
TO : Cyprus Investment Firms
FROM : Cyprus Securities and Exchange Commission
DATE : April 6, 2020
CIRCULAR No : C375
SUBJECT : COVID-19: ESMA's Public Statements regarding the application of MiFID II/MiFIR

The Cyprus Securities and Exchange Commission (the “CySEC”) wishes herein to draw the attention of the Cyprus Investment Firms (the “CIFs”) to the Public Statements issued recently by the European Securities and Markets Authority (the “ESMA”), clarifying the application of MiFID II/MiFIR requirements. These public statements are referred to the recording of telephone conversations, the publication of reports by execution venues and firms as required under RTS 27 and 28 and the new tick size regime for systematic internalisers. In particular:

1. Clarification of issues related to the application of MiFID II requirements on the recording of telephone conversations

Due to the outbreak of COVID-19 and its significant immediate challenges to financial institutions, and in order to clarify issues regarding the application by credit institutions and investment firms of the MiFID II requirements on the recording of telephone conversations, ESMA issued a [Public Statement](#) on 20 March 2020.

MiFID II states that mandatory records to be kept by firms include, amongst other things, recording of telephone conversations relating to, at least, transactions concluded when dealing on own account and the provision of client order services that relate to the reception, transmission and execution of orders.

According to the abovementioned public statement, in case the recording of relevant conversations may not be practicable due to the exceptional circumstances created by the COVID-19 outbreak, investment firms must adopt other alternative arrangements to ensure full compliance with the existing regulatory requirements.

2. Clarification of issues related to the publication of reports by execution venues and firms as required under RTS 27 and 28

For the same reasons as above, ESMA also issued a [Public Statement](#) on 31 March 2020 with regards to the publication of reports by execution venues and firms as required under RTS 27 and 28. ESMA and competent authorities are aware of difficulties encountered by execution venues and firms in preparing these reports due to the COVID-

19 pandemic and therefore, ESMA is issuing this public statement to promote coordinated actions by competent authorities in response to these adverse events and provide clarity to execution venues and firms. Taking into account the exceptional circumstances created by the COVID-19 outbreak, CySEC will follow the recommendation of ESMA as stated in the abovementioned public statement. To this end:

- i. 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
- ii. firms may only be able to publish the RTS 28 reports due by 30 April 2020 on or before 30 June 2020.

3. Actions to mitigate the impact of COVID-19 on the EU financial markets regarding the new tick size regime for systematic internalisers

In addition, ESMA issued a [Public Statement](#) on 20 March 2020 regarding the compliance with the new tick size regime for systematic internalisers, introduced to MiFIR by Regulation (EU) No 2019/2033 ('Investment Firm Regulation' or 'IFR').

ESMA understands that the compliance with the new tick size requirements as of 26 March 2020 could create unintended operational risks for EU market participants in the current market situation in the context of the increasing spread of the COVID-19 pandemic and therefore ESMA is issuing the abovementioned public statement to ensure coordinated supervisory actions needed in response to the effect of the aforementioned adverse events on the application of IFR for systematic internalisers.

ESMA expects competent authorities not to prioritise their supervisory actions in relation to the new tick-size regime introduced in MiFIR towards systematic internalisers, as of 26 March 2020 and until 26 June 2020, and to generally apply their risk-based supervisory powers in their day to-day enforcement of applicable legislation in this area in a proportionate manner.

Taking into account the exceptional circumstances created by the COVID-19 outbreak, CySEC will follow the recommendation of ESMA as stated in the abovementioned public statement.

Yours sincerely,

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Chairman, Cyprus Securities and Exchange Commission