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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, depositary receipts and exchange-traded funds

(Text with EEA relevance)

(OJ L 87, 31.3.2017, p. 411)

Amended by:

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**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, depositary receipts and exchange-traded funds****(Text with EEA relevance)***Article 1***Most relevant market in terms of liquidity**

For the purposes of this Regulation, the most relevant market in terms of liquidity for a share or a depositary receipt shall be considered to be the most relevant market in terms of liquidity as referred to in Article 4(1)(a) of Regulation (EU) No 600/2014 and specified in Article 4 of Commission Delegated Regulation (EU) 2017/587 ⁽¹⁾.

*Article 2***Tick size for shares, depositary receipts and exchange-traded funds****(Article 49(1) and (2) of Directive 2014/65/EU)**

1. Trading venues shall apply to orders in shares or depositary receipts a tick size which is equal to or greater than the one corresponding to:

- (a) the liquidity band in the table in the Annex corresponding to average daily number of transactions in the most relevant market in terms of liquidity for that instrument; and
- (b) the price range in that liquidity band corresponding to the price of the order.

2. By way of derogation from paragraph 1(a), where the most relevant market in terms of liquidity for a share or depositary receipt operates only a trading system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention, trading venues shall apply the liquidity band corresponding to the lowest average daily number of transactions in the table in the Annex.

3. Trading venues shall apply to orders in exchange-traded funds a tick size which is equal to or greater than the one corresponding to:

⁽¹⁾ 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, depositary 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 (see page 387 of this Official Journal).

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- (a) the liquidity band in the table in the Annex corresponding to the highest average daily number of transactions; and
- (b) the price range in that liquidity band corresponding to the price of the order.

4. The requirements set out in paragraph 3 shall only apply to exchange-traded funds the underlying financial instruments of which are solely equities subject to the tick size regime under paragraph 1 or a basket of such equities.

*Article 3***Average daily number of transactions for shares and depositary receipts**

(Article 49(1) and (2) of Directive 2014/65/EU)

1. By 1 March of the year following the date of application of Regulation (EU) No 600/2014 and by 1 March of each year thereafter, the competent authority for a specific share or depositary receipt shall, when determining the most relevant market in terms of liquidity for that share or depositary receipt calculate the average daily number of transactions for that financial instrument in that market and ensure the publication of that information.

The competent authority referred to in subparagraph 1 shall be the competent authority of the most relevant market in terms of liquidity as specified in Article 16 of Commission Delegated Regulation (EU) 2017/590 ⁽¹⁾.

2. The calculation referred to in paragraph 1 shall have the following characteristics:

- (a) it shall include, for each trading venue, transactions executed under the rules of that trading venue, excluding reference price and negotiated transactions flagged as set out in Table 4 of Annex I to Delegated Regulation (EU) 2017/587 and transactions executed on the basis of at least one order that has benefitted from a large in scale waiver and where the transaction size is above the applicable large-in-scale threshold as determined in accordance with Article 7 of Delegated Regulation (EU) 2017/587;
- (b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or has been traded on a trading venue and was not suspended from trading.

3. Paragraphs 1 and 2 shall not apply to shares and depositary receipts which were first admitted to trading or were first traded on a trading venue four weeks or less before the end of the preceding calendar year.

⁽¹⁾ Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (see page 449 of this Official Journal).

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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 1 April following that publication.

5. Before the first admission to trading or before the first day of trading of a share or depositary receipt, the competent authority of the trading venue where that financial instrument is to be first admitted to trading or is to be first traded shall estimate the average daily number of transactions for that trading venue, taking into account the previous trading history of that financial instrument, where applicable, as well as the previous trading history of financial instruments that are considered to have similar characteristics, and publish that estimation.

The tick sizes of the liquidity band corresponding to that published estimate average daily number of transactions shall apply from the publication of that estimate until the publication of the average daily number of transactions for that instrument in accordance with paragraph 6.

6. No later than six weeks after the first day of trading of the share or depositary receipt, the competent authority of the trading venue where the financial instrument was first admitted to trading or was first traded on a trading venue shall calculate and ensure the publication of the average daily number of transactions in that financial instrument for that trading venue, using the data relating to the first four weeks of trading of that financial instrument.

The tick sizes of the liquidity band corresponding to that published average daily number of transactions shall apply from the publication until a new average daily number of transactions for that instrument has been calculated and published in accordance with the procedure set out in paragraphs 1 to 4.

7. For the purposes of this Article, the average daily number of transactions for a financial instrument shall be calculated by dividing, for the relevant time period and the relevant trading venue, the total number of transactions in that financial instrument by the number of trading days.

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8. The competent authority for a specific share may adjust the average daily number of transactions calculated or estimated by that competent authority for that share in accordance with the procedure set out in paragraphs 1 to 7 where all of the following conditions are met:

- (a) the trading venue with the highest turnover for that share is located in a third country;
- (b) where that average daily number of transactions has been calculated and published in accordance with the procedure set out in paragraphs 1 to 4, it is equal to or greater than one.

When adjusting the average daily number of transactions for a share, the competent authority shall take into account the transactions executed on the third-country trading venue with the highest turnover for trading of that share.

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9. The competent authority that adjusted the average daily number of transactions for a share in accordance with paragraph 8 shall ensure the publication of that adjusted average daily number of transactions. Prior to that publication, the competent authority shall communicate the adjusted average daily number of transactions for that share to the competent authorities of the other trading venues operating in the Union where that share is traded.

10. Trading venues shall apply the tick sizes of the liquidity band corresponding to the adjusted average daily number of transactions from the second calendar day after its publication.

▼ B*Article 4***Corporate actions**

(Article 49(1) and (2) of Directive 2014/65/EU)

Where a competent authority considers that a corporate action may modify the average daily number of transactions of a particular financial instrument thereby causing this financial instrument to fall within a different liquidity band, the competent authority shall determine and ensure publication of a new applicable liquidity band for that financial instrument treating it as if it were first admitted to trading or first traded on a trading venue and apply the procedure set out in Article 3(5) and (6).

*Article 5***Transitional provisions**

1. The competent authority of the trading venue where a share or depositary receipt was first admitted to trading or has been traded for the first time before the date of application of Regulation (EU) No 600/2014, shall collect the necessary data and calculate and ensure the publication of the average daily number of transactions for that financial instrument and for that trading venue within the following time limits:

- (a) no later than 4 weeks prior to the date of application of Regulation (EU) No 600/2014 where the date on which shares or depositary receipts are traded for the first time on a trading venue within the Union is a date not less than 10 weeks prior to the date of application of Regulation (EU) No 600/2014;
- (b) no later than the date of application of Regulation (EU) No 600/2014 where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date falling within the period commencing 10 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending on the day preceding the date of application of Regulation (EU) No 600/2014.

2. The calculations referred to in paragraph 1(a) shall be carried out as follows:

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- (a) where the date on which shares or depositary receipts are traded for the first time on a trading venue within the Union is a date not less than 16 weeks prior to the date of application of Regulation (EU) No 600/2014, the calculation shall be based on data available for a 40-week reference period commencing 52 weeks prior to the date of application of Regulation (EU) No 600/2014;
- (b) where the date on which shares or depositary receipts are traded for the first time on a trading venue within the Union is a date within the period commencing 16 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending 10 weeks prior to the date of application of Regulation (EU) No 600/2014, the calculation shall be based on data available for the first 4-week trading period of the financial instrument;
- (c) where the date on which shares or depositary receipts are traded for the first time on a trading venue within the Union is a date falling within the period commencing 10 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending on the day preceding the date of application of Regulation (EU) No 600/2014, the calculation shall be based on the trading history of the share or depositary receipt or other financial instruments considered to have similar characteristics to those shares or depositary receipts.

3. The tick sizes of the liquidity band corresponding to the published average daily number of transactions referred to in paragraph 1 shall be applied until 1 April of the year following the date of application of Regulation (EU) No 600/2014. During that period, competent authorities shall ensure that the tick sizes for financial instruments referred to under points (b) and (c) of paragraph 2 and for which they are the competent authority, do not contribute to disorderly trading conditions. Where a competent authority identifies a risk for the orderly functioning of the markets due to such tick sizes, it shall determine and publish an updated average daily number of transactions for the relevant financial instruments to address that risk. It shall do so on the basis of longer and more comprehensive trading history data of those instruments. Trading venues shall immediately apply the liquidity band corresponding to that updated average daily number of transactions. They shall do so until 1 April of the year following the date of application of Regulation (EU) No 600/2014 or until any further publication by the competent authority in accordance with this paragraph.

*Article 6***Entry into force and application**

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

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It shall apply from 3 January 2018.

However, Article 5 shall apply from the date of entry into force of this Regulation.

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

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ANNEX

Tick size table

Price ranges	Liquidity bands					
	0 ≤ Average daily number of transactions < 10	10 ≤ Average daily number of transactions < 80	80 ≤ Average daily number of transactions < 600	600 ≤ Average daily number of transactions < 2 000	2 000 ≤ Average daily number of transactions < 9 000	9 000 ≤ Average daily number of transactions
0 ≤ price < 0,1	0,0005	0,0002	0,0001	0,0001	0,0001	0,0001
0,1 ≤ price < 0,2	0,001	0,0005	0,0002	0,0001	0,0001	0,0001
0,2 ≤ price < 0,5	0,002	0,001	0,0005	0,0002	0,0001	0,0001
0,5 ≤ price < 1	0,005	0,002	0,001	0,0005	0,0002	0,0001
1 ≤ price < 2	0,01	0,005	0,002	0,001	0,0005	0,0002
2 ≤ price < 5	0,02	0,01	0,005	0,002	0,001	0,0005
5 ≤ price < 10	0,05	0,02	0,01	0,005	0,002	0,001
10 ≤ price < 20	0,1	0,05	0,02	0,01	0,005	0,002
20 ≤ price < 50	0,2	0,1	0,05	0,02	0,01	0,005
50 ≤ price < 100	0,5	0,2	0,1	0,05	0,02	0,01
100 ≤ price < 200	1	0,5	0,2	0,1	0,05	0,02
200 ≤ price < 500	2	1	0,5	0,2	0,1	0,05
500 ≤ price < 1 000	5	2	1	0,5	0,2	0,1
1 000 ≤ price < 2 000	10	5	2	1	0,5	0,2
2 000 ≤ price < 5 000	20	10	5	2	1	0,5
5 000 ≤ price < 10 000	50	20	10	5	2	1
10 000 ≤ price < 20 000	100	50	20	10	5	2
20 000 ≤ price < 50 000	200	100	50	20	10	5
50 000 ≤ price	500	200	100	50	20	10