MIFID II: ESMA ISSUES LATEST DOUBLE VOLUME CAP DATA

Today's updates include DVC data and calculations for the period of 1 May 2017 to 30 April 2018 as well as updates to already published DVC periods.

The number of new breaches is 52 equities for the 8% cap, applicable to all trading venues, and 7 equities for the 4% cap, that applies to individual trading venues. Trading under the waivers for all new instruments in breach of the DVC thresholds should be suspended from 12 June 2018 to 12 December 2018. The instruments for which caps already existed from previous periods will continue to be suspended.

In addition, ESMA highlights that some trading venues in the meantime have submitted corrected data that affects past DVC publications. For a limited number of two instruments, this means that previously identified breaches of the 8% and 4% caps prove to be incorrect. For these instruments, the suspensions of trading under the waivers should be lifted.

As of 7 June, there is a total of 932 instruments suspended.

Background

MiFID II introduced the DVC to limit the amount of dark trading in equities allowed under the reference price waiver and the negotiated transaction waiver. The DVC is calculated per instrument (ISIN) based on the rolling average of trading in that instrument over the last 12 months.

European Parliament elections: Council reaches agreement on a set of measures to modernise EU electoral law

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The Council reached agreement on new measures to update EU electoral law.

On 7 June 2018 it approved a draft decision amending the 1976 Electoral Act which lays down a number of common rules concerning elections to the European Parliament.

Once the text has been finalised in all official languages, it will be submitted to the European Parliament, which will be asked to give its consent to the package as it stands.

The new rules seek to enhance citizens’ participation in the EP elections, raise awareness of their European character and prevent irregular voting, while respecting the constitutional and electoral traditions of the member states.

Among a series of measures, the Council suggests setting an obligatory threshold of 2% to 5% for constituencies with more than 35 seats. This rule would also apply to single-constituency member states. Member states would have to comply with this obligation at the latest in time for the EP elections in 2024.

> This is a welcome agreement after two and a half years of negotiations within the Council on a list of reform proposals. Member states considered it appropriate to modernise certain aspects of the EU electoral law and establish a minimum threshold at EU level, while ensuring that this will be carefully targeted.
>
> *Ekaterina Zaharieva, deputy prime minister for judicial reform and minister of foreign affairs of Bulgaria*

Other changes to the EU electoral law include new provisions on ‘double voting’, voting in third countries, different voting methods, and the visibility of European political parties in the member states.

According to the text agreed in the Council, member states will in future have an obligation to put in place effective penalties in cases where an EU citizen votes in more than one member state. They will also have to designate contact authorities for exchanging data on citizens who are seeking to vote or stand as candidates in member states of which they are not nationals. This exchange of information will need to start at least six weeks before the EP elections.

Member states will also be encouraged to take measures to allow their citizens residing in third countries to vote in elections to the European Parliament. However, they will remain free to decide on this issue in accordance with their national law.

The new rules also recognise the right of member states to allow different forms of voting, including internet voting, provided that certain strict conditions are respected, as well as allow for the display of the name or logo of European political parties on ballot papers.

Background

The discussions within the Council have been based on a proposal adopted by the European Parliament in November 2015.

The treaties give the European Parliament a right to draw up a proposal for its electoral procedure. The necessary provisions are to be decided by the Council acting unanimously after obtaining the Parliament's consent. They enter into force after ratification in the member states.

Any changes to the 1976 Electoral Act would have to be adopted by mid-2018 at the latest for member states to be able to apply them for the 2019 EP elections.

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EU budget: New Single Market programme to empower and protect Europeans

The new programme will strengthen the governance of the EU's internal market. It will support businesses' – and in particular SMEs' – competitiveness and will promote human, animal and plant health and animal welfare, as well as establish the framework for financing European statistics.

Elżbieta **Bieńkowska**, Commissioner for the Internal Market, Industry, Entrepreneurship and SMEs, said: *"The Single Market is the beating heart of the EU. In the 25 years of its existence it has brought enormous benefits to EU citizens and businesses. For the Single Market to stay fit for purpose, we need to look after it properly. Today we are proposing a new programme to further increase the positive impact on Europeans".*

Věra **Jourová**, Commissioner for Justice, Consumers and Gender Equality, added: *"We need to ensure that consumers are able to benefit from their rights. This means providing them with practical advice on consumer issues and removing dangerous products from the market. This is what the new Single Market Programme will achieve. For the first time, we will also fund collective redress procedures, as we announced in the New Deal for Consumers."*

Commissioner for Health and Food Safety, Vytenis **Andriukaitis**, added: *"I am pleased that the food safety pillar is one of the main beneficiaries of the New Single Market Programme. This is the recognition of the importance of securing the smooth functioning of the internal market in food products, by preventing and when necessary combating animal and plant diseases that can have major consequences for public health and the EU economy. It allows us to strengthen further our efforts in the areas of animal welfare, food waste and the fight against fraud."*

The new Single Market Programme will support:

- **Consumer protection and empowerment**: The new programme will guarantee the enforcement of consumer rights, ensure a high level of consumer protection and product safety and assist consumers when they encounter problems, for example when shopping online. It will also facilitate consumers' access to redress, as proposed in the New Deal for Consumers.

- **Competitiveness of businesses, in particular SMEs**: Building on the success of the current programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME), the Commission is proposing to strengthen the support given to small business to scale up and expand across borders;

- **A high level of human, animal and plant health:** EU citizens will continue to have access to safe and high quality food in the integrated European Single Market. Under the new programme, funding will support the safe production of food, the prevention and eradication of animal diseases and plant pests, and the improvement of animal welfare in the EU. It will also promote market access for EU food producers, contribute to exports to third-countries, and significantly support the agri-food industry as a leading sector of the EU economy;

- **Effective enforcement and first class standards**: The programme will strengthen cooperation between Member States and the Commission to ensure that EU rules are properly implemented and enforced. The programme will also support European standardisation organisations in developing up-to-date and future-proof standards.

- **Fair competition in the digital age**: The programme will help the Commission to further enhance its IT tools and expertise that it uses to effectively enforce competition rules in the digital economy (i.e. to respond to market developments such as the use of big data and algorithms) as well as to strengthen cooperation between the Commission and Member State authorities and courts.

- **High quality European statistics:** The programme will provide funding to national statistics institutes for the production and dissemination of European statistics which are indispensable for decision-making in all policy areas.

Next steps

A swift agreement on the overall long-term EU budget and its sectoral proposals is essential to ensure that EU funds start delivering results as soon as possible. Delays similar to the ones experienced at the beginning of the current 2014-2020 budgetary period would reduce the financial assistance and technical support provided to SMEs, disturb actions to guarantee food or product safety and disrupt the development of new standards.

An agreement on the next long-term budget in 2019 would provide for a seamless transition between the current long-term budget (2014-2020) and the new one and would ensure predictability and continuity of activities to the benefit of all.

Background

The Commission is proposing a budget of €4 billion for the Single Market Programme. In addition, €2 billion allocated under the InvestEU Fund, in particular through its Small and Medium-Sized Enterprises Window, will significantly contribute to the objectives of programme.

The Single Market allows Europeans to travel freely, study, work, live and fall in love across borders. They can buy what they want, where they want, and benefit from greater choice and lower prices. European businesses – large and small – can expand their customer base and exchange products and services more easily across the EU. Simply put, the Single Market is Europe's best asset to generate growth and foster competitiveness of European companies in globalised markets.

The new Single Market Programme follows the Commission's vision for the next long-term budget proposed on 2 May 2018. It is a modern, simple and flexible programme which consolidates a large range of activities that were previously financed separately, into one coherent programme. This will reduce overlaps and improve cooperation. Ultimately, it will ensure continuity in the efficient delivery of the Single Market on the ground, while providing better value for money for EU citizens.

More information

Legal texts and factsheets:

Factsheet with success examples – 25 Years of the Single Market

Joint statement on the occasion of the 25th anniversary of the European Single Market

More information on the EU budget for the future can be found here

[EU budget: New Single Market programme to empower and protect Europeans]

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Security Union: Commission welcomes agreement on stronger rules criminalising money laundering

The Commission welcomes the agreement reached by the European Parliament and the EU Member States on strengthened criminal law measures to counter money laundering. The new rules, proposed by the Commission in December 2016, will harmonise offences and sanctions for money laundering, ensuring that dangerous criminals and terrorists face equally severe penalties for their crimes across the whole EU.

Welcoming the agreement, Commissioner for Migration, Home Affairs and Citizenship Dimitris **Avramopoulos said**: *"Over the past three years we have done our utmost to close down the space in which terrorists operate. With stronger and uniform rules on money-laundering across the European Union, we have tightened those screws even harder, making it more difficult for terrorists and criminals to get away with the profits of crime. Following the money of criminals and terrorists is an essential part of a Europe that protects and we will continue to deliver its building blocks, including this* *agreement, which I very much welcome.”*

Commissioner for the Security Union Julian **King** added: *“We need to hit terrorists and criminals in their pockets – cutting off their access to money is a vital part of preventing their crimes. The new rules agreed today are an important step in the fight against the financing of terrorism, helping to pave the way towards an effective and genuine Security Union.”*

Currently, all Member States criminalise money laundering. However, definitions of criminal offences and sanctions related to money laundering vary across Member States. Those differences leave existing national rules open to exploitation by terrorists and criminals, who are more likely to commit crimes where penalties are less stringent. The newly agreed rules harmonise the definition of criminal offences and sanctions related to money laundering, including the proceeds of cybercrime, and remove obstacles to cross-border judicial and police cooperation. At the same time, the new rules bring EU norms in line with international obligations in this area.

Next steps

The provisional agreement was reached on 30 May during the final trilogue, and endorsed by the Council today. It must now be formally approved by the European Parliament and the Council of the EU. Following approval, the Directive will be published in the EU’s Official Journal and enter into force 20 days later.

Background

Each year an estimated €110 billion is generated from criminal activity within the EU, corresponding to 1% of the EU GDP. Depending on the Member State, between 10% and 70% of criminal investigations involving money laundering have a cross-border dimension. Terrorists often finance their activities through crime and use money laundering schemes to convert, conceal or acquire the proceeds of criminal activities.

Security is a top priority of the Juncker Commission. In the past 3 years, the Commission has taken decisive action to deny terrorists and criminals the means to commit their crimes. Building on the European Agenda on Security, in February 2016 the European Commission set out an Action Plan against terrorist financing to ensure that Member States have the necessary tools at their disposal to address new threats. In this context, on 21 December 2016, the Commission presented three measures, a Regulation on cash controls, a Regulation on mutual recognition of criminal asset freezing and confiscation orders and a Directive to criminalise money laundering. On 23 May, EU Member States and the European Parliament reached an agreement on key measures to control illicit cash flows in and out of the EU.

For More Information

Press Release – Security Union: Commission adopts stronger rules to fight terrorism financing

Press Release – Security Union: Commission welcomes agreement on its proposal to tackle illicit cash flows