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*Plenary sitting*

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**A8-0125/2016**

11.4.2016

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates (COM(2016)0057 – C8-0027/2016 – 2016/0034(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Markus Ferber

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates**

**(COM(2016)0057 – C8-0027/2016 – 2016/0034(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0057),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0027/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0125/2016),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>3</sup> and Directive 2014/65/EU of the European Parliament and of the Council<sup>4</sup> are major pieces of financial legislation adopted in the wake of the financial crisis as regards securities markets, investment intermediaries and trading venues. The new framework reinforces and replaces Directive 2004/39/EC of the European Parliament and of the Council<sup>5</sup>.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</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>4</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>5</sup> Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

- (2) Regulation (EU) No 600/2014 and Directive 2014/65/EU establish requirements in relation to authorisation and operation of investment firms, regulated markets and data reporting services providers. It harmonises position-limits regime for commodity derivatives to improve transparency, support orderly pricing and prevent market abuse. It also introduces rules on high frequency trading and improves oversight of financial markets by harmonising administrative sanctions. Building on the rules already in place, the new framework also strengthens the protection of investors by introducing robust organisational and conduct requirements. The new rules are to apply from 3 January 2017.
- (3) The new framework introduced by Regulation (EU) No 600/2014 and Directive 2014/65/EU requires trading venues and systematic internalisers to provide competent authorities with financial instrument reference data that describe in a uniform manner the characteristics of every financial instrument subject to that Directive. Those data are also used for other purposes, for instance for the calculation of transparency and liquidity thresholds as well as for positions reporting of commodity derivatives.
- (4) In order to collect data in an efficient and harmonised manner, a new data collection infrastructure is being developed. To this end, the European Securities and Markets Authority ('ESMA'), in conjunction with competent national authorities, are obliged to establish a Financial Instruments Reference Data System ('FIRDS'). It will cover a wide range of financial instruments brought into the scope of Regulation (EU) No 600/2014 and will link data feeds of ESMA, national competent authorities ('NCAs') and trading venues across the Union. The vast majority of the new IT-systems underpinning FIRDS will need to be built from the ground, based on new parameters.
- (5) Given the complexity of the new framework and the need for a very high number of delegated and implementing acts, the date of applicability of Regulation (EU) No 600/2014 was deferred by 30 months from the date of entry into force. Despite this unusually long period, stakeholders, such as trading platforms, NCAs and ESMA are not in a position to ensure that the necessary data infrastructures will be in place and become operational by 3 January 2017. This is due to the size and complexity of the data needed to be collected and processed for the new framework to become operational, in particular for transaction reporting, transparency calculations and reporting of positions in commodity derivatives.
- (6) The absence of the data collection infrastructures has implications across the entire scope of Regulation (EU) No 600/2014 and Directive 2014/65/EU. Without data it will not be feasible to establish a precise delineation of financial instruments that fall within the scope of the new framework. Furthermore, it will not be possible to tailor the pre-trade and post-trade transparency rules, in order to determine which instruments are liquid and when waivers or deferred publication should be granted.
- (7) Absent the data, trading venues and investment firms will not be able to report executed transactions to competent authorities. In the absence of position reporting for commodity derivatives it will be difficult to enforce position limits on such contracts. With no position reporting, there is a limited ability to effectively detect breaches of the position limits. For instance, many of the requirements in relation to algorithmic trading are also dependent on data.

- (8) The absence of data collection infrastructures will also make it difficult for investment firms to apply best execution rules. Trading venues and systematic internalisers will not be able to publish data relating to the quality of execution of transactions on those venues. Investment firms will not be provided with important execution data to help them determine the best way to execute client orders.
- (9) In order to ensure legal certainty and avoid potential market disruption, it is necessary and justified to take urgent action to defer the entry into application of the whole framework, including all delegated and implementing acts.
- (10) The implementation process for data infrastructure involves five steps: business requirements, specifications, development, testing and deployment. ESMA estimates that those steps should be completed by January 2018 provided that there is legal certainty on the final requirements under the relevant regulatory technical standards no later than by June 2016.
- (11) In light of the exceptional circumstances and in order to enable ESMA, NCAs and stakeholders to complete the operational implementation, it is appropriate to defer the date of application of Regulation (EU) No 600/2014 by 12 months until 3 January 2018. Reports and reviews should be deferred accordingly.
- (11a) Investment firms often execute, on their own account or on behalf of their clients, transactions in derivatives and other financial instruments or assets that comprise a number of interlinked, contingent trades. Such package transactions enable investment firms and their clients to better manage their risks, with the price of each component of the package transaction reflecting the overall risk profile of the package rather than the prevailing market price of each component. Package transactions can take various forms, such as exchange for physicals, trading strategies executed on trading venues, or bespoke package transactions, and it is important to take those specificities into account when calibrating the applicable transparency regime. It is therefore appropriate to specify for the purpose of Regulation (EU) No 600/2014 the specific circumstances in which pre-trade transparency should not apply to package transactions, nor to any individual component of such transactions.***
- (12) Regulation (EU) 596/2014 of the European Parliament and of the Council<sup>1</sup> contains reference to the date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU. In order to ensure that references in Regulation (EU) 596/2014 to organised trading facilities, small and medium-sized enterprises' ('SME') growth markets, emission allowances or auctioned products based thereon do not apply until the date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU, Article 39(4) of Regulation (EU) 596/2014 stating that references to them are read as references to Directive 2004/39/EC should be adjusted taking into account the extension of the date of application of those acts.

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<sup>1</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).



- (13) The settlement of securities transactions is closely linked to securities trading. As such, Regulation (EU) 909/2014 of the European Parliament and of the Council<sup>1</sup> contains references to the date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU. Before that date, references to those two acts should be read as references to Directive 2004/39/EC. Regulation (EU) 909/2014 further creates a transitional regime for the application of the rules on settlement discipline to multilateral trading facilities ('MTFs') applying for registration as SME growth markets in accordance with Directive 2014/65/EU.
- (14) In order to ensure that Directive 2004/39/EC is referenced in Regulation (EU) 909/2014 until the extended date of application of Regulation (EU) No 600/2014 and Directive 2014/65/EU and that the transitional provisions for MTFs applying for registration as SME growth markets under Regulation (EU) 909/2014 are maintained so as to provide sufficient time for MTFs to apply for such registration under Directive 2014/65/EU, Regulation (EU) 909/2014 should be amended.
- (15) Regulations (EU) No 600/2014, (EU) No 596/2014 and (EU) No 909/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) No 600/2014 is amended as follows:

***(-1) In Article 1, the following paragraph is inserted:***

***'6a. Title II and Title III shall not apply to securities financing transactions as defined in Article 3(11) of Regulation (EU) 2015/2365.'***

***(-1a) In Article 2(1), the following points are inserted:***

***'(28a) 'securities financing transaction' or 'SFT' means a securities financing transaction as defined in Article 3(11) of Regulation (EU) 2015/2365;'***

***'(48) 'exchange for physical' or 'EFP' means a transaction in a derivative contract or other financial instrument contingent on the simultaneous execution of an equivalent quantity of an underlying physical asset;***

***(49) 'package transaction' means:***

***(a) an EFP; or***

***(b) a transaction involving the execution of two or more component transactions in financial instruments and which fulfils all of the following criteria:***

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<sup>1</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

*(i) the transaction is executed between two or more counterparties;*

*(ii) each component of the transaction bears meaningful economic or financial risk related to all the other components;*

*(iii) the execution of each component is simultaneous and contingent upon the execution of all the other components.';*

(1) In Article 4(7) '3 January 2017' is replaced by '3 January 2018'; and '3 January 2019' is replaced by '3 January 2020'.

(2) In Article 5(8) '3 January 2016' is replaced by '3 January 2017'.

*(2a) Article 9(1) is amended as follows:*

*(a) the following point is added:*

*'(d) a package transaction which meets one or more of the following criteria:*

*(i) at least one of its components is a financial instrument for which there is not a liquid market, or is an EFP;*

*(ii) at least one of its components is large in scale compared with the normal market size;*

*(iii) at least one of its components is executed on a request-for-quote or voice system and that component is above the size specific to the instrument.';*

*(b) the following subparagraph is added :*

*'Where a package transaction meets any of the criteria set out in point (d) of the first subparagraph, the competent authority shall be able to waive the obligation referred to in Article 8(1) for each individual component of the package.';*

*(2b) Article 18 is amended as follows:*

*(a) the following paragraph is inserted:*

*'2a. In relation to a package transaction in which one or more of the transaction's components comprise financial instruments which do not have a liquid market, systematic internalisers shall disclose quotes to their clients on request if they agree to provide a quote. That obligation may be waived where the conditions specified in Article 9(1) are met.';*

*(b) the following sentence is added at the end of paragraph 5:*

*'Without prejudice to paragraph 2a, where a systematic internaliser agrees to provide a quote in accordance with paragraph 1 for a package transaction, the obligation in this paragraph shall only apply to the package as a whole and not to any element of the package separately.'.*

(3) In Article 19(1) '3 January 2019' is replaced by '3 January 2020'.

- (4) In Article 26(10) ‘3 January 2019’ is replaced by ‘3 January 2020’;
- (5) Article 35(5) is amended as follows:
- (a) ‘3 January 2017’ is replaced by ‘3 January 2018’;
  - (b) ‘3 July 2019’ is replaced by ‘3 July 2020’;
- (6) In Article 37(2) ‘3 January 2017’ is replaced by ‘3 January 2018’;
- (7) Article 52 is amended as follows:
- (a) in paragraph 1, ‘3 March 2019’ is replaced by ‘3 March 2020’;
  - (b) in paragraph 4, ‘3 March 2019’ is replaced by ‘3 March 2020’;
  - (c) in paragraph 5, ‘3 March 2019’ is replaced by ‘3 March 2020’;
  - (d) in paragraph 6, ‘3 March 2019’ is replaced by ‘3 March 2020’;
  - (e) in paragraph 7, ‘3 July 2019’ is replaced by ‘3 July 2020’;
  - (f) in paragraph 8, ‘3 July 2019’ is replaced by ‘3 July 2020’;
  - (g) in the first subparagraph of paragraph 9, ‘3 July 2019’ is replaced by ‘3 July 2020’;
  - (h) in the second subparagraph of paragraph 9, ‘3 July 2021’ is replaced by ‘3 July 2022’;
  - (i) in the first subparagraph of paragraph 10, ‘3 July 2019’ is replaced by ‘3 July 2020’;
  - (j) in paragraph 11, ‘3 July 2019’ is replaced by ‘3 July 2020’;
  - (k) in the second subparagraph of paragraph 12, ‘3 January 2017’ is replaced by ‘3 January 2018’.
- (8) In the first subparagraph of Article 54(2) ‘3 July 2019’ is replaced by the following ‘3 July 2020’;
- (9) Article 55 is amended as follows:
- (a) the second paragraph is replaced by the following:

‘This Regulation shall apply from 3 January 2018.
  - (b) the fourth paragraph is replaced by the following:

‘Notwithstanding the second paragraph, Article 37(1), (2) and (3) shall apply from 3 January 2020’.

## *Article 2*

Regulation (EU) No 596/2014 is amended as follows:

- (1) In the first subparagraph of Article 39(4) '3 January 2017' is replaced by '3 January 2018'.
- (2) In the second subparagraph of Article 39(4) '3 January 2017' is replaced by '3 January 2018'.

## *Article 3*

Regulation (EU) No 909/2014 is amended as follows:

- (1) In point (b) of the second subparagraph of Article 76(5) '13 June 2017' is replaced by '13 June 2018'.
- (2) In Article 76(7) '3 January 2017' is replaced by '3 January 2018'.

## *Article 4*

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,

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the EU and on central securities depositories as regards certain dates		
<b>References</b>	COM(2016)0057 – C8-0027/2016 – 2016/0034(COD)		
<b>Date submitted to Parliament</b>	9.2.2016		
<b>Committee responsible</b> Date announced in plenary	ECON 25.2.2016		
<b>Committees asked for opinions</b> Date announced in plenary	DEVE 25.2.2016	ITRE 25.2.2016	JURI 25.2.2016
<b>Not delivering opinions</b> Date of decision	DEVE 16.3.2016	ITRE 23.2.2016	JURI 15.3.2016
<b>Rapporteurs</b> Date appointed	Markus Ferber 4.2.2016		
<b>Discussed in committee</b>	22.2.2016	7.4.2016	
<b>Date adopted</b>	7.4.2016		
<b>Result of final vote</b>	+: -: 0:	39 2 6	
<b>Members present for the final vote</b>	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, Esther de Lange, Markus Ferber, Jonás Fernández, Sven Giegold, Neena Gill, Roberto Gualtieri, Brian Hayes, Othmar Karas, Georgios Kyrtos, Alain Lamassoure, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Fulvio Martusciello, Marisa Matias, Costas Mavrides, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Pirkko Ruohonen-Lerner, Alfred Sant, Peter Simon, Theodor Dumitru Stolojan, Ramon Tremosa i Balcells, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Steven Woolfe, Pablo Zalba Bidegain, Marco Zanni		
<b>Substitutes present for the final vote</b>	Matt Carthy, Mady Delvaux, Marian Harkin, Ramón Jáuregui Atondo, Thomas Mann, Tibor Szanyi, Antonio Tajani, Romana Tomc, Nils Torvalds, Miguel Urbán Crespo, Beatrix von Storch		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Krzysztof Hetman		
<b>Date tabled</b>	11.4.2016		