Amendments to the Markets in Financial Instruments Regulation (MiFIR)

2021/0385(COD) - 16/01/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 518 votes to 46, with 34 abstentions, a legislative resolution 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 proposed Regulation aims to **facilitate the emergence of a consolidated tape** for each asset class and to amend certain aspects of Regulation (EU) No 600/2014 in order to **improve transparency on markets in financial instruments, and to further enhance the level playing field** between regulated markets and systematic internalisers, as well as enhance the international competitiveness of the Union's capital markets.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Consolidated market data

The agreed revision establishes EU-level '**consolidated tapes**' or centralised data feeds for different kinds of assets, bringing together market data provided by platforms on which financial instruments are traded in the EU. This will make it easier for both professional and retail investors to access key information such as the price of instruments and the volume and time of transactions.

Market data from all trading platforms should be included in consolidated tapes, which will aim to publish the information as close as possible to real time. As a result, investors should have access to up-to-date transaction information for the whole of the EU.

Small trading venues

In order to avoid the negative impact the consolidated tape might have on small trading venues, an **opt-in mechanism** should be established. That opt-in mechanism should apply to investment firms operating SME growth markets and to market operators whose annual trading volume of shares represents 1 % or less of the annual trading volume of shares in the Union.

Competitive selection

ESMA should be empowered to periodically organise a competitive selection procedure to select a single entity which is able to provide the consolidated tape for each specified asset class for a limited period of time.

The purpose of the selection procedure is to award the right to operate a consolidated tape for a period of five years.

ESMA should, for all classes, select a candidate on the basis of its technical abilities to operate a consolidated tape, including its ability to ensure business continuity and resilience, as well as its ability to use modern interface technologies, the organisation of its management and decision-making processes, its

methods for ensuring data quality, the costs required for developing and operating a consolidated tape, the simplicity of the licences that users have to enter into in order to receive the core market data and regulatory data.

Transparency rules

The amended Regulation contains provisions on :

- pre-trade transparency obligations imposed on (i) trading venues in respect of bonds, structured finance products and emission allowances; (ii) trading venues in respect of derivatives; and (iii) trading venues in respect of package order;

- pre-trade transparency requirements for trading venues in respect of package orders;

- post-trade transparency requirements for trading venues in respect of bonds, structured finance products, emission allowances and derivatives;

- deferred publication in respect of bonds, structured finance products or emission allowances.

Organisational requirements for consolidated tape providers (CTPs)

A consolidated tape provider should, in accordance with the conditions for authorisation referred to in the Regulation:

- collect all data transmitted by data contributors in relation to the asset class for which it is authorised;

- collect fees from users, while providing access, free of charge, to the consolidated tape to retail investors, academics, civil society organisations and competent authorities;

- in the case of the consolidated tape for shares and ETFs, redistribute part of its revenue;

- disseminate core market data and regulatory data to users as a continuous electronic live data stream on non-discriminatory terms as close to real time as technically possible;

- ensure that the core market data and regulatory data are easily accessible, machine-readable and usable for all users, including retail investors;

- have systems in place that can effectively check the completeness of the data transmitted by data contributors, identify obvious errors, and request the re-submission of data;

- where the CTP is controlled by a group of economic operators, have a compliance system in place to ensure that the operation of the consolidated tape does not result in a distortion of competition.

Prohibition of receiving payment for order flow

The amended regulation imposes a general ban on ‘payment for order flow’ (PFOF), a practice through which brokers receive payments for forwarding client orders to certain trading platforms. The text also introduces a possibility to Member States where the practice of payment for order flow already existed to allow investment firms under its jurisdiction to be exempt from the ban provided that PFOF is only provided to clients in that Member State. However, this practice must be phased out by 30 June 2026.