

## PUBLIC STATEMENT

### COVID-19: Clarification of issues related to the publication of reports by execution venues and firms as required under RTS 27 and 28

1. The European Securities and Markets Authority (ESMA) is issuing this Public Statement to clarify issues regarding the publication by execution venues and firms of the general best execution reports required under RTS 27 and 28<sup>1</sup> of MiFID II<sup>2</sup>.
2. ESMA and competent authorities are aware of difficulties encountered by execution venues<sup>3</sup> and firms<sup>4</sup> in preparing these reports due to the COVID-19 pandemic and the related actions taken by the Member States to prevent contagion. In accordance with Article 31(2) of the ESMA Regulation<sup>5</sup>, ESMA is issuing this Public Statement to promote coordinated action by competent authorities in response to these adverse events and provide clarity to execution venues and firms.
3. The information published in accordance with RTS 27 is intended to provide the public and firms with relevant data to measure the quality of execution on execution venues. The information published in accordance with RTS 28 is intended to enable the public and investors to evaluate the quality of a firm's execution practices by requiring publication of valuable information about how and where the firm has executed client orders.
4. The next general best execution reports are due to be published on the following dates:
  - for **execution venues, 31 March 2020** in respect of **RTS 27 reports** on the quarterly information regarding the reporting period from 1 October to 31 December 2019; and

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<sup>1</sup> RTS 27 refers to the Commission Delegated Regulation (EU) 2017/575 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions (OJ L 87, 31.3.2017, p. 152). RTS 28 refers Commission Delegated Regulation (EU) 2017/576 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution (OJ L 87, 31.3.2017, p. 166)

<sup>2</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349)

<sup>3</sup> Trading venues, systematic internalisers, market makers and other liquidity providers.

<sup>4</sup> Investment firms and credit institutions when providing one or more investment services and/or performing investment activities

<sup>5</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- for **firms, 30 April 2020** in respect of **RTS 28 reports** on the annual information regarding the reporting period of 2019, as indicated in Q&A 5 of the ESMA Questions and Answers on MiFID II Investor Protection and Intermediaries topics<sup>6</sup>.
5. ESMA recognises that, considering the exceptional circumstances created by the COVID-19 outbreak, execution venues and firms may need to deprioritise efforts for the publication of these general reports concerning 2019.
  6. In this regard, ESMA recommends that NCAs take into account these circumstances by considering the possibility that:
    - execution venues unable to publish RTS 27 reports due by 31 March 2020 may only be able to publish them **as soon as reasonably practicable after that date and no later than by the following reporting deadline** (i.e. 30 June 2020); and
    - firms may only be able to publish the RTS 28 reports due by 30 April 2020 on or before **30 June 2020**.
  7. Considering the exceptional circumstances, ESMA encourages national competent authorities not to prioritise supervisory action against execution venues and firms in respect of the deadlines of the general best execution reports for the periods referred to above. Furthermore, ESMA encourages competent authorities to generally apply a risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of RTS 27 and 28 concerning these deadlines.
  8. ESMA recommends that firms and execution venues keep records of the internal decisions taken in relation to the expected delay.
  9. ESMA reminds firms of their core obligations to achieve best execution for clients and to ensure fair order handling and allocations during current market volatility

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<sup>6</sup> ESMA35-43-349.