Procedure file

Basic information

2021/0385(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Regulation

Amendments to the Markets in Financial Instruments Regulation (MiFIR)

Amending Regulation 2014/600 2011/0296(COD)

Awaiting Parliament's position in 1st reading

Subject
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

Legislative priorities
Joint Declaration 2021
Joint Declaration 2023-24
Joint Declaration 2022

Key players

Committee responsible Rapporteur Appointed

ECON Economic and Monetary Affairs

HÜBNER Danuta Maria

Shadow rapporteur

HEINÄLUOMA Eero

BEER Nicola 02/12/2021

DELLI Karima

BECK Gunnar

VAN OVERTVELDT Johan

GUSMÃO José

European Parliament
Committee for opinion  
Rapporteur for opinion  
Appointed

ITRE Industry, Research and Energy  
The committee decided not to give an opinion.

JURI Legal Affairs  
The committee decided not to give an opinion.

Council of the European Union

European Commission

Commission DG Financial Stability, Financial Services and Capital Markets Union  
Commissioner MCGUINNESS Mairead

European Economic and Social Committee

Key events

25/11/2021 Legislative proposal published
27/01/2022 Committee referral announced in Parliament, 1st reading
01/03/2023 Vote in committee, 1st reading
01/03/2023 Committee decision to open interinstitutional negotiations with report adopted in committee
02/03/2023 Committee report tabled for plenary, 1st reading
13/03/2023 Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)
15/03/2023 Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)
24/10/2023 Approval in committee of the text agreed at 1st reading interinstitutional negotiations
24/10/2023 Approval in committee of the text agreed at 1st reading interinstitutional negotiations

Forecasts

15/01/2024 Indicative plenary sitting date

Technical information

Procedure reference 2021/0385(COD)
Procedure type COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype Legislation
Legislative instrument Regulation

Amending Regulation 2014/600 2011/0296(COD)

Legal basis Treaty on the Functioning of the EU TFEU 114
Other legal basis Rules of Procedure EP 159
Amendments to the Markets in Financial Instruments Regulation (MiFIR)

PURPOSE: to amend the Markets in Financial Instruments Regulation (MiFIR) in order to enhance market data transparency.


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: the MiFID/MiFIR framework is the rulebook governing participation in European capital markets. It consists of a directive (Directive 2014/65/EU, MiFID II) and a regulation (Regulation (EU) No 600/2014, MiFIR).

In 2007, MiFID I introduced competition in the market for equity trading. Later iterations of MiFID extended competition to trading in non-equity asset classes, such as bonds and derivatives. The consequence is that, when a broker or investor wants to execute an order to buy or sell an asset, they can choose from different venues, such as regulated markets (RMs), multilateral trading facilities (MTFs), dark pools, and systematic internalisers (SIs).

Today, financial instruments, such as shares and bonds, are traded in the EU across about 500 execution platforms (across all asset classes). All these platforms need to publish information about each transaction, such as the volume, time and price of the transaction. This makes the information very fragmented and only few big players are able to have a comprehensive overview of the market.

The proposal is part of a package of measures for the CMU which also includes:

- a legislative proposal to establish a European Single Access Point (ESAP);
- a legislative proposal to revise the European Long Term Investment Fund (ELTIF) Regulation;
- a legislative proposal to revise the Directive on Alternative Investment Fund Managers.
the proposal aims to enhance market data quality and market data consolidation through amendments to existing rules on market data in MiFIR.

Creation of a European consolidated tape

The proposed revision would introduce a European consolidated tape which will allow investors to access near-real-time trading data for stocks, bonds and derivatives on all trading venues in the EU. Both professional and retail investors would be able to see in one place the price and other information about a financial instrument (such as the volume and timing of transactions). They will know whether they have obtained the best price when buying or selling securities.

The proposed revision should also enhance the level playing field between stock exchanges and investment banks and will promote the international competitiveness of EU trading venue by removing the open access rule.

Boosting transparency and levelling the playing field

The proposal aims to change EU trading rules to enhance transparency in EU financial markets and level the playing field between execution platforms.

Specifically, the proposal:

- prohibits the execution of small trades in equity instruments (such as shares) on anonymous trading platforms (where traders are not subject to transparency obligations) and makes the execution of such trades through large investment banks fully transparent;

- increases transparency for non-equities (such as derivatives and bonds), by reducing recourse to so-called deferrals' that allow for the delayed publication of core details of transactions;

- bans the practice whereby retail brokers forward client orders to a limited number of traders in exchange for compensation (payment for order flow), which will ensure that brokers act in their clients' best interests.

Increasing competitiveness of EU financial markets

To carry out this objective, the proposal:

- removes the open access obligations for exchange-trade derivatives. This open access obligation may discourage markets from creating new and innovative financial products. Its implementation has already been postponed several times. It is now being abandoned;

- streamlines the obligation to trade shares on eligible execution platforms in the EU so that it will only apply to shares with a primary listing in the EU. EU shares traded on a third country venue will be exempted as far as they are denominated in local currency;

- enables the Commission to suspend, if necessary, the trading obligation in a cross-border context, e.g. where conflicting trading obligations in two jurisdictions prevent an EU counterparty from entering into a derivative contract with a non-EU counterparty.

Amendments to the Markets in Financial Instruments Regulation (MiFIR)

The Committee on Economic and Monetary Affairs adopted the report by Danuta Maria HÜBNER (EPP, PL) on the proposal for a regulation 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.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

While welcoming the Commissions proposal for the review of the Markets in Financial Instruments Regulation and
Directive (MiFIR/D), Members highlighted certain areas for improvement. The amendments included in the report are informed by the desire to establish a regulatory framework conducive to an environment where all market participants benefit from trading. The amendments are guided by four main principles:

1. reducing fragmentation and cross-border barriers;
2. levelling the playing field, supporting a healthy degree of competition between different execution venues and methods;
3. allowing EU firms to be competitive internationally and more attractive for EU and third-countries investors;
4. encouraging retail participation and strengthening investor protection.

The main changes classified into three areas:

- consolidated tape (CT);
- market structure and transparency;
- forwarding and execution of client orders.

**Consolidated tape**

The report seeks to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, as well as enhance the international competitiveness of the Unions capital markets.

The amendments introduce an exemption from mandatory contributions for markets that either (i) represent less than 1% of the total EU average daily trading volume, or (ii) do not contribute significantly to the fragmentation of EU markets as they mostly trade shares for which they are also the venue of primary admission.

Regardless of the exemption granted to smaller regulated markets under this Regulation from the mandatory contribution of market data to the consolidated tape, a dedicated revenue participation scheme for the consolidated tape for shares and ETFs should be established, to incentivise their opt-in to the mandatory contribution scheme, which should remain nonetheless entirely voluntary.

**Market structure and transparency**

According to Members, to ensure an adequate level of transparency, the price and the volume of a non-equity transaction should be published as close to real time as possible and the price should only be delayed until maximally the end of the trading day. However, in order not to expose liquidity providers in non-equity instruments to undue risk, it should be possible to **mask the price and volume** of very large transactions for a longer period of time, which should **not exceed four weeks**.

To simplify the **pre-trade transparency regime** for bonds and derivatives, the size specific to the instrument should be removed, and the large in scale size should be lowered so that only one threshold remains at an adequate level. ESMA should regularly review the calibrations of the deferrals applicable to the various buckets, with the goal to gradually decrease them should the qualitative and quantitative evidence allow it.

**Ban on payment for forwarding client orders for execution**

The report noted that investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to any third party for their execution. A new Article has been introduced stating that this provision should not apply to fees, commissions or non-monetary benefits related to the forwarding of professional clients orders for execution, where permitted under the approved and public tariff structure of a regulated market or MTF.

**Transparency**

HÜBNER Danuta
Maria
HÜBNER Danuta
Maria
HÜBNER Danuta
Maria
HÜBNER Danuta
Maria
HÜBNER Danuta
Maria
ZANNI Marco
DE LANGE
Esther
FITZGERALD
Frances
DE LANGE
Esther
DE LANGE
Esther
FITZGERALD
Frances
FITZGERALD
Frances
DE LANGE
Esther
DE LANGE
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