

Market conduct

Chapter 9

Data reporting service

9.1 Application, introduction, approach and structure

Application

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This chapter applies to:

- (1) a *UK person* (that is a *person* whose registered office or head office is located in the *UK*) seeking authorisation to provide a *data reporting service*;
- (2) a UK branch of a *third country person* seeking authorisation to provide a *data reporting service*;
- (3) a *UK MiFID investment firm* operating a *trading venue* seeking verification of its rights to provide a *data reporting service* under regulation 5(b) or (c) of the *DRS Regulations*;
- (4) a *UK RIE* seeking verification of its rights to provide a *data reporting service* under regulation 5(d) of the *DRS Regulations*; and
- (5) a *data reporting services provider*.

This chapter is not limited to operators of *trading venues* and *firms*.

[Note: article 59 of *MiFID*]

Introduction

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Title V of *MiFID* sets out harmonised market data services authorisation and supervision requirements. These are designed to ensure a necessary level of quality of trading activity information across *EU* financial markets for users, and for *competent authorities* to receive accurate and comprehensive information on relevant transactions. These requirements provide for:

- (1) *approved publication arrangements (APAs)* to:
 - (a) improve the quality of trade transparency information published in relation to *over the counter* trading; and
 - (b) contribute significantly to ensuring such data is published in a way that facilitates its consolidation with data published by *trading venues*;
- (2) *consolidated tape providers (CTPs)* to supply a comprehensive consolidated tape of *equity* and equity-like *financial instruments* data from all *APAs* and *trading venues* to make it easier for market

participants to gain access to a consolidated view of trade transparency information;

- (3) *CTPs* to enable a comprehensive consolidated tape for non-equity *financial instruments* with an extended date for the application of national measures transposing *MiFID*; and
- (4) *approved reporting mechanisms (ARMs)* to provide the service of transaction reporting on behalf of *investment firms*.

Approach to transposition

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The market data services authorisation and supervision requirements in Title V of *MiFID* are implemented in the *UK* through a combination of:

- (1) HM Treasury legislation in the form of:
 - (a) the *DRS Regulations* which set out a separate regulatory framework for *persons* providing one or more *data reporting service* in the *UK*; and
 - (b) the *MiFI Regulations* which set out additional provisions addressing requirements imposed by *MiFIR* and *EU regulations*;
- (2) this chapter; and
- (3) *EU regulations* including:
 - (a) *MiFID RTS 1*;
 - (b) *MiFID RTS 2*;
 - (c) *MiFID RTS 3*;
 - (d) *MiFID RTS 13*;
 - (e) *MiFID ITS 3*;
 - (f) the *MiFID Org Regulation*; and
 - (g) the *MiFIR Delegated Regulation*.

Structure

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The following table provides an overview of this chapter:

Handbook reference	Topic and specific application
MAR 9.1	Application, introduction, approach and structure
MAR 9.2	Authorisation and verification
MAR 9.3	Notification and information
MAR 9.4	Supervisory regime
MAR 9.5	Frequently Asked Questions
MAR 9 Annex 1D to MAR Annex 10D	Forms

9.2 Authorisation and verification

Application form and notification form for members of the management body

- 9.2.1 **D** (1) Each of the following must complete the forms in (2):
- (a) an applicant for a *data reporting service* authorisation;
 - (b) a *UK MiFID investment firm* operating a *trading venue* seeking verification of its rights to provide a *data reporting service* under regulation 5(b) and (c) of the *DRS Regulations*; and
 - (x) a *UK RIE* operating a *trading venue* seeking verification of its rights to provide a *data reporting service* under regulation 5(d) of the *DRS Regulations*.
- (2) The forms in (1) are:
- (a) the application form at ■ MAR 9 Annex 1D; and
 - (b) the notification form for the list of members of the *management body* at ■ MAR 9 Annex 2D.

- 9.2.2 **G** ■ MAR 9 Annex 1D and ■ MAR 9 Annex 2D are derived from Annex I and Annex II respectively of *MiFID ITS 3*.

Variation of authorisation form

- 9.2.3 **D** If a *data reporting services provider* wishes to extend or otherwise vary its *data reporting service* authorisation it must complete the variation of authorisation form at ■ MAR 9 Annex 3D.
- 9.2.4 **G** ■ MAR 9 Annex 3D requires completion of Annex I of *MiFID ITS 3* in the case of an extension of authorisation and, if relevant, Annex II of *MiFID ITS 3* if the members of the *management body* are different from the existing authorised *data reporting services provider*.

Cancellation of authorisation form

- 9.2.5 **D** If a *data reporting services provider* wishes to cancel all of its *data reporting service* authorisation it must complete the cancellation of authorisation form at ■ MAR 9 Annex 4D.

Provision of the forms in MAR 9 Annexes 1D, 2D, 3D and 4D to the FCA
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A person must provide ■ MAR 9 Annexes 1D, 2D, 3D and 4D together with supporting documentation to the FCA by:

- (1) emailing MiFiDII.Applications@fca.org.uk; or
- (2) posting to the FCA addressed to:

The Financial Conduct Authority
FAO The Authorisations Support Team
12 Endeavour Square
London
E20 1JN.

9.3 Notification and information

Notification to the FCA of material changes in information provided at the time of authorisation

- 9.3.1 **D** A *data reporting services provider* must promptly complete the material change in information form at ■ MAR 9 Annex 5D to inform the *FCA* of any material change to the information provided at the time of its authorisation.

Notification to the FCA of change to membership of management body

- 9.3.2 **D** A *data reporting services provider* must promptly complete the notification form for changes to the membership of the management body form at ■ MAR 9 Annex 6D to inform the *FCA* of any change to the membership of its *management body* before any change to the membership of its *management body* or when this is impossible within 10 working days after the change.

- 9.3.3 **G** ■ MAR 9 Annex 6D is derived from Annex III of *MiFID ITS 3*.

Notification to the FCA by an APA or a CTP of compliance with connectivity requirements

- 9.3.4 **D** As soon as possible and within 2 weeks of being authorised as an *APA* or a *CTP*, an *APA* or a *CTP* seeking a connection to the *FCA's market data processor system* must:

- (1) sign the *MIS confidentiality agreement* at ■ MAR 9 Annex 10D; and
- (2) email it to MDP.onboarding@fca.org.uk or post an original signed copy to the *FCA* addressed to:

The Financial Conduct Authority
 FAO The Markets Reporting Team
 12 Endeavour Square
 London
 E20 1JN.

- 9.3.5 **G** (1) To ensure the security of the *FCA's* systems, the *FCA* requires an *APA* or a *CTP* to sign the *MIS confidentiality agreement* before receiving the *FCA's Market Interface Specification (MIS)*.

(2) Once the *FCA* receives the *MIS confidentiality agreement* from the *APA* or the *CTP*, the *FCA* will provide the *APA* or the *CTP* with *Market Interface Specification (MIS)*.

9.3.6 **D** An *APA* or a *CTP* seeking a connection to the *FCA's market data processor system* must complete the form at **MAR 9 Annex 7D** as soon as possible and no later than 4 weeks following authorisation as an *APA* or a *CTP*.

9.3.7 **G** The *FCA* expects an *APA* or a *CTP* to deal with it in an open and co-operative way in order to establish a technology connection for the provision of data to the *FCA* as required by article 22 of *MIFIR*.

Yearly notifications to the FCA

9.3.8 **D** A *data reporting services provider* must complete the yearly notification form in **MAR 9 Annex 8D**:

- (1) within 3 *months* of the 12 *month* anniversary of the commencement of its authorisation; and
- (2) then every year within 3 *months* of the same date.

9.3.9 **G** For example, if a *data reporting services provider's* authorisation commences on 3 January 2018, the *data reporting services provider* must provide the information in **MAR 9 Annex 8D** on or before 3 April 2019 and then every year thereafter on or before 3 April of that particular year.

Ad hoc notifications to the FCA

9.3.10 **D** A *data reporting services provider* must promptly complete the ad hoc notification form in **MAR 9 Annex 9D** to notify the *FCA* in respect of all matters required by *MiFID RTS 13*.

9.3.11 **G** Information to be provided in **MAR 9 Annex 9D** includes information relating to breaches in physical and electronic security measures and service interruptions or connection disruptions.

Provision of the forms in MAR 9 Annexes 5D, 6D, 7D, 8D and 9D to the FCA

9.3.12 **D** A *data reporting services provider* must promptly provide the forms in **MAR 9 Annexes 5D, 6D, 7D, 8D and 9D** and supporting documentation to the *FCA*:

- (1) at MRT@fca.org.uk; or
- (2) by posting it to the *FCA*, addressed to:

The Financial Conduct Authority
The Markets Reporting Team
12 Endeavour Square

London
E20 1JN.

9.4 Supervisory regime

Overview of supervisory approach

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The *FCA* expects to have an open, cooperative and constructive relationship with *data reporting services providers* to enable it to understand and evaluate *data reporting services providers'* activities and their ability to meet the requirements in the *DRS Regulations*. As part of that relationship the *FCA* expects a *data reporting services provider* to provide it with information about any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *data reporting services provider's* risk profile or resources.

The *FCA* will, when necessary, arrange meetings between the *FCA* and key individuals of the *data reporting services provider* for this purpose.

The *FCA* expects the *data reporting services provider* to take its own steps to assure itself that it will continue to satisfy the *data reporting services provider* organisational requirements when considering any changes to its business operations.

Overview of supervisory tools

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The *FCA* will use a variety of tools to monitor whether a *data reporting services provider* complies with its regulatory requirements. These tools include (but are not limited to):

- (1) desk-based reviews;
- (2) liaison with other regulators;
- (3) meetings with management and other representatives of a *data reporting services provider*;
- (4) on-site visits;
- (5) use of auditors;
- (6) use of a *skilled person*;
- (7) reviews and analysis of periodic returns and notifications;
- (8) transaction monitoring;
- (9) making recommendations for preventative or remedial action;

- (10) giving individual guidance;
- (11) restrictions on permission to carry on a *data reporting service*; and
- (12) imposing individual requirements.

9.5 Frequently Asked Questions

- 9.5.1** **G** **Q.**Are there any grandfathering arrangements for *ARMs* or trade data monitors operating prior to *MiFID*?
- A.**No. *Persons* wishing to provide a *data reporting service* must apply to be authorised as a *data reporting services provider*.
- 9.5.2** **G** **Q.**We are a *trading venue* operator. Can you please clarify how we can provide a *data reporting service* under the derogation from needing authorisation in article 59(2) of *MiFID*?
- A.**
- (1) The derogation (or exception) in article 59(2) of *MiFID* allows Member States to allow a *trading venue* operator to provide a *data reporting service* without prior authorisation, if the operator has verified that they comply with Title V of *MiFID*.
 - (2) The *United Kingdom* has adopted this derogation in regulation 5(b) to (d) of the *DRS Regulations*.
 - (3) As a result a *trading venue* operator must apply for verification of its rights to provide a *data reporting service* using the form in **MAR 9 Annex 1D**.
 - (4) The application process for a *trading venue* operator to become a *data reporting services provider* is the same as for a *person* to become a *data reporting services provider*, except for the requirements for the *management body* of a *market operator* addressed in **MAR 9.5.3G** below.
 - (5) Successful applicants will become *data reporting services providers* and will be required to comply with the regulatory framework in **MAR 9.1.3G**. They will be subject to fees charged by the *FCA* in **MAR 9.5.4G**.
- 9.5.3** **G** **Q.**We are a *market operator*. Can we use the same members of our *management body*?
- A.**Yes. Where the members of the *management body* of the *APA*, the *CTP* or the *ARM* are the same as the members of the *management body* of the *regulated market* you will be deemed to have complied with the *management body* requirement in regulation 13(1)(a) and (b) of the *DRS Regulations*. You will only be required to complete the full name and personal national identification number or equivalent thereof fields of

■ MAR 9 Annex 2D for each of these members of the *management body*. For any additional members of the *management body* of the *APA*, the *CTP* or the *ARM* that are not the same as the members of the *management body* of the *regulated market*, you must notify us of these persons by completing all fields of ■ MAR 9 Annex 2D. You must notify us of any change in membership using ■ MAR 9 Annex 6D.

9.5.4 **G** Q.Where can I find out information about fees to be charged in respect of *data reporting services providers*?

A.See ■ FEES 3.2.7R and ■ FEES 4 Annex 11R.

9.5.5 **G** Q.How do we go about applying to be an *ARM*?

A.In summary:

- (1) You should complete:
 - (a) all of the questions in the application form at ■ MAR 9 Annex 1D; and
 - (b) the notification form for the list of members of the *management body* at ■ MAR 9 Annex 2D.
- (2) You should sign the *MIS confidentiality agreement* at ■ MAR 9 Annex 10D.
- (3) You should provide the documents referred to in:
 - (a) (1)(a) and (b) together with supporting documentation to the *FCA* as set out in ■ MAR 9.2.6D; and
 - (b) (2) to the *FCA* as set out in ■ MAR 9.3.4D.
- (4) After receiving the documents referred to in (3) and subject to our review of them, we will provide you with a copy of our *Market Interface Specification (MIS)*.
- (5) If you consider that you can meet our specifications you should obtain the *FCA MDP on-boarding application form* at ■ MAR 9 Annex 7D and provide the completed form and any relevant documents to us together with the associated fee in ■ FEES 3.2.7R and ■ FEES 4 Annex 11R. Our consideration of your application for authorisation as an *ARM* is dependent on us reviewing a completed *FCA MDP on-boarding application form*.
- (6) We may at any time request additional information to proceed with the assessment of the application.
- (7) During our consideration of your application for authorisation or verification, we will normally invite you to work with us to undertake the appropriate testing required for you to establish connection to us.
- (8) Having obtained and examined the necessary information we require from you, we will do one of three things in relation to your application for authorisation:
 - (a) authorise you as an *ARM*; or

- (b) issue a *warning notice* that we propose to authorise you as an *ARM* with the imposition of a requirement on your authorisation; or
- (c) issue a *warning notice* that we propose to refuse the application for authorisation.

(9) If we issue a *warning notice*, the procedure in *DEPP* applies.

(10) If we approve your application for authorisation or verification, we will confirm your authorised status.

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Q. Does an *investment firm* need to be authorised as an *ARM* to send *transaction reports* to the *FCA*?

A. No. If you are a *MiFID investment firm* that wishes to send *transaction reports* to us to satisfy your own transaction reporting obligations under *MiFIR*, you do not need to become authorised as an *ARM*. You are permitted to connect directly to us although there will be a requirement to sign a *MIS confidentiality agreement* with us, to satisfy connectivity requirements and to undertake testing associated with connecting to our systems. For the associated costs please see ■ **FEES 3.2.7R** for relevant on-boarding costs. If you want to connect to us to send reports on behalf of other *investment firms* then you must become authorised as an *ARM*.

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Q. Where can I find a list of *data reporting services providers*?

A. Article 59(3) of *MiFID* requires *ESMA* to establish a list of all *data reporting services providers*. Further, regulation 6 of the *DRS Regulations* requires the *FCA* to maintain a register of *data reporting services providers*.

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Q. I am a *data reporting services provider* and am experiencing technical issues. What do I do?

A. In the first instance please contact Market Data Processor support at MDP.technicalOnboarding@soprasteria.com and copy DRSP supervision at MRT@fca.org.uk with a succinct summary of the technical issue(s) encountered.

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Q. Can any *trading venue* report *transactions* for the purposes of article 26 of *MiFIR* to the *FCA* using an *ARM*?

A. Yes. The ability of a *trading venue* to submit data to an *ARM* is consistent with the definition of an *ARM* which enables a *trading venue* to submit information, on its own behalf, to an *ARM*. It is also consistent with paragraph 2 of article 9 [Security] of *MiFID RTS 13*, which enables a third party to submit information to an *ARM* on behalf of others. More generally, it supports the purpose underlying *MiFIR* and *MiFID* of facilitating the detection of cases of *market abuse*.

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Q. Can a group of *investment firms* aggregate their reporting via an internal hub?

A. Yes. A group of *investment firms* may use a hub to assist with aggregating transaction reporting data for each legal entity that is an *investment firm* in the group for the purposes of article 26 of *MiFIR* provided that the hub is

either an *ARM* or the hub uses an *ARM* to report the transaction data to the *FCA*. Paragraph 2 of article 9 [Security] of *MiFID RTS 13* confirms that an *investment firm* ('reporting firm') may use a third party ('submitting firm') to submit information to an *ARM*.

9.5.11 **G** **Q.** Which form should I use if I wish to cancel some, but not all, of my *data reporting service*?

A. You should use the form at ■ **MAR 9 Annex 3D**. If you expect the wind-down (run-off) of the service that you wish to cancel to take longer than six *months* you should discuss this with your usual supervisory contact.

9.5.12 **G** **Q.** I intend to apply to be authorised to provide the *data reporting service* of an *APA*. May I establish connectivity requirements while my application for authorisation is being considered?

A. Yes. The *MIS confidentiality agreement* is available on our website at www.fca.org.uk/markets/market-data-regimes/market-data-reporting-mdp together with instructions on how to obtain the *Market Interface Specification (MIS)* for connectivity.

Application form to provide the service of ARM and/or APA and/or CTP

[*Editor's note:* The form can be found at this address: <https://www.fca.org.uk/publication/forms/mifid-data-reporting-services-form.docx>]

Notification form for list of members of a management body

[*Editor's note:* The form can be found at this address: <https://www.fca.org.uk/publication/forms/mifid-management-body-members-form.docx>]

Variation of Authorisation of a Data Reporting Services Provider (DRSP)

The form can be found at this address: <https://www.fca.org.uk/publication/forms/drsp-variation-authorisation-form.doc>

Cancellation of Authorisation of a Data Reporting Services Provider (DRSP)

The form can be found at this address: <https://www.fca.org.uk/publication/forms/drsp-cancellation-form.doc>

Material Change in information for a Data Reporting Services Provider (DRSP)

The form can be found at this address: <https://www.fca.org.uk/publication/forms/drsp-material-change-notification.doc>

Notification form for changes to the membership of the management body

The form can be found at this address: <https://www.fca.org.uk/publication/forms/mifid-changes-management-body-form.docx>

FCA MDP on-boarding application form

[*Editor's note:* The form can be found at this address: https://www.fca.org.uk/publication/forms/mdp_on-boarding_application_form.doc]

Yearly Notification Form for a Data Reporting Service Provider (DRSP)

The form can be found at this address: <https://www.fca.org.uk/publication/forms/drsp-yearly-notification-form.doc>

Data Reporting Services Provider (DRSP) Ad hoc notification

The form can be found at this address: <https://www.fca.org.uk/publication/forms/drsp-ad-hoc-change-notification.doc>

MIS confidentiality agreement

[*Editor's note:* The form can be found at this address: <https://www.fca.org.uk/publication/forms/mis-confidentiality-agreement.docx>]

