



Brussels, 1.2.2023
C(2023) 696 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 1.2.2023

amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/588 as regards the annual application date of the calculations of the average daily number of transactions for shares, depository receipts and exchange-traded funds for the purposes of the tick sizes

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Delegated Regulation (EU) 2017/588¹ (RTS 11) sets out the tick size regime for shares, depository receipts and exchange-traded funds. A tick size is the minimum increment at which a price of a financial instrument can be changed. The Annex to RTS 11 contains the applicable tick size based on the average daily number of transactions (ADNT). Where currently the calculations of the ADNT apply as of 1 April each year, the amendment ensures that they apply the first Monday of April of each year instead. This amendment aims to align the application date of calculations in RTS 11 with the application date of calculations in Delegated Regulation (EU) 2017/587 (RTS 1).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The amendment to RTS 11 has not been separately consulted. It is a technical amendment required to ensure that the revised RTS 1 and RTS 11 are aligned regarding the application date of the calculation of average daily number of transactions in RTS 11 and of other transparency calculations based on RTS 1.

The amendments to RTS 1, including the one regarding the application date of calculations, have been consulted in accordance with Article 10 of Regulation (EU) 1095/2010. Consultation Paper which jointly dealt with the review of EU/2017/587 and EU/2017/583 was published on 9 July 2021 on the ESMA website. The Consultation period ended on 1 October and in total 58 replies were received. In addition ESMA sought the views of the Securities and Markets Stakeholders Group established in accordance with Article 37 of the ESMA regulation.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) 1095/2010, ESMA submitted its assessment, including the analysis of costs and benefits related to the draft technical standards.²

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 1 aligns the application of calculations of the average daily number of transactions with the amendment in RTS 1 dealing with the application date of other transparency calculations.

¹ Commission Delegated Regulation (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depository receipts and exchange-traded funds (OJ L 87, 31.3.2017, p.411).

² The full document can be found here: [esma70-156-4944 final report - rts 1 review.pdf \(europa.eu\)](https://esma70-156-4944-final-report-rts-1-review.pdf).

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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/EU³, and in particular Article 49(3), third subparagraph, thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2017/588⁴ sets out the tick size regime for shares, depository receipts and exchange-traded funds. In accordance with Article 3(1) of that Delegated Regulation, by 1 March each year, the competent authority for a specific share or depository receipt is to publish calculations of the average daily number of transactions for that financial instrument. In accordance with Article 3(4) of that Delegated Regulation, trading venues are to use those calculations to determine the applicable tick size from 1 April following that publication. That date of 1 April each year leads to difficulties for trading venues and their members or participants with regard to the implementation of the required changes to their IT systems and infrastructures. In particular, when 1 April is in the middle of the week, the implementation of the required changes needs to take place overnight. This gives trading venues limited time to update and test their IT systems and infrastructures. It is appropriate to allow trading venues and their members or participants to use the weekend to make the necessary adaptations to their IT systems and infrastructures. The published data should therefore apply from the first Monday of April each year. Such an amendment, in addition, ensures alignment with application of published calculations in accordance with Article 17(2) of Commission Delegated Regulation (EU) 2017/587⁵. Article 17(2) of that Delegated Regulation as amended by Commission Delegated Regulation (EU) [OP: please insert reference to C(2023) 245

³ OJ L 173, 12.6.2014, P. 349.

⁴ Commission Delegated Regulation (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depository receipts and exchange-traded funds (OJ L 87, 31.3.2017, p. 411).

⁵ 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, depository 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 (OJ L 87, 31.3.2017, p. 387).

final, once published]⁶, specifies that calculations on the most relevant market in terms of liquidity, the average daily turnover and the average value of transactions that are published by 1 March, are to apply from the first Monday of April following that publication.

- (2) Delegated Regulation (EU) 2017/588 should therefore be amended accordingly.
- (3) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (4) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁷,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2017/588

In Article 3 of Delegated Regulation (EU) 2017/588, paragraph 4 is replaced by the following:

‘4. Trading venues shall apply the tick sizes of the liquidity band corresponding to the average daily number of transactions as published in accordance with paragraph 1 from the first Monday of April following that publication.’.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1.2.2023

For the Commission
The President
Ursula VON DER LEYEN

⁶ Commission Delegated Regulation (EU) [OP: please insert full title of C(2023) 245 final, once published].

⁷ 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).