Chapter 23

Commission Delegated Regulation (EU) 2017/583

Article 13 Methodology to perform the transparency calculations(Article 9(1) and (2), Article 11(1) and Article 22(1) of Regulation (EU) No 600/2014)

(1) For determining financial instruments or classes of financial instruments for which there is not a liquid market for the purposes of Article 6 and point (b) of paragraph 1 of Article 8, the following methodologies shall be applied across asset classes:

(a) Static determination of liquidity for:

(i) the asset class of securitised derivatives as defined in Table 4.1 of Annex III;

(ii) the following sub-asset classes of equity derivatives: stock index options, stock index futures/forwards, stock options, stock futures/forwards, stock dividend options, stock dividend futures/forwards, dividend index options, dividend index futures/forwards, volatility index options, volatility index futures/forwards, ETF options, ETF futures/forwards and other equity derivatives as defined in Table 6.1 of Annex III;

(iii) the asset class of foreign exchange derivatives as defined in Table 8.1 of Annex III;

(iv) the sub-asset classes of other interest rate derivatives, other commodity derivatives, other credit derivatives, other C10 derivatives, other contracts for difference (CFDs), other emission allowances and other emission allowance derivatives as defined in Tables 5.1, 7.1, 9.1, 10.1, 11.1, 12.1 and 13.1 of Annex III.

(b) Periodic assessment based on quantitative and, where applicable, qualitative liquidity criteria for:

(i) all bond types except ETCs and ETNs as defined in Table 2.1 of Annex III and as further specified in Article 17(1);

(ii) ETC and ETN bond types as defined in Table 2.4 of Annex III;

(iii) the asset-class of interest rate derivatives except the sub-asset class of other interest rate derivatives as defined in Table 5.1of Annex III;

(iv) the following sub-asset classes of equity derivatives: swaps and portfolio swaps as defined in Table 6.1 of Annex III;

(v) the asset-class of commodity derivatives except the sub-asset class of other commodity derivatives as defined in Table 7.1 of Annex III;

(vi) the following sub-asset classes of credit derivatives: index credit default swaps and single name credit default swaps as defined in Table 9.1 of Annex III;

(vii) the asset-class of C10 derivatives except the sub-asset class of other C10 derivatives as defined in Table 10.1 of Annex III;

(viii) the following sub-asset classes of contracts for difference (CFDs): currency CFDs and commodity CFDs as defined in Table 11.1 of Annex III;

(ix) the asset-class of emission allowances except the sub-asset class of other emission allowances as defined in Table 12.1 of Annex III;

(x) the asset-class of emission allowance derivatives except the sub-asset class of other emission allowance derivatives as defined in Table 13.1 of Annex III.

(c) Periodic assessment based on qualitative liquidity criteria for:

(i) the following sub-asset classes of credit derivatives: CDS index options and single name CDS options as defined in Table 9.1 of Annex III;

(ii) the following sub-asset classes of contracts for difference (CFDs): equity CFDs, bond CFDs, CFDs on an equity future/forward and CFDs on an equity option as defined in Table 11.1 of Annex III.

(d) Periodic assessment based on a two tests methodology for structured finance products as defined in Table 3.1 of Annex III.

(2) For determining the size specific to the financial instrument referred to in Article 5 and the orders that are large in scale compared with normal market size referred to in Article 3, the following methodologies shall be applied:

(a) the threshold value for:

(i) ETC and ETN bond types as defined in Table 2.5 of Annex III;

(ii) the asset class of securitised derivatives as defined in Table 4.2 of Annex III;

(iii) each sub-class of equity derivatives as defined in Tables 6.2 and 6.3 of Annex III;

(iv) each sub-class of foreign exchange derivatives as defined in Table 8.2 of Annex III;

(v) each sub-class considered not to have a liquid market for the asset classes of interest rate derivatives, commodity derivatives, credit derivatives, C10 derivatives and contracts for difference (CFDs) as defined in Tables 5.3, 7.3, 9.3, 10.3 and 11.3 of Annex III;

(vi) each sub-asset class considered not to have a liquid market for the asset classes of emission allowances and emission allowance derivatives as defined in Tables 12.3 and 13.3 of Annex III;

(vii) each structured finance product where Test-1 under paragraph 1(d) is not passed as defined in Table 3.2 of Annex III;

(viii) each structured finance product considered not to have a liquid market where only Test-1 under paragraph 1(d) is passed as defined in Table 3.3 of Annex III.

(b) the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile as further specified in Article 17(3) and the threshold floor for:

(i) each bond type, except ETCs and ETNs, as defined in Table 2.3 of Annex III;

(ii) each sub-class having a liquid market for the asset classes of interest rate derivatives, commodity derivatives, credit derivatives, C10 derivatives and CFDs as defined in Tables 5.2, 7.2, 9.2, 10.2 and 11.2 of Annex III;

(iii) each sub-asset class having a liquid market for the asset classes of emission allowances and emission allowance derivatives as defined in Tables 12.2 and 13.2 of Annex III;

(iv) each structured finance product considered to have a liquid market where Test-1 and Test-2 under paragraph 1(d) are passed as defined in Table 3.3 of Annex III.

(3) For the determination of the size specific to the financial instrument referred to in Article 8(1)(c) and transactions that are large in scale compared with normal market size referred to in Article 8(1)(a), the following methodologies shall be applied:

(a) the threshold value for:

(i) ETC and ETN bond types as defined in Table 2.5 of Annex III;

(ii) the asset class of securitised derivatives as defined in Table 4.2 of Annex III;

(iii) each sub-class of equity derivatives as defined in Tables 6.2 and 6.3 of Annex III;

(iv) each sub-class of foreign exchange derivatives as defined in Table 8.2 of Annex III;

(v) each sub-class considered not to have a liquid market for the asset classes of interest rate derivatives, commodity derivatives, credit derivatives, C10 derivatives and contracts for difference (CFDs) as defined in Tables 5.3, 7.3, 9.3, 10.3 and 11.3 of Annex III;

(vi) each sub-asset class considered not to have a liquid market for the asset class of emission allowances and emission allowance derivatives as defined in Tables 12.3 and 13.3 of Annex III;

(vii) each structured finance product where Test-1 under paragraph 1(d) is not passed as defined in Table 3.2 of Annex III;

(viii) each structured finance product considered not to have a liquid market where only Test-1 under paragraph 1(d) is passed as defined in Table 3.3 of Annex III.

(b) the trade size below which lies the percentage of the transactions corresponding to the trade percentile for each bond type, except ETCs and ETNs, as defined in Table 2.3 of Annex III;

(c) the greatest of the trade size below which lies the percentage of the transactions corresponding to the trade percentile, the trade size below which lies the percentage of volume corresponding to the volume percentile and the threshold floor for each sub-class considered to have a liquid market for the asset classes of interest rate derivatives, commodity derivatives, credit derivatives, C10 derivatives and CFDs as provided in Tables 5.2, 7.2, 9.2, 10.2 and 11.2 of Annex III;

(d) the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile and the threshold floor for:

(i) each sub-asset class considered to have a liquid market for the asset classes of emission allowances and emission allowance derivatives as provided in Tables 12.2 and 13.2 of Annex III;

(ii) each structured finance product considered to have a liquid market where the Test-1 and Test-2 under paragraph 1(d) are passed as defined in Table 3.3 of Annex III.

(4) For the purpose of paragraph 3(c) where the trade size corresponding to the volume percentile for the determination of the transaction that is large in scale compared with normal market size is higher than the 97,5 trade percentile, the trade volume shall not be taken into consideration and the size specific to the financial instrument referred to in

Article 8(1)(c) and the size of transactions large in scale compared with normal market size referred to in Article 8(1)(a) shall be determined as the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile and the threshold floor.

(5) In accordance with Delegated Regulations (EU) 2017/590 and (EU) 2017/577 the FCA shall collect on a daily basis the data from trading venues, APAs and CTPs which is necessary to perform the calculations to determine:

(a) the financial instruments and classes of financial instruments not having a liquid market as set out in paragraph 1;

(b) the sizes large in scale compared to normal market size and the size specific to the instrument as set out in paragraphs 2 and 3.

(7) For the purpose of paragraph 1(b) and (d), paragraph 2(b) and paragraph 3(b), (c) and (d), the FCA shall take into account transactions executed in the relevant area between 1 January and 31 December of the preceding year.

(8) The trade size for the purpose of paragraph 2(b) and paragraph 3(b), (c) and (d) shall be determined according to the measure of volume as defined in Table 4 of Annex II. Where the trade size defined for the purpose of paragraphs 2 and 3 is expressed in monetary value and the financial instrument is not denominated in euros, the trade size shall be converted to the currency in which that financial instrument is denominated by applying the European Central Bank euro foreign exchange reference rate as of 31 December of the preceding year.

(9) Market operators and investment firms operating a trading venue may convert the trade sizes determined according to paragraphs 2 and 3 to the corresponding number of lots as defined in advance by that trading venue for the respective sub-class or sub-asset class. Market operators and investment firms operating a trading venue may maintain such trade sizes until application of the results of the next calculations performed in accordance to paragraph 17.

(10) The calculations referred to in paragraph 2(b)(i) and paragraph 3(b) shall exclude transactions with a size equal to or smaller than EUR 100000.

(11) For the purpose of the determinations referred to in paragraphs 2 and 3, points (b) of paragraph 2 and points (b), (c) and (d) of paragraph 3 shall not apply whenever the number of transactions considered for calculations is smaller than 1000, in which case the following thresholds shall be applied:

(a) EUR 100000 for all bond types except ETCs and ETNs;

(b) the threshold values defined in paragraph 2(a) and paragraph 3(a) for all financial instruments not covered in point (a) of this paragraph.

(12) Except when they refer to emission allowances or derivatives thereof, the calculations referred to in paragraph 2(b) and paragraph 3(b), (c) and (d) shall be rounded up to the next:

(a) 100000 where the threshold value is smaller than 1 million;

(b) 500000 where the threshold value is equal to or greater than 1 million but smaller than 10 million;

(c) 5 million where the threshold value is equal to or greater than 10 million but smaller than 100 million;

(d) 25 million where the threshold value is equal to or greater than 100 million.

(13) For the purpose of paragraph 1, the quantitative liquidity criteria specified for each asset class in Annex III shall be determined according to Section 1 of Annex III.

(14) For equity derivatives that are admitted to trading or first traded on a trading venue, that do not belong to a sub-class for which the size specific to the financial instrument referred to in Article 5 and Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and Article 8(1)(a) have been published and which belong to one of the sub-asset classes specified in paragraph 1(a)(ii), the size specific to the financial instrument and the size of orders and transactions large in scale compared with normal market size shall be those applicable to the smallest average daily notional amount (ADNA) band of the sub-asset class to which the equity derivative belongs.

(15) Financial instruments admitted to trading or first traded on a trading venue which do not belong to any sub-class for which the size specific to the financial instrument referred to in Article 5 and Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and Article 8(1)(a) have been published shall be considered not to have a liquid market until application of the results of the calculations performed in accordance to paragraph 17. The applicable size specific to the financial instrument referred to in Articles 5 and Article 8(1)(c) and the size of orders and transactions large in scale compared with normal market size referred to in Article 3 and Article 8(1)(a) shall be those of the sub-classes determined not to have a liquid market belonging to the same sub-asset class.

(16) After the end of the trading day but before the end of that day, trading venues shall submit to the FCA the details included in Annex IV for performing the calculations referred to in paragraph 5 whenever the financial instrument is admitted to trading or first traded on that trading venue or whenever the details previously provided have changed.

(17) The FCA shall ensure the publication of the results of the calculations referred to under paragraph 5 for each financial instrument and class of financial instrument by 30 April of the year following the date of application of Regulation (EU) No 600/2014 and by 30 April of each year thereafter. The results of the calculations shall apply from 1 June each year following publication.

(18) For the purposes of the calculations in paragraph 1(b)(i) and by way of derogation from paragraphs 7, 15 and 17, the FCA shall, in respect of bonds except ETCs and ETNs, ensure the publication of the calculations referred to under paragraph 5(a) on a quarterly basis, on the first day of February, May, August and November following the date of application of Regulation (EU) No 600/2014 and on the first day of February, May, August and November each year thereafter. The calculations shall include transactions executed in the relevant area during the preceding calendar quarter and shall apply for the 3 month period beginning on the sixteenth day of February, May, August and November each year.

(19) Bonds, except for ETCs and ETNs, that are admitted to trading or first traded on a trading venue during the first two months of a quarter shall be considered to have a liquid market as specified in Table 2.2 of Annex III until the application of the results of the calculation of the calendar quarter.

(20) Bonds, except for ETCs and ETNs, that are admitted to trading or first traded on a trading venue during the last month of a quarter shall be considered to have a liquid market as specified in Table 2.2 of Annex III until the application of the results of the calculation of the following calendar quarter.