2016/0034(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation Markets in financial instruments; market abuse; securities settlement in the EU and central securities depositories: certain dates 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) Subject

2.50.03 Securities and financial markets, stock exchange, CIUTS,

2.50.08 Financial services, financial reporting and auditing

investments

2.50.10 Financial supervision

| ey players | | | |
|----------------------|------------------------------------|---|------------|
| uropean arliament | Committee responsible | Rapporteur | Appointed |
| | ECON Economic and Monetary Affairs | FERBER Markus (PPE) | 04/02/2016 |
| | | Shadow rapporteur | |
| | | DODDS Anneliese (S&D) | |
| | | SWINBURNE Kay (ECR) | |
| | | VAN NIEUWENHUIZEN Cora (ALDE) | |
| | | DE MASI Fabio (GUE/NGL) | |
| | | GIEGOLD Sven (Verts/ALE) | |
| | | KAPPEL Barbara (ENF) | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | 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. | |

| Council of the European Union | Council configuration | Meetings | Date | | |
|--|---|----------|---------------|--|--|
| | Economic and Financial Affairs ECOFIN | 3475 | 2016-06-17 | | |
| | | | | | |
| European Commission | Commission DG | | Commissioner | | |
| | Financial Stability, Financial Services and Capital Markets Union | | HILL Jonathan | | |
| | | | | | |
| European Economic and Social Committee | | | | | |

| Date | Event | Reference | Summary |
|------------|---|---------------|---------|
| 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 | Decision by Parliament, 1st reading | T8-0244/2016 | Summary |
| 07/06/2016 | Results of vote in Parliament | | |
| 07/06/2016 | Debate in Parliament | \odot | |
| 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 |
| Amendments and repeals | 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 165 |
| Mandatory consultation of other institutions | European Economic and Social Committee |

| Stage reached in procedure | Procedure completed |
|----------------------------|---------------------|
| Committee dossier | ECON/8/05722 |

Documentation gateway

European Parliament

| Document type | Committee | Reference | Date | Summary |
|---|-----------|--------------|------------|---------|
| Committee draft report | | PE576.963 | 16/02/2016 | |
| Amendments tabled in committee | | PE578.559 | 02/03/2016 | |
| Committee report tabled for plenary, 1st reading/single reading | | A8-0125/2016 | 11/04/2016 | Summary |
| Text agreed during interinstitutional negotiations | | PE604.829 | 18/05/2016 | |
| Text adopted by Parliament, 1st reading/single reading | | T8-0244/2016 | 07/06/2016 | Summary |

Council of the EU

| Document type | Reference | Date | Summary |
|-----------------|----------------|------------|---------|
| Draft final act | 00024/2016/LEX | 22/06/2016 | 1 |

European Commission

| Document type | Reference | Date | Summary |
|--|---------------|------------|---------|
| Legislative proposal | COM(2016)0057 | 10/02/2016 | Summary |
| Commission response to text adopted in plenary | SP(2016)487 | 14/07/2016 | |

National parliaments

| Document type | Parliament /Chamber | Reference | Date | Summary |
|---------------|------------------------|---------------|------------|---------|
| Contribution | PT_PARLIAMENT | COM(2016)0057 | 22/04/2016 | |
| Contribution | IT_SENATE | COM(2016)0057 | 04/05/2016 | |

Other institutions and bodies

| Institution/body | Document type | Reference | Date | Summary |
|---|---|---|------------|---------|
| ECB | European Central Bank: opinion, guideline, report | CON/2016/0027 OJ C 223 21.06.2016, p. 0003 | 29/04/2016 | |
| EESC Economic and Social Committee: opinion, report | | CES1921/2016 | 25/05/2016 | |

Final act

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

2016/0034(COD) - 10/02/2016 - Legislative proposal

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 Parliament's 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

2016/0034(COD) - 23/06/2016 - Final act

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 Miffed 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.

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

2016/0034(COD) - 07/06/2016 - Text adopted by Parliament, 1st reading/single reading

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

Parliament's 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.