

21 December 2022

The European Securities and Markets Authority (“ESMA”) issues a Public Statement regarding the Best Execution Reporting Obligation by Venues

Legislative Requirement

Article 27(3) of Markets in Financial Instruments Directive II (“MiFID II”) requires execution venues to make available to the public, reports related to the quality of execution of transactions on their venues. RTS 27 further specifies the content and format of these reports (“RTS 27 reports”).

Temporary Suspension of RTS 27 Reporting Obligation

It has been determined that RTS 27 reports are rarely read and do not enable investors and other users to make meaningful comparisons on the basis of the information they contain.

Consequently, as part of the European Union Recovery Package by the MiFID II amending Directive, a temporary suspension of the periodic reporting obligation to the public on execution venues as stipulated within Article 27(3) of MiFID II has been set out, until 28 February 2023.

Current Amendments

On 25 November 2021, the European Commission published its legislative proposal on the review of the Markets in Financial Instruments Regulation (MiFIR) and MiFID II, which includes a proposal to delete the RTS 27 reporting obligation. This proposal is currently subject to a legislative procedure by the Council of the European Union and the European Parliament.

The legislative procedure is unlikely to be concluded by 28 February 2023 (that is, by the expiration date of the temporary suspension of the RTS 27 reporting obligation). In other words, it is likely that the RTS 27 reporting obligation will re-apply after 28 February 2023 and it is expected that such a re-application will be only temporary (until the reviewed MiFID II Directive would apply).

ESMA acknowledges that a re-application of the RTS 27 reporting obligation after 28 February 2023 would require execution venues to deploy significant resources to restart and maintain the reporting, possibly for a short period, until its expected abolishment.

Next Steps

In order to address this situation, ESMA has issued a [Public statement](#) outlining its expectation to all National Competent Authorities concerned, not to prioritise supervisory actions towards execution venues from 1 March 2023 until the forthcoming legislative amendment to Article 27(3) of MiFID II becomes applicable.