













Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2016/0034(COD)</p> <p>Procedure completed</p>	
<p>Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates</p> <p>Amending Regulation (EU) No 596/2014 2011/0295(COD) Amending Regulation (EU) No 600/2014 2011/0296(COD) Amending Regulation (EU) No 909/2014 2012/0029(COD)</p> <p>Subject</p> <p>2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 ECON Economic and Monetary Affairs		04/02/2016
		 FERBER Markus	
		Shadow rapporteur	
		 DODDS Anneliese	
		 SWINBURNE Kay	
		 VAN NIEUWENHUIZEN	
		 GIEGOLD Sven	
		 KAPPEL Barbara	
	Committee for opinion	Rapporteur for opinion	Appointed
Council of the European Union	 DEVE Development	The committee decided not to give an opinion.	
	 ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	 JURI Legal Affairs	The committee decided not to give an opinion.	
European Commission	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3475	17/06/2016
	Commission DG	Commissioner	

Key events

10/02/2016	Legislative proposal published	COM(2016)0057	Summary
25/02/2016	Committee referral announced in Parliament, 1st reading		
07/04/2016	Vote in committee, 1st reading		
07/04/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
11/04/2016	Committee report tabled for plenary, 1st reading	A8-0125/2016	Summary
24/05/2016	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE604.829	
07/06/2016	Results of vote in Parliament		
07/06/2016	Debate in Parliament		
07/06/2016	Decision by Parliament, 1st reading	T8-0244/2016	Summary
17/06/2016	Act adopted by Council after Parliament's 1st reading		
22/06/2016	End of procedure in Parliament		
23/06/2016	Final act signed		
30/06/2016	Final act published in Official Journal		

Technical information

Procedure reference	2016/0034(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EU) No 596/2014 2011/0295(COD) Amending Regulation (EU) No 600/2014 2011/0296(COD) Amending Regulation (EU) No 909/2014 2012/0029(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/05722

Documentation gateway

Legislative proposal		COM(2016)0057	10/02/2016	EC	Summary
Committee draft report		PE576.963	16/02/2016	EP	
Amendments tabled in committee		PE578.559	02/03/2016	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0125/2016	11/04/2016	EP	Summary
European Central Bank: opinion, guideline, report		CON/2016/0027 OJ C 223 21.06.2016, p. 0003	29/04/2016	ECB	
Text agreed during interinstitutional negotiations		PE604.829	18/05/2016	EP	
Economic and Social Committee: opinion, report		CES1921/2016	25/05/2016	ESC	
Text adopted by Parliament, 1st reading/single reading		T8-0244/2016	07/06/2016	EP	Summary
Draft final act		00024/2016/LEX	22/06/2016	CSL	
Commission response to text adopted in plenary		SP(2016)487	14/07/2016	EC	

Final act

[Regulation 2016/1033](#)
[OJ L 175 30.06.2016, p. 0001](#) Summary

Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates

PURPOSE: to extend the date of entry into application of both instruments that are comprised in MiFID II on markets in financial instruments.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: [Directive 2014/65/EU](#) (MiFID) together with [Regulation \(EU\) No 600/2014](#) (MiFIR) was adopted in the wake of the financial crisis. MiFID and MiFIR, collectively referred to as MiFID II, covers securities markets, investment intermediaries and trading venues. The new framework reinforces and replaces the current MiFID framework ([Directive 2004/39/EC](#)).

Member States need to transpose the Directive by 3 July 2016. Both MiFID and MiFIR are scheduled to apply as of 3 January 2017.

During the legislative process, the very high level of complexity of the MiFID II package and the need for a significant number of implementing measures were recognised. To this end, a period of 30 months was foreseen between the adoption and the entry into application, instead of the usual 18-24 months.

Despite this unusually long period, ESMA has made clear to the Commission that the technical implementing challenges are of such magnitude that essential data infrastructures will not be in place in time for 3 January 2017. This is a result of significant challenges in collecting the data that is necessary for the operation of the MiFID II rules.

The absence of data has ramifications across multiple areas of MiFID II. As regards market regulation, it is clear that without the foundation of reference data (instrument ID) and the additional data infrastructures for transparency calculations and position reporting in place, it will not be possible to apply the majority of the market rules.

In order to ensure legal certainty and avoid potential market disruption, urgent action is therefore needed to adjust the date of entry into application for MiFID II

Changing the date of applicability of MiFID II does however have consequences for the applicability of other legislation, in particular [Regulation \(EU\) 596/2014](#) ('MAR' market abuse) and [Regulation \(EU\) 909/2014](#) ('CSDR' - central securities depositories regulation).

CONTENT: the purpose of the draft proposal amending Regulation (EU) No 600/2014 on markets in financial instruments is to extend the entry into application of both instruments that are comprised in the MiFID II package as a result of the technical implementation challenges met by the European Securities and Markets Authority ('ESMA'), national competent authorities ('NCAs') and stakeholders.

In order to enable ESMA, NCAs and stakeholders to complete the operational implementation, the Commission considered it appropriate to defer the date of application of Regulation (EU) No 600/2014 by 12 months until 3 January 2018. Reports and reviews should be deferred accordingly.

The Commission stated that an extension of one year should provide sufficient and reasonable time for ESMA, NCAs and operators to put in place the infrastructure for data collection, reporting and the transparency threshold calculations.

In order to ensure that references in Regulation (EU) 596/2014 to organised trading facilities, small and medium-sized enterprises ("SME") growth markets, emission allowances or auctioned products based thereon do not apply until the date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU, Article 39(4) of Regulation (EU) 596/2014 stating that references to them are read as references to Directive 2004/39/EC should be adjusted taking into account the extension of the date of application of those acts.

In order to ensure that Directive 2004/39/EC is referenced in Regulation (EU) 909/2014 until the extended date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU and that the transitional provisions for MTFs applying for registration as SME growth markets under Regulation (EU) 909/2014 are maintained so as to provide sufficient time for MTFs to apply for such registration under Directive 2014/65/EU, it is proposed that Regulation (EU) 909/2014 should be amended.

Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates

The Committee on Economic and Monetary Affairs adopted the report by Markus FERBER (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates.

The committee recommended that the European Parliaments position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Through their amendments, Members sought to specify that, for the purpose of Regulation (EU) No 600/2014, the specific circumstances in which pre-trade transparency should not apply to package transactions, nor to any individual component of such transactions.

Supporting these amendments, Members proposed to add a recital stipulating that investment firms often execute, on their own account or on behalf of their clients, transactions in derivatives and other financial instruments or assets that comprise a number of interlinked, contingent trades.

Such package transactions enable investment firms and their clients to better manage their risks, with the price of each component of the package transaction reflecting the overall risk profile of the package rather than the prevailing market price of each component. Package transactions can take various forms, such as exchange for physicals, trading strategies executed on trading venues, or bespoke package transactions, and it is important to take those specificities into account when calibrating the applicable transparency regime.

Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates

The European Parliament adopted by 504 votes to 157, with 9 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates.

Parliaments position, adopted at first reading following the ordinary legislative procedure, amended the Commission proposal as follows:

Securities-financing operations: it is considered that securities financing transactions, as defined in [Regulation \(EU\) 2015/2365](#) of the European Parliament and of the Council, do not contribute to the price discovery process and that it would be appropriate that Title II (Transparency for trading venues) and Title III (Transparency for systematic internalisers and investment firms trading over-the-counter) of [Regulation \(EU\) No 600/2014](#) not apply to those transactions.

Pre-trade transparency requirements for trading venues: Parliament introduced a new amendment stipulating that market operators and investment firms operating a trading venue shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for bonds, and structured finance products, emission allowances, derivatives traded on a trading venue and package orders.

Package transactions: with the amendments, Members stipulated that it is therefore appropriate to specify for the purpose of Regulation (EU) No 600/2014 the specific circumstances in which pre-trade transparency requirements should not apply to orders relating to such package transactions, nor to any individual component of such orders.

In order to support these amendments, it is proposed to include a new recital stating that investment firms often execute, on their own account or on behalf of clients, transactions in derivatives and other financial instruments or assets that comprise a number of interlinked, contingent trades.

The text stated that such package transactions enable investment firms and their clients to better manage their risks, with the price of each component of the package transaction reflecting the overall risk profile of the package rather than the prevailing market price of each component. Package transactions can take various forms, such as exchange for physicals, trading strategies executed on trading venues, or bespoke package transactions, and it is important to take those specificities into account when calibrating the applicable transparency regime.

Role of the European Securities and Markets Authority: ESMA shall develop draft regulatory technical standards to establish a methodology for determining those package orders for which there is a liquid market. ESMA shall submit those draft regulatory technical standards to the Commission by 28 February 2017. Power is delegated to the Commission to adopt the regulatory technical standards.

Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates

PURPOSE: to put back by one year the time limit for transposition and application of rules on markets in financial instruments (MIFID II package).

LEGISLATIVE ACT: Regulation (EU) 2016/1033 of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories

CONTENT: this Regulation amends Regulation (EU) No 600/2014 (MiFIR) on markets in financial instruments in order to put back the date of entry into application of the Regulation, following difficulties encountered by the European Securities and Markets Authority (ESMA) and national competent authorities, and stakeholders in technical implementation.

The MiFIR Regulation, like [Directive 2014/65/EU](#) (MiFID II), ought to be applicable 30 months after entry into force, i.e., 3 January 2017. However, ESMA has informed the Commission that neither it nor the national competent authorities will be in a position to ensure the application of the MiFID II from 3 January 2017. This situation is due to the severe difficulties encountered in completing the data collection infrastructures necessary for MiFID II.

In order to ensure legal certainty and avoid potential market disruption, the amending Regulation defers by 12 months the date by which the Member States need to apply MiFIR to 3 January 2018. The dates for reports and review are set back accordingly.

The new Regulation also includes amendments regarding executions on own account, package transactions, and alignment with the EU Regulation on securities financing transactions, and the date of application of certain provisions in the Regulation on market abuse.

ENTRY INTO FORCE: 1.7.2016.