

**Transposition Note: Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments**

**This note accompanies the Data Reporting Services Regulations 2017**

*Abbreviations*

**HMT** – HM Treasury

**MiFID II** – Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments

**DRSR** – The Data Reporting Services Regulations 2017

This Transposition Note has been prepared by HM Treasury. The table below explains how the DRSR transpose certain provisions of MiFID 2.

ARTICLE	TEXT	TRANSPPOSITION	RESPONSIBLE BODY
Article 4(1)(1) of MiFID II	<p>'<b>investment firm</b>' means any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis.</p> <p>Member States may include in the definition of investment firms undertakings which are not legal persons, provided that:</p> <p>(a) their legal status ensures a level of protection for third parties' interests equivalent to that afforded by legal persons; and</p> <p>(b) they are subject to equivalent prudential supervision appropriate to their legal form.</p> <p>However, where a natural person provides services involving the holding of third party funds or transferable securities, that person may be considered to be an investment firm for the purposes of this Directive and of Regulation (EU) No 600/2014 only if, without prejudice to the other requirements imposed in this Directive, in</p>	Regulation 2(1) of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>Regulation (EU) No 600/2014, and in Directive 2013/36/EU, that person complies with the following conditions:</p> <p>(a) the ownership rights of third parties in instruments and funds must be safeguarded, especially in the event of the insolvency of the firm or of its proprietors, seizure, set-off or any other action by creditors of the firm or of its proprietors;</p> <p>(b) the firm must be subject to rules designed to monitor the firm's solvency and that of its proprietors;</p> <p>(c) the firm's annual accounts must be audited by one or more persons empowered, under national law, to audit accounts;</p> <p>(d) where the firm has only one proprietor, that person must make provision for the protection of investors in the event of the firm's cessation of business following the proprietor's death or incapacity or any other such event;</p>		
Article 4(1)(15) of MiFID II	<p>'<b>financial instrument</b>' means those instruments specified in Section C of Annex I;</p>	Regulation 2(1) of the DRSR	HMT
Article 4(1)(20) of MiFID II	<p>'<b>systematic internaliser</b>' means an investment firm which, on an organised, frequent systematic and substantial basis, deals on own account when executing client orders outside a regulated market, an MTF or an OTF without operating a multilateral system;</p> <p>The frequent and systematic basis shall be measured by the number of OTC trades in the financial instrument carried out by the investment firm on own account when executing client orders. The substantial basis shall be measured either by the size of the OTC trading carried out by the investment firm in relation to the total trading of the investment firm in a specific financial instrument or by the size of the OTC trading carried out by the investment firm in relation to the total</p>	Regulation 2(1) of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	trading in the Union in a specific financial instrument. The definition of a systematic internaliser shall apply only where the pre-set limits for a frequent and systematic basis and for a substantial basis are both crossed or where an investment firm chooses to opt-in under the systematic internaliser regime;		
Article 4(1)(21)	' <b>regulated market</b> ' means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with Title III of this Directive;	Regulation 2(1) of the DRSR	HMT
Article 4(1)(22) of MiFID II	' <b>multilateral trading facility</b> ' or ' <b>MTF</b> ' means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II of this Directive;	Regulation 2(1) of the DRSR	HMT
Article 4(1)(23) of MiFID II	' <b>organised trading facility</b> ' or ' <b>OTF</b> ' means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of this Directive;	Regulation 2(1) of the DRSR	HMT
Article 4(1)(24) of MiFID II	' <b>trading venue</b> ' means a regulated market, an MTF or an OTF;	Regulation 2(1) of the DRSR	HMT
Article 4(1)(27) of MiFID II	' <b>credit institution</b> ' means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;	Regulation 2(1) of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 4(1)(36) of MiFID II	<p><b>'management body'</b> means the body or bodies of an investment firm, market operator or data reporting services provider, which are appointed in accordance with national law, which are empowered to set the entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making and include persons who effectively direct the business of the entity.</p> <p>Where this Directive refers to the management body and, pursuant to national law, the managerial and supervisory functions of the management body are assigned to different bodies or different members within one body, the Member State shall identify the bodies or members of the management body responsible in accordance with its national law, unless otherwise specified by this Directive;</p>	Regulation 2(1) of the DRSR	HMT
Article 4(1)(37) of MiFID II	<p><b>'senior management'</b> means natural persons who exercise executive functions within an investment firm, a market operator or a data reporting services provider and who are responsible, and accountable to the management body, for the day-to-day management of the entity, including for the implementation of the policies concerning the distribution of services and products to clients by the firm and its personnel;</p>	Regulation 2(1) of the DRSR	HMT
Article 4(1)(52) of MiFID II	<p><b>'approved publication arrangement'</b> or <b>'APA'</b> means a person authorised under this Directive to provide the service of publishing trade reports on behalf of investment firms pursuant to Articles 20 and 21 of Regulation (EU) No 600/2014;</p>	Regulation 2(1) of the DRSR	HMT
Article 4(1)(53) of MiFID II	<p><b>'consolidated tape provider'</b> or <b>'CTP'</b> means a person authorised under this Directive to provide the service of collecting trade reports for financial instruments listed in Articles 6, 7, 10, 12 and 13, 20 and 21 of Regulation (EU) No 600/2014 from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument;</p>	Regulation 2(1) of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 4(1)(54) of MiFID II	'approved reporting mechanism' or 'ARM' means a person authorised under this Directive to provide the service of reporting details of transactions to competent authorities or to ESMA on behalf of investment firms;	Regulation 2(1) of the DRSR	HMT
Article 4(1)(55) of MiFID II	'home Member State' means: (a) in the case of investment firms: (i) if the investment firm is a natural person, the Member State in which its head office is situated; (ii) if the investment firm is a legal person, the Member State in which its registered office is situated; (iii) if the investment firm has, under its national law, no registered office, the Member State in which its head office is situated; (b) in the case of a regulated market, the Member State in which the regulated market is registered or, if under the law of that Member State it has no registered office, the Member State in which the head office of the regulated market is situated; (c) in the case of an APA, a CTP or an ARM: (i) if the APA, CTP or ARM is a natural person, the Member State in which its head office is situated; (ii) if the APA, CTP or ARM is a legal person, the Member State in which its registered office is situated; (iii) if the APA, CTP or ARM has, under its national law, no registered office, the Member State in which its head office is situated;	Regulation 2(1) of the DRSR	HMT
Article 59(1) of MiFID II	Member States shall require that the provision of data reporting services described in Annex I, Section D as a regular occupation or business be subject to prior authorisation in accordance with this Section. Such authorisation shall be granted by the home Member State competent authority designated in accordance with Article 67.	Regulations 5 and 30 of the DRSR	HMT
Article 59(2) of MiFID II	By way of derogation from paragraph 1, Member States shall allow an investment firm or a market operator operating a trading venue to operate the data reporting services of an APA, a CTP and an ARM,	Regulations 5 and 8 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	subject to the prior verification of their compliance with this Title. Such a service shall be included in their authorisation.		
Article 59(3) of MiFID II	Member States shall register all data reporting services providers. The register shall be publicly accessible and shall contain information on the services for which the data reporting services provider is authorised. It shall be updated on a regular basis. Every authorisation shall be notified to ESMA.	Regulations 6 and 10(11) of the DRSR	HMT
Article 59(4) of MiFID II	Member States shall require data reporting services providers to provide their services under the supervision of the competent authority. Member States shall ensure that competent authorities keep under regular review the compliance of data reporting services providers with this Title. They shall also ensure that competent authorities monitor that data reporting services providers comply at all times with the conditions for initial authorisation established under this Title.	Regulations 18 and 21 of the DRSR	HMT
Article 60(1) of MiFID II	The home Member State shall ensure that the authorisation specifies the data reporting service which the data reporting services provider is authorised to provide. A data reporting services provider seeking to extend its business to additional data reporting services shall submit a request for extension of its authorisation.	Regulations 10(6) and 12 of the DRSR	HMT
Article 60(2) of MiFID II	The authorisation shall be valid for the entire Union and shall allow a data reporting services provider to provide the services, for which it has been authorised, throughout the Union.	Regulation 5 of the DRSR	HMT
Article 61(1) of MiFID II	The competent authority shall not grant authorisation unless and until such time as it is fully satisfied that the applicant complies with all requirements under the provisions adopted pursuant to this Directive.	Regulation 9 of the DRSR	HMT
Article 61(2) of MiFID II	The data reporting services provider shall provide all information, including a programme of operations setting out, inter alia, the types of services envisaged and the organisational structure, necessary to enable the competent authority to satisfy itself that the data reporting services provider has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations under the provisions of this Title.	Regulation 7 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 61(3) of MiFID II	An applicant shall be informed, within six months of the submission of a complete application, whether or not authorisation has been granted.	Regulation 10 of the DRSR	HMT
Article 62 of MiFID II	<p>The competent authority may withdraw the authorisation issued to a data reporting services provider where the provider:</p> <p>(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no data reporting services for the preceding six months, unless the Member State concerned has provided for authorisation to lapse in such cases;</p> <p>(b) has obtained the authorisation by making false statements or by any other irregular means;</p> <p>(c) no longer meets the conditions under which authorisation was granted;</p> <p>(d) has seriously and systematically infringed the provisions of this Directive or of Regulation (EU) No 600/2014.</p>	Regulation 11 of the DRSR	HMT
Article 63(1) of MiFID II	<p>Member States shall require that all members of the management body of a data reporting services provider shall at all times be of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their duties.</p> <p>The management body shall possess adequate collective knowledge, skills and experience to be able to understand the activities of the data reporting services provider. Each member of the management body shall act with honesty, integrity and independence of mind to effectively challenge the decisions of the senior management where necessary and to effectively oversee and monitor management decision-making where necessary.</p> <p>Where a market operator seeks authorisation to operate an APA, a CTP or an ARM and the members of the management body of the APA, the CTP or the ARM are the same as the members of the management body of the regulated market, those persons are</p>	Regulation 13 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 63(4) of MiFID II	<p>deemed to comply with the requirement laid down in the first subparagraph.</p> <p>Member States shall ensure that the management body of a data reporting services provider defines and oversees the implementation of the governance arrangements that ensure effective and prudent management of an organisation including the segregation of duties in the organisation and the prevention of conflicts of interest, and in a manner that promotes the integrity of the market and the interest of its clients.</p>	Regulation 13 of the DRSR	HMT
Article 63(5) of MiFID II	<p>The competent authority shall refuse authorisation if it is not satisfied that the person or the persons who shall effectively direct the business of the data reporting services provider are of sufficiently good repute, or if there are objective and demonstrable grounds for believing that proposed changes to the management of the provider pose a threat to its sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.</p>	Regulations 9, 11(1)(g) and 22(2) of the DRSR	HMT
Article 64(1) to (5) of MiFID II	<p>Organisational requirements for APAs</p> <p>1. The home Member State shall require an APA to have adequate policies and arrangements in place to make public the information required under Articles 20 and 21 of Regulation (EU) No 600/2014 as close to real time as is technically possible, on a reasonable commercial basis. The information shall be made available free of charge 15 minutes after the APA has published it. The home Member State shall require the APA to be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a non-discriminatory basis and in a format that facilitates the consolidation of the information with similar data from other sources.</p> <p>2. The information made public by an APA in accordance with paragraph 1 shall include, at least, the following details: (a) the identifier of the financial instrument;</p>	Regulation 14 of the DRSR	HMT



ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>(b) the price at which the transaction was concluded;</p> <p>(c) the volume of the transaction;</p> <p>(d) the time of the transaction;</p> <p>(e) the time the transaction was reported;</p> <p>(f) the price notation of the transaction;</p> <p>(g) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the code 'SI' or otherwise the code 'OTC';</p> <p>(h) if applicable, an indicator that the transaction was subject to specific conditions.</p> <p>3. The home Member State shall require the APA to operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an APA who is also a market operator or investment firm shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.</p> <p>4. The home Member State shall require the APA to have sound security mechanisms in place designed to guarantee the security of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage before publication. The APA shall maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.</p> <p>5. The home Member State shall require the APA to have systems in place that can effectively check trade reports for completeness, identify omissions and obvious and obvious errors and request re-transmission of any such erroneous reports.</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
<p>Article 65(1) to (5) of MiFID II</p>	<p>Organisational requirements for CTPs</p> <p>1. The home Member State shall require a CTP to have adequate policies and arrangements in place to collect the information made public in accordance with Articles 6 and 20 of Regulation (EU) No 600/2014, consolidate it into a continuous electronic data stream and make the information available to the public as close to real time as is technically possible, on a reasonable commercial basis.</p> <p>That information shall include, at least, the following details:</p> <ul style="list-style-type: none"> <li>(a) the identifier of the financial instrument;</li> <li>(b) the price at which the transaction was concluded;</li> <li>(c) the volume of the transaction;</li> <li>(d) the time of the transaction;</li> <li>(e) the time the transaction was reported;</li> <li>(f) the price notation of the transaction;</li> <li>(g) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the code 'SI' or otherwise the code 'OTC';</li> <li>(h) where applicable, the fact that a computer algorithm within the investment firm was responsible for the investment decision and the execution of the transaction;</li> <li>(i) if applicable, an indicator that the transaction was subject to specific conditions;</li> <li>(j) if the obligation to make public the information referred to in Article 3(1) of Regulation (EU) No 600/2014 was waived in accordance with point (a) or (b) of Article 4(1) of that Regulation, a flag to indicate which of those waivers the transaction was subject to.</li> </ul> <p>The information shall be made available free of charge 15 minutes after the CTP has published it. The home Member State shall require the CTP to be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a</p>	<p>Regulation 15 of the DRSR</p>	<p>HMT</p>

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>non-discriminatory basis and in formats that are easily accessible and utilisable for market participants.</p> <p>2. The home Member State shall require a CTP to have adequate policies and arrangements in place to collect the information made public in accordance with Articles 10 and 21 of Regulation (EU) No 600/2014, consolidate it into a continuous electronic data stream and make following information available to the public as close to real time as is technically possible, on a reasonable commercial basis including, at least, the following details:</p> <ul style="list-style-type: none"> <li>(a) the identifier or identifying features of the financial instrument;</li> <li>(b) the price at which the transaction was concluded;</li> <li>(c) the volume of the transaction;</li> <li>(d) the time of the transaction;</li> <li>(e) the time the transaction was reported;</li> <li>(f) the price notation of the transaction;</li> <li>(g) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the code 'SI' or otherwise the code 'OTC';</li> <li>(h) if applicable, an indicator that the transaction was subject to specific conditions.</li> </ul> <p>The information shall be made available free of charge 15 minutes after the CTP has published it. The home Member State shall require the CTP to be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a non-discriminatory basis and in generally accepted formats that are interoperable and easily accessible and utilisable for market participants.</p> <p>3. The home Member State shall require the CTP to ensure that the data provided is consolidated from all the regulated markets, MTFs,</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
66(1) to (4) of MiFID II	<p>OTFs and APAs and for the financial instruments specified by regulatory technical standards under point (c) of paragraph 8.</p> <p>4. The home Member State shall require the CTP to operate and maintain effective administrative arrangements designed to prevent conflicts of interest. In particular, a market operator or an APA, who also operate a consolidated tape, shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.</p> <p>5. The home Member State shall require the CTP to have sound security mechanisms in place designed to guarantee the security of the means of transfer of information and to minimise the risk of data corruption and unauthorised access. The home Member State shall require the CTP to maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.</p> <p>Organisational requirements for ARMs</p> <p>1. The home Member State shall require an ARM to have adequate policies and arrangements in place to report the information required under Article 26 of Regulation (EU) No 600/2014 as quickly as possible, and no later than the close of the working day following the day upon which the transaction took place. Such information shall be reported in accordance with the requirements laid down in Article 26 of Regulation (EU) No 600/2014.</p> <p>2. The home Member State shall require the ARM to operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an ARM that is also a market operator or investment firm shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.</p>	Regulation 16 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>3. The home Member State shall require the ARM to have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, maintaining the confidentiality of the data at all times. The home Member State shall require the ARM to maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.</p> <p>4. The home Member State shall require the ARM to have systems in place that can effectively check transaction reports for completeness, identify omissions and obvious errors caused by the investment firm and where such error or omission occurs, to communicate details of the error or omission to the investment firm and request re-transmission of any such erroneous reports.</p> <p>The home Member State shall also require the ARM to have systems in place to enable the ARM to detect errors or omissions caused by the ARM itself and to enable the ARM to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the competent authority.</p>		
Article 67(1) of MiFID II	Each Member State shall designate the competent authorities which are to carry out each of the duties provided for under the different provisions of Regulation (EU) No 600/2014 and of this Directive. Member States shall inform the Commission, ESMA and the competent authorities of other Member States of the identity of the competent authorities responsible for enforcement of each of those duties, and of any division of those duties.	Regulation 17 of the DRSR	HMT
Article 68 of MiFID II	Cooperation between authorities in the same Member State  If a Member State designates more than one competent authority to enforce a provision of this Directive or of Regulation (EU) No	Regulation 19 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>600/2014, their respective roles shall be clearly defined and they shall cooperate closely.</p> <p>Each Member State shall require that such cooperation also take place between the competent authorities for the purposes of this Directive or of Regulation (EU) No 600/2014 and the competent authorities responsible in that Member State for the supervision of credit and other financial institutions, pension funds, UCITS, insurance and reinsurance intermediaries and insurance undertakings.</p> <p>Member States shall require that competent authorities exchange any information which is essential or relevant to the exercise of their functions and duties.</p>		
<p>Article 69(1) and (2) of MiFID II (excluding the second sub-paragraph of paragraph 2)</p>	<p>Supervisory Powers</p> <ol style="list-style-type: none"> <li>1. Competent authorities shall be given all supervisory powers, including investigatory powers and powers to impose remedies, necessary to fulfil their duties under this Directive and under Regulation (EU) No 600/2014.</li> <li>2. The powers referred to in paragraph 1 shall include, at least, the following powers to: <ol style="list-style-type: none"> <li>(a) have access to any document or other data in any form which the competent authority considers could be relevant for the performance of its duties and receive or take a copy of it;</li> <li>(b) require or demand the provision of information from any person and if necessary to summon and question a person with a view to obtaining information;</li> <li>(c) carry out on-site inspections or investigations;</li> <li>(d) require existing recordings of telephone conversations or electronic communications or other data traffic records held by an investment firm, a credit institution, or any other entity regulated by this Directive or by Regulation (EU) No 600/2014;</li> </ol> </li> </ol>	<p>In Article 69(2):</p> <p>Sub-paragraphs (a) and (b): regulations 21 and 33 of the DRSR</p> <p>Sub-paragraphs (c), (d), (i) and (r): regulation 33 of the DRSR</p> <p>Sub-paragraph (e): regulation 36 of the DRSR</p> <p>Sub-paragraphs (f), (k) and (l): regulation 22 of the DRSR</p> <p>Sub-paragraph (g): regulations 34 and 43 of the DRSR</p>	<p>HMT</p>

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>(e) require the freezing or the sequestration of assets, or both;</p> <p>(f) require the temporary prohibition of professional activity;</p> <p>(g) require the auditors of authorised investment firms, regulated markets and data reporting services providers to provide information;</p> <p>(h) refer matters for criminal prosecution;</p> <p>(i) allow auditors or experts to carry out verifications or investigations;</p> <p>(j) require or demand the provision of information including all relevant documentation from any person regarding the size and purpose of a position or exposure entered into via a commodity derivative, and any assets or liabilities in the underlying market;</p> <p>(k) require the temporary or permanent cessation of any practice or conduct that the competent authority considers to be contrary to the provisions of Regulation (EU) No 600/2014 and the provisions adopted in the implementation of this Directive and prevent repetition of that practice or conduct;</p> <p>(l) adopt any type of measure to ensure that investment firms, regulated markets and other persons to whom this Directive or Regulation (EU) No 600/2014 applies, continue to comply with legal requirements;</p> <p>(m) require the suspension of trading in a financial instrument;</p> <p>(n) require the removal of a financial instrument from trading, whether on a regulated market or under other trading arrangements;</p> <p>(o) request any person to take steps to reduce the size of the position or exposure;</p> <p>(p) limit the ability of any person from entering into a commodity derivative, including by introducing limits on the size of a position any person can hold at all times in accordance with Article 57 of this Directive;</p> <p>(q) issue public notices;</p> <p>(r) require, in so far as permitted by national law, existing data traffic records held by a telecommunication operator, where there is a reasonable suspicion of an infringement and where such records may</p>	<p>Sub-paragraph (h): regulations 29, 30 and 38 of the DRSR. Criminal offences are also applied by regulations 33 and 35</p> <p>Sub-paragraphs (j), (m), (n), (o), (p), (s), (t) and (u): not applicable</p> <p>Sub-paragraph (q): regulation 37 of the DRSR</p> <p>Third sub-paragraph: regulation 36 of the DRSR</p> <p>See also regulations 4 and 18 of the DRSR</p>	

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>be relevant to an investigation into infringements of this Directive or of Regulation (EU) No 600/2014;</p> <p>(s) suspend the marketing or sale of financial instruments or structured deposits where the conditions of Articles 40, 41 or 42 of Regulation (EU) No 600/2014 are met;</p> <p>(t) suspend the marketing or sale of financial instruments or structured deposits where the investment firm has not developed or applied an effective product approval process or otherwise failed to comply with Article 16(3) of this Directive;</p> <p>(u) require the removal of a natural person from the management board of an investment firm or market operator.</p> <p>.....</p> <p>Member States shall ensure that mechanisms are in place to ensure that compensation may be paid or other remedial action be taken in accordance with national law for any financial loss or damage suffered as a result of an infringement of this Directive or of Regulation (EU) No 600/2014.</p>		
<p>Article 70(1) (excluding third sub-paragraph), (3)(a)(xxxvii) to (xxxx) and (6)(a) to (c), (f) to (h) and (7) of MiFID II</p>	<p>Sanctions for infringements</p> <p>1. Without prejudice to the supervisory powers including investigatory powers and powers to impose remedies of competent authorities in accordance with Article 69 and the right for Member States to provide for and impose criminal sanctions, Member States shall lay down rules on and ensure that their competent authorities may impose administrative sanctions and measures applicable to all infringements of this Directive or of Regulation (EU) No 600/2014 and the national provisions adopted in the implementation of this Directive and of Regulation (EU) No 600/2014, and shall take all measures necessary to ensure that they are implemented. Such sanctions and measures shall be effective, proportionate and dissuasive and shall apply to</p>	<p>Regulations 22, 23, 24 and 36 of the DRSR</p>	<p>HMT</p>



ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>infringements even where they are not specifically referred to in paragraphs 3, 4 and 5.</p> <p>Member States may decide not to lay down rules for administrative sanctions for infringements which are subject to criminal sanctions under their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.</p> <p>.....</p> <p>3. Member States shall ensure that at least an infringement of the following provisions of this Directive or of Regulation (EU) No. 600/2014 shall be regarded as an infringement of this Directive or of Regulation (EU) No. 600/2014:</p> <p>(a) with regard to this Directive:</p> <p>.....</p> <p>(xxxvii) Article 63(1), (3) and (4);</p> <p>(xxxviii) Article 64(1) to (5);</p> <p>(xxxix) Article 65(1) to (5);</p> <p>(xxxx) Article 66(1) to (4);</p> <p>.....</p> <p>6. In the cases of infringements referred to in paragraphs 3, 4 and 5, Member States shall, in conformity with national law, provide that competent authorities have the power to take and impose at least the following administrative sanctions and measures:</p> <p>(a) a public statement, which indicates the natural or legal person and the nature of the infringement in accordance with Article 71;</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>(b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;</p> <p>(c) in the case of an investment firm, a market operator authorised to operate an MTF or OTF, a regulated market, an APA, a CTP and an ARM, withdrawal or suspension of the authorisation of the institution in accordance with Articles 8, 43 and 65;</p> <p>.....</p> <p>(f) in the case of a legal person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014, or of up to 10 % of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;</p> <p>(g) in the case of a natural person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014;</p> <p>(h) maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in points (f) and (g).</p> <p>7. Member States may empower competent authorities to impose types of sanction in addition to those referred to in paragraph 6 or to</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 70(2) of MiFID II	<p>impose fines exceeding the amounts referred to in points (f), (g) and (h) of paragraph 6.</p> <p>Member States shall ensure that where obligations apply to investment firms, market operators, data reporting services providers, credit institutions in relation to investment services or investment activities and ancillary services, and branches of third-country firms in the case of an infringement, sanctions and measures can be applied, subject to the conditions laid down in national law in areas not harmonised by this Directive, to the members of the investment firms' and market operators' management body, and any other natural or legal persons who, under national law, are responsible for an infringement.</p>	Regulations 23 and 24 of the DRSR	HMT
Article 70(4) of MiFID II	<p>Providing investment services or performing investment activities without the required authorisation or approval in accordance with the following provisions of this Directive or of Regulation (EU) No 600/2014 shall also be considered to be an infringement of this Directive or of Regulation (EU) No 600/2014:</p> <p>(a) Article 5 or Article 6(2) or Articles 34, 35, 39, 44 or 59 of this Directive; or</p> <p>(b) the third sentence of Article 7(1) or Article 11(1) of Regulation (EU) No 600/2014.</p>	Regulation 5(2) of the DRSR	HMT
Article 70(5) of MiFID II	<p>Failure to cooperate or comply in an investigation or with an inspection or request covered by Article 69 shall also be regarded as an infringement of this Directive.</p>	Regulation 33 of the DRSR	HMT
Article 71(1), (2) and (5) of MiFID II	<p>Publication of decisions</p> <p>1. Member States shall provide that competent authorities publish any decision imposing an administrative sanction or measure for infringements of Regulation (EU) No 600/2014 or of the national provisions adopted in the implementation of this Directive on their official websites without undue delay after the person on whom the sanction was imposed has been informed of that decision. The publication shall include at least information on the type and nature of</p>	Regulations 22 and 37 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>the infringement and the identity of the persons responsible. That obligation does not apply to decisions imposing measures that are of an investigatory nature.</p> <p>However, where the publication of the identity of the legal persons or of the personal data of the natural persons is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where publication jeopardises the stability of financial markets or an on-going investigation, Member States shall ensure that competent authorities shall either:</p> <p>(a) defer the publication of the decision to impose the sanction or measure until the moment where the reasons for non-publication cease to exist;</p> <p>(b) publish the decision to impose the sanction or measure on an anonymous basis in a manner which complies with national law, if such anonymous publication ensures an effective protection of the personal data concerned;</p> <p>(c) not publish the decision to impose a sanction or measure at all in the event that the options set out in points (a) and (b) are considered to be insufficient to ensure:</p> <p>(i) that the stability of financial markets would not be put in jeopardy;</p> <p>(ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.</p> <p>In the case of a decision to publish a sanction or measure on an anonymous basis, the publication of the relevant data may be postponed for a reasonable period of time if it is envisaged that within that period the reasons for anonymous publication shall cease to exist.</p> <p>2. Where the decision to impose a sanction or measure is subject to appeal before the relevant judicial or other authorities, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>such appeal. Moreover, any decision annulling a previous decision to impose a sanction or a measure shall also be published.</p> <p>.....</p> <p>5. Where the competent authority has disclosed an administrative measure, sanction or criminal sanction to the public, it shall, at the same time, report that fact to ESMA.</p>		
Article 73(2) of MiFID II	<p>Member States shall require investment firms, market operators, data reporting services providers, credit institutions in relation to investment services or activities and ancillary services, and branches of third-country firms to have in place appropriate procedures for their employees to report potential or actual infringements internally through a specific, independent and autonomous channel.</p>	Regulation 45 of the DRSR	HMT
Article 74(1) of MiFID II	<p>Member States shall ensure that any decision taken under the provisions of Regulation (EU) No 600/2014 or under laws, regulations or administrative provisions adopted in accordance with this Directive is properly reasoned and is subject to the right of appeal before a tribunal. The right of appeal before a tribunal shall also apply where, in respect of an application for authorisation which provides all the information required, no decision is taken within six months of its submission.</p>	Regulations 8, 10, 11, 12, 22, 25, 26, 32, 36 and 37 of the DRSR	HMT
Article 76 of MiFID II	<p>Professional secrecy</p> <p>1. Member States shall ensure that competent authorities, all persons who work or who have worked for the competent authorities or entities to whom tasks are delegated pursuant to Article 67(2), as well as auditors and experts instructed by the competent authorities, are bound by the obligation of professional secrecy. They shall not divulge any confidential information which they may receive in the course of their duties, save in summary or aggregate form such that individual investment firms, market operators, regulated markets or any other person cannot be identified, without prejudice to requirements of</p>	Regulations 35 and 42 of the DRSR	HMT

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>national criminal or taxation law or the other provisions of this Directive or of Regulation (EU) No 600/2014.</p> <p>2. Where an investment firm, market operator or regulated market has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties may be divulged in civil or commercial proceedings if necessary for carrying out the proceeding.</p> <p>3. Without prejudice to requirements of national criminal or taxation law, the competent authorities, bodies or natural or legal persons other than competent authorities which receive confidential information pursuant to this Directive or to Regulation (EU) No 600/2014 may use it only in the performance of their duties and for the exercise of their functions, in the case of the competent authorities, within the scope of this Directive or of Regulation (EU) No 600/2014 or, in the case of other authorities, bodies or natural or legal persons, for the purpose for which such information was provided to them and/or in the context of administrative or judicial proceedings specifically relating to the exercise of those functions. However, where the competent authority or other authority, body or person communicating information consents thereto, the authority receiving the information may use it for other purposes.</p> <p>4. Any confidential information received, exchanged or transmitted pursuant to this Directive or to Regulation (EU) No 600/2014 shall be subject to the conditions of professional secrecy laid down in this Article. Nevertheless, this Article shall not prevent the competent authorities from exchanging or transmitting confidential information in accordance with this Directive or with Regulation (EU) No 600/2014 and with other Directives or Regulations applicable to investment firms, credit institutions, pension funds, UCITS, AIFs, insurance and reinsurance intermediaries, insurance undertakings, regulated</p>		

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
<p>Article 77 of MiFID II</p>	<p>markets or market operators, CCPs, CSDs, or otherwise with the consent of the competent authority or other authority or body or natural or legal person that communicated the information.</p> <p>5. This Article shall not prevent the competent authorities from exchanging or transmitting in accordance with national law, confidential information that has not been received from a competent authority of another Member State.</p> <p>Relations with auditors</p> <p>1. Member States shall provide, at least, that any person authorised within the meaning of Directive 2006/43/EC of the European Parliament and of the Council ( 1 ), performing in an investment firm, a regulated market or a data reporting services provider the task described in Article 34 of Directive 2013/34/EU or Article 73 of Directive 2009/65/EC or any other task prescribed by law, shall have a duty to report promptly to the competent authorities any fact or decision concerning that undertaking of which that person has become aware while carrying out that task and which is liable to:</p> <p>(a) constitute a material infringement of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of investment firms;</p> <p>(b) affect the continuous functioning of the investment firm;</p> <p>(c) lead to refusal to certify the accounts or to the expression of reservations.</p> <p>That person shall also have a duty to report any facts and decisions of which the person becomes aware in the course of carrying out one of the tasks referred to in the first subparagraph in an undertaking having close links with the investment firm within which he is carrying out that task.</p>	<p>Regulations 34 and 43 of the DRSR</p>	<p>HMT</p>

ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
Article 79(1) (part) and (3) of MiFID II	<p>2. The disclosure in good faith to the competent authorities, by persons authorised within the meaning of Directive 2006/43/EC, of any fact or decision referred to in paragraph 1 shall not constitute a breach of any contractual or legal restriction on disclosure of information and shall not involve such persons in liability of any kind.</p> <p>Obligation to cooperate</p> <p>1. Competent authorities of different Member States shall cooperate with each other where necessary for the purpose of carrying out their duties under this Directive or under Regulation (EU) No 600/2014, making use of their powers whether set out in this Directive or in Regulation (EU) No 600/2014 or in national law.</p> <p>Where Member States have chosen, in accordance with Article 70, to lay down criminal sanctions for infringements of the provisions referred to in that Article, they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial authorities within their jurisdiction to receive specific information relating to criminal investigations or proceedings commenced for possible infringements of this Directive and of Regulation (EU) No 600/2014 and provide the same to other competent authorities and ESMA to fulfil their obligation to cooperate with each other and ESMA for the purposes of this Directive and of Regulation (EU) No 600/2014.</p> <p>Competent authorities shall render assistance to competent authorities of the other Member States. In particular, they shall exchange information and cooperate in any investigation or supervisory activities.</p> <p>.....</p>	Regulations 19 and 33 of the DRSR	HMT



ARTICLE	TEXT	TRANSPOSITION	RESPONSIBLE BODY
	<p>3. Member States shall take the necessary administrative and organisational measures to facilitate the assistance provided for in paragraph 1.</p> <p>Competent authorities may use their powers for the purpose of cooperation, even where the conduct under investigation does not constitute an infringement of any regulation in force in that Member State.</p>		
Article 80(1)	<p>Cooperation between competent authorities in supervisory activities, for on-site verifications or investigations</p> <p>1. A competent authority of one Member State may request the cooperation of the competent authority of another Member State in a supervisory activity or for an on-the-spot verification or in an investigation. In the case of investment firms that are remote members or participants of a regulated market the competent authority of the regulated market may choose to address them directly, in which case it shall inform the competent authority of the home Member State of the remote member or participant accordingly.</p> <p>Where a competent authority receives a request with respect to an on-the-spot verification or an investigation, it shall, within the framework of its powers:</p> <ul style="list-style-type: none"> <li>(a) carry out the verifications or investigations itself;</li> <li>(b) allow the requesting authority to carry out the verification or investigation;</li> <li>(c) allow auditors or experts to carry out the verification or investigation.</li> </ul>	Regulation 33 of the DRSR	HMT
Article 93(1) sub-paragraph 2 of MiFID II	Members States shall apply those measures from 3 January 2018 except for the provisions transposing Article 65(2) which shall apply from 3 September 2019.	Regulations 1 and 3 of the DRSR	HMT