are part of the services provided by the execution venue. Information on costs should also include taxes or levies directly invoiced to or incurred by the venue on behalf of the members or users of the execution venue or the client to whom the order refers.

(12) Likelihood of execution indicates the probability of execution of a particular type of order and is supported by details on trading volumes in a particular instrument or other characteristics of orders and transactions. Information on likelihood of execution should allow for the calculation of metrics such as the relative market size of a venue in a particular financial instrument or a class of financial instruments. Likelihood of execution should also be assessed with data on failed transactions or cancelled or modified orders.

(13) Speed of execution may have different meanings for the different types of execution venues as the measurement of speed varies by both trading systems and trading platform. For continuous auction order books, speed of execution should be expressed in milliseconds while for other trading systems it is appropriate to use larger units of time. It is also appropriate to exclude the latency of a particular participant's connection to the execution venue, as this is outside of the control of the execution venue itself.

(14) In order to compare the quality of execution for orders of different size, execution venues should be required to report on transactions within several size ranges. The thresholds for these ranges should be dependent on the type of financial instrument and its liquidity to ensure that they provide an adequate sample of executions in a size that is typical in that instrument.

(15) It is important that execution venues collect data throughout the normal hours of their operation. Reporting should therefore be made without charge in a machine readable electronic format via an internet website to enable the public to download, search, sort and analyse all the provided data.

(16) The reports by execution venues should be complemented by the output of a consolidated tape provider established by Directive 2014/65/EU thus allowing for the development of enhanced measures of execution quality.

(17) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the provisions laid down in Directive 2014/65/EU and Regulation (EU) No 600/2014 apply from the same date.

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

(19) ESMA has conducted open public consultations on the draft regulatory 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 by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[3],

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the specific content, the format and the periodicity of the data to be published by execution venues relating to the quality of execution of transactions. It shall apply to trading venues, systematic internalisers, market makers, or other liquidity providers.

Article 2

Definitions

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

(a) trading system means the way in which an execution venue executes orders as continuous auction order book, continuous quote driven, request for quote, periodic auction or any hybrid system falling into two or more of these categories or into a system where the price determination process is of a different nature than that applicable to the types of system set out above;

(b) 'Size Specific to the financial instrument' means size specific to a bond, structured finance product, emission allowance or derivative traded on a trading venue, for which there is not a liquid market and where the transaction in those instruments is subject to deferred publication in accordance with Article 11 of Regulation (EU) No 600/2014;

(c) Large in Scale means an order large in scale in accordance with Article 7 and 11 of Regulation (EU) No 600/2014;

(d) failed transaction means a transaction that was voided by the execution venue;

(e) price multiplier means the number of units of the underlying instrument represented by a single derivative contract;

(f) price notation means an indication as to whether the price of the transaction is expressed in monetary value, in percentage or in yield;

(g) quantity notation means an indication as to whether the quantity of the transaction is expressed in number of units or in nominal value or in monetary value;

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(h) delivery type means an indication as to whether the financial instrument is settled physically or in cash including instances when the counterparty may choose or when it is determined by a third party;

(i) trading mode means scheduled opening, closing or intra-day auction, unscheduled auction, trading at close, trading out of main session, or trade reporting;

(j) trading platform means the type of platform the execution venue operates: electronic, voice or outcry;

(k) book depth means the total available liquidity expressed as the product of price and volume of all bids and offers for a specified number of price increments from the mid-point of the best bid and offer;

(l) average effective spread means the average of twice the difference between the actual execution price compared with mid-point of best bid and offer at time of receipt, for market orders or marketable limit orders;

(m) average speed of execution for unmodified passive orders at best bid and offer means the average time elapsed between a limit order that matches the best bid and offer being received by the execution venue, and the subsequent execution of this order;

(n) aggressive order means an order entered into the order book that took liquidity;

(o) 'passive order' means an order entered into the order book that provided liquidity;

(p) immediate or cancel order means an order which is executed upon its entering into the order book and which does not remain in the order book for any remaining quantity that has not been executed;

(q) fill or kill order means an order which is executed upon its entering into the order book provided that it can be fully filled. In the event the order can only be partially executed, then it is automatically rejected and is not executed.

Article 3

Publication of information on execution venue and financial instrument

1 Trading venues and systematic internalisers shall publish for each market segment they operate and each financial instrument subject to the trading obligation in Article 23 and 28 of Regulation (EU) No 600/2014 information on the type of execution venue in accordance with the third subparagraph.

Execution venues shall publish for each market segment they operate and each financial instrument not subject to the trading obligation in Article 23 and 28 of Regulation (EU) No 600/2014 information on the type of execution venue in accordance with the third subparagraph.

The following information shall be published in the format set out in Table 1 of the Annex:

i) name and venue identifier of the execution venue;

ii) country of location of the competent authority;

iii) name of the market segment and market segment identifier;