

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS
TRANSPARENCY) (No 2) INSTRUMENT 2023**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under:
- (1) articles 7 and 20 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012; and
 - (2) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138P (Technical standards);
 - (b) section 138Q (Standards instruments);
 - (c) section 138S (Application of Chapters 1 and 2); and
 - (d) section 137T (General supplementary powers).
- B. The rule-making powers listed above are specified for the purposes of section 138Q(2) (Standards instruments) of the Act.

Pre-conditions to making

- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with section 138P of the Act.
- D. A draft of this instrument has been approved by the Treasury in accordance with section 138R of the Act.

Interpretation

- E. In this instrument, any reference to any provision of direct EU legislation is a reference to it as it forms part of retained EU law.

Modifications

- F. The following technical standard is amended in accordance with the Annex to this instrument.

Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser
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Commencement

G. This instrument comes into force on 29 April 2024.

Citation

H. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Transparency) (No 2) Instrument 2023.

By order of the Board
28 September 2023

In this Annex, underlining indicates new text and striking through indicates deleted text.

Annex

Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser

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Article 15

Deferred publication of transactions (Article 7(1) and 20(1) and (2) of Regulation (EU) No 600/2014)

- (1) Where the FCA authorises the deferred publication of the details of transactions pursuant to Article 7(1) of Regulation (EU) No 600/2014, market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make public each transaction no later than at the end of the relevant period set out in Tables 4, 5 and 6 of Annex II provided that the following criteria are satisfied:
 - (a) the transaction is between an investment firm dealing on own account other than through matched principal trading and another counterparty;
 - (b) the size of the transaction is equal to or exceeds the relevant minimum qualifying size specified in Tables 4, 5 or 6 of Annex II, as appropriate.
- (2) The relevant minimum qualifying size for the purposes of point (b) in paragraph 1 shall be determined in accordance with the average daily turnover calculated as set out in Article 7.
- (3) For transactions for which deferred publication is permitted until the end of the trading day as specified in Tables 4, 5 and 6 of Annex II, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public the details of those transactions either:
 - (a) as close to real-time as possible after the end of the trading day which includes the closing auction, where applicable, for transactions executed more than two hours before the end of the trading day;
 - (b) no later than noon local time on the next trading day for transactions not covered in point (a).

For transactions that take place outside a trading venue, references to trading days and closing auctions shall be those of the most relevant market in terms of liquidity as determined in accordance with Article 4.

- (4) Without prejudice to paragraph (1), where a transaction in an ETF is executed at its net asset value (NAV) before the NAV is published, deferred publication is permitted regardless of the size of the transaction. Once the NAV is published, market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make public each transaction in accordance with the timeframes set out in Article 14.