

Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions (Text with EEA relevance)

CHAPTER I

DETERMINING LIQUID MARKETS FOR EQUITY INSTRUMENTS

Article 1

Determining liquid markets for shares (Article 2(1)(17)(b) of Regulation (EU) No 600/2014)

1 For the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014, a share that is traded daily shall be considered to have a liquid market where all of the following conditions are satisfied:

- a the free float of the share is:
 - (i) not less than EUR 100 million for shares admitted to trading on a regulated market;
 - (ii) not less than EUR 200 million for shares that are only traded on MTFs;
- b the average daily number of transactions in the share is not less than 250;
- c the average daily turnover for the share is not less than EUR 1 million.

2 For the purposes of paragraph 1(a), the free float of a share shall be calculated by multiplying the number of outstanding shares by the price per share, excluding individual holdings in that share that exceed 5 % of the total voting rights of the issuer, unless those holdings are held by a collective investment undertaking or a pension fund. Voting rights shall be calculated by reference to the total number of shares to which voting rights are attached, regardless of whether the exercise of the voting right is suspended.

3 For the purposes of paragraph 1(a)(ii), where no actual information is available in accordance with paragraph 2, the free float of a share that is only traded on MTFs shall be calculated by multiplying the number of outstanding shares by the price per share.

4 For the purposes of paragraph 1(c), the daily turnover of a share shall be calculated by aggregating the results of multiplying, for each transaction executed during a trading day, the number of shares exchanged between the buyer and the seller by the price per share.

5 During the six-week period commencing on the first trading day following the first admission of a share to trading on a regulated market or an MTF, that share shall be considered to have a liquid market for the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014 where the sum obtained by multiplying the number of outstanding shares by the price at which the share stands at the start of the first trading day is estimated to be not less than EUR 200 million, and, where, according to estimated data for that period, the conditions set out in paragraph 1(b) and (c) are fulfilled.

6 Where fewer than five shares traded on the trading venues of a Member State and first admitted to trading in that Member State are considered to have a liquid market in accordance

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with paragraph 1, the competent authority of that Member State may designate one or more share first admitted to trading on those trading venues as share considered to have a liquid market, provided that the total number of shares first admitted to trading in that Member State and considered to have a liquid market does not exceed five.

Article 2

Determining liquid markets for depositary receipts(Article 2(1)(17)(b) of Regulation (EU) No 600/2014)

1 For the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014, a depositary receipt that is traded daily shall be considered to have a liquid market where all of the following conditions are satisfied:

- a the free float is not less than EUR 100 million;
- b the average daily number of transactions in the depositary receipt is not less than 250;
- c the average daily turnover for the depositary receipt is not less than EUR 1 million.

2 For the purposes of paragraph 1(a), the free float of a depositary receipt shall be calculated by multiplying the number of outstanding units of the depositary receipt by the price per unit.

3 For the purposes of paragraph 1(c), the daily turnover of a depositary receipt shall be calculated by aggregating the results of multiplying, for each transaction executed during a trading day, the number of units of the depositary receipt exchanged between the buyer and the seller by the price per unit.

4 For the six-week period commencing on the first day of trading following the first admission of a depositary receipt to trading on a trading venue, that depositary receipt shall be considered to have a liquid market for the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014 where the estimated free float at the start of the first day of trading stands at not less than EUR 100 million and, where, according to estimated data for that period, the conditions set out in paragraph 1(b) and (c) are fulfilled.

5 Where fewer than five depositary receipts traded on the trading venues of a Member State and first admitted to trading in that Member State are considered to have a liquid market in accordance with paragraph 1, the competent authority of that Member State may designate one or more depositary receipt first admitted to trading on those trading venues as depositary receipt considered to have a liquid market, provided that the total number of depositary receipts first admitted to trading in that Member State and considered to have a liquid market does not exceed five.

Article 3

Determining liquid markets for exchange traded funds(Article 2(1)(17)(b) of Regulation (EU) No 600/2014)

1 For the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014, an exchange traded fund that is traded daily shall be considered to have a liquid market where all of the following conditions are satisfied:

- a the free float is not less than 100 units;
- b the average daily number of transactions in the exchange traded fund is not less than 10;
- c the average daily turnover for the exchange traded fund is not less than EUR 500 000.

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2 For the purposes of paragraph 1(a), the free float of an exchange traded fund shall be the number of units issued for trading.

3 For the purposes of paragraph 1(c), the daily turnover for the exchange traded fund shall be calculated by aggregating the results of multiplying, for each transaction executed during a trading day, the number of units of the exchange traded fund exchanged between the buyer and the seller by the price per unit.

4 During the six-week period commencing on the first trading day following the first admission of an exchange traded fund to trading on a trading venue, that exchange traded fund shall be considered to have a liquid market for the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014 where the estimated free float at the start of the first trading day stands at not less than 100 units and, where, according to estimated data for that period, the conditions set out in paragraph 1(b) and (c) are fulfilled.

5 Where fewer than five exchange traded funds traded on the trading venues of a Member State and first admitted to trading in that Member State are considered to have a liquid market in accordance with paragraph 1, the competent authority of that Member State may designate one or more exchange traded fund first admitted to trading on those trading venues as exchange traded fund considered to have a liquid market, provided that the total number of exchange traded funds first admitted to trading in that Member State and considered to have a liquid market does not exceed five.

Article 4

Determining liquid markets for certificates(Article 2(1)(17)(b) of Regulation (EU) No 600/2014)

1 For the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014, a certificate that is traded daily shall be considered to have a liquid market where all of the following conditions are satisfied:

- a the free float is not less than EUR 1 million;
- b the average daily number of transactions in the certificate is not less than 20;
- c the average daily turnover for the certificate is not less than EUR 500 000.

2 For the purposes of paragraph 1(a), the free float of a certificate shall be the issuance size irrespective of the number of units issued.

3 For the purposes of paragraph 1(c), the daily turnover for the certificate shall be calculated by aggregating the results of multiplying, for each transaction executed during a trading day, the number of units of the certificate exchanged between the buyer and the seller by the price per unit.

4 During the six-week period commencing on the first trading day following the first admission of a certificate to trading on a trading venue, that certificate shall be considered to have a liquid market for the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014 where the estimated free float at the start of the first trading day stands at not less than EUR 1 million, and, where, according to estimated data for that period, the conditions set out in paragraph 1(b) and (c) are fulfilled.

5 Where fewer than five certificates traded on the trading venues of a Member State and first admitted to trading in that Member State are considered to have a liquid market in accordance with paragraph 1, the competent authority of that Member State may designate one or more certificate first admitted to trading on those trading venues as certificate considered to

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have a liquid market, provided that the total number of certificates first admitted to trading in that Member State and considered to have a liquid market does not exceed five.

Article 5

Assessment of liquidity of equity instruments by the competent authorities (Article 2(1)(17)(b) of Regulation (EU) No 600/2014)

1 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⁾ shall assess whether a share, depositary receipt, exchange traded fund or a certificate has a liquid market for the purposes of Article 2(1)(17)(b) of Regulation (EU) No 600/2014 in accordance with Articles 1 to 4 in each of the following scenarios:

- a before the financial instrument is first traded on the trading venue, as specified in Articles 1(5), 2(4), 3(4) and 4(4);
- b between the end of the first four weeks of trading and the end of the first six weeks of trading of the financial instrument. The assessment for this scenario shall be based on the free float as at the last trading day of the first four weeks of trading, the average daily number of transactions and the average daily turnover taking into consideration all transactions executed in the Union for that financial instrument during the first four weeks of trading;
- c between the end of every calendar year and before 1 March of the following year for financial instruments traded on a trading venue before 1 December of the relevant calendar year. The assessment for this scenario shall be based on the free float as at the last trading day of the relevant calendar year, the average daily number of transactions and the average daily turnover taking into consideration all transactions executed in the Union for that financial instrument in that year;
- d immediately after the moment where, following a corporate action, any previous assessment has changed.

Competent authorities shall ensure that the result of their assessment is published immediately upon completion of the assessment.

2 Competent authorities, market operators and investment firms including investment firms operating a trading venue shall use the information published in accordance with paragraph 1:

- a for a period of six weeks commencing on the first day of trading of the financial instrument where the assessment is carried out pursuant to paragraph 1(a) of this Article;
- b for a period commencing six weeks after the first day of trading of that financial instrument and ending on 31 March of the year of publication of the information in accordance with paragraph 1(c) of this Article where the assessment is carried out pursuant to paragraph 1(b) of this Article;
- c for a period of one year commencing on 1 April following the date of publication where the assessment is carried out pursuant to paragraph 1(c) of this Article.

Where the information referred to in this paragraph is replaced by new information pursuant to paragraph 1(d) of this Article, competent authorities, market operators and investment firms including investment firms operating a trading venue shall use that new information for the purposes Article 2(1)(17)(b) of Regulation (EU) No 600/2014.

3 For the purposes of paragraph 1, trading venues shall submit to competent authorities the information set out in the Annex within the following timeframes:

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- a for financial instruments which are admitted to trading for the first time, before the day on which the financial instrument is first traded;
- b for financial instruments already admitted to trading, in all the following timeframes:
 - (i) no later than three days after the end of the first four weeks of trading;
 - (ii) after the end of every calendar year but no later than 3 January of the following year;
 - (iii) immediately after the moment where, following a corporate action, the information previously submitted to the competent authority has changed.

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- (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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Changes and effects yet to be applied to :

- Regulation power to modify conferred by [2023 c. 29 s. 3 Sch. 1 Pt. 13](#)
- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 13](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2018/1403 reg. 61\(4\)](#)
- Art. A1 inserted by [S.I. 2018/1403 reg. 58](#)
- Art. A1 words substituted in earlier amending provision S.I. 2018/1403, reg. 58 by [S.I. 2020/1301 reg. 3Sch. para. 12\(v\)](#)
- Art. 5(1)(b) words substituted by [S.I. 2018/1403 reg. 59\(2\)\(a\)\(iii\)](#)
- Art. 5(1)(c) words substituted by [S.I. 2018/1403 reg. 59\(2\)\(a\)\(iii\)](#)
- Art. 5(1A)-(1C) inserted by [S.I. 2018/1403 reg. 59\(2\)\(b\)](#)
- Art. 5(1A) word substituted by [S.I. 2023/1410 reg. 20\(a\)](#)
- Art. 5(1A)-(1C) words substituted in earlier amending provision S.I. 2018/1403, reg. 59(2)(b) by [S.I. 2020/1301 reg. 3Sch. para. 12\(w\)](#)
- Art. 5(3)(b)(iii) word substituted by [S.I. 2018/1403 reg. 59\(2\)\(d\)\(ii\)](#)
- Art. 5(4)-(6) inserted by [S.I. 2018/1403 reg. 59\(2\)\(e\)](#)
- Art. 5(6) word omitted by [S.I. 2023/1410 reg. 20\(b\)](#)
- Art. 14(1)(a) words substituted by [S.I. 2018/1403 reg. 60\(a\)](#)
- Art. 14(1)(d) words substituted by [S.I. 2018/1403 reg. 60\(b\)](#)
- Art. 21(2)(b) words substituted by [S.I. 2018/1403 reg. 61\(2\)\(c\)\(ii\)](#)
- Art. 21(2)(s) words substituted by [S.I. 2018/1403 reg. 61\(2\)\(c\)\(iii\)](#)