

ESMA final report on derivatives transparency, package orders and the EU derivatives CTP final piece in the EU MiFIR Review puzzle

December 2025



ESMA has published its **Final Report** on transparency for derivatives, package orders and input/output data for the EU OTC derivatives consolidated tape. This represents the final set of changes to technical standards following the EU MiFIR Review (other than changes to transaction reporting requirements which are subject to a more comprehensive review).

In response to feedback, ESMA has made some changes to the post-trade deferrals regime consulted on. The changes include greater granularity in the way deferral buckets are set for equity ETDs (which, in turn, allows for more nuanced deferrals), changes to the liquidity assessment for single-name and index credit default swaps and changes to the deferral buckets and periods for some of these products (enabling smaller trades to benefit from potentially longer deferrals than had been proposed in the CP), and a reduction in the number of post-trade reports regarding OTC derivatives trades that benefit from volume masking. Notably, ESMA has not made specific provision for forward rate agreements and basis swaps, indicating that there is a political desire to exclude these from the transparency regime altogether (although this is subject to confirmation and would require legislative changes).

ESMA has also clarified that Exchange Traded Notes and Commodities will not be included in the EU bond CTP which, given that these instruments are not included in the EU equity CTP either, suggests that they will not be included in either tape at this stage (aligning with the current UK position).

ESMA has proposed that all derivatives related changes to the RTS should apply from 1 March 2027. ESMA has also suggested that application of the new delegated act on identifiers for OTC derivatives for transparency purposes (which is set to apply from 1 September 2026) should be delayed until the same date.

Key highlights from ESMA's final report

Derivatives transparency regime (RTS 2)

> **Instrument scope:** Notably, ESMA's final report does not specify details of the transparency regime for forward rate agreements (FRAs) and basis swaps, indicating that the Commission intends to exclude these from the transparency regime. The Commission's recent legislative proposals on the Market Integration Package (on which see [our client note](#)) did include proposals to that effect. However, ESMA's decision not to include FRAs and basis swaps in the final report may suggest

that these instruments could be removed from the EU non-equity transparency regime sooner.

> **Pre-trade transparency (trading venues only):**

Non-equity pre-trade transparency requirements only apply to central limit order book (CLOB) and periodic auction systems.

- > The **pre-trade SSTI waiver** has already been deleted (per ESMA's final report on bond-related changes to RTS 2).
- > OTC derivatives that are not subject to the derivatives trading obligations, and other in scope derivatives, can benefit from an **illiquid**

pre-trade waiver. For these purposes, ESMA is moving to a static liquidity assessment (using the same thresholds as for post-trade deferrals, see below).

- > Regarding the **pre-trade large in scale (LIS) waiver**, other than for equity derivatives, ESMA has put in place static LIS waivers, with the pre-trade waivers set at 50% of the LIS deferral thresholds (see below) in order to protect liquidity providers from undue risk. For equity derivatives, in response to feedback, ESMA is maintaining Average Daily Notional Amount (ADNA) ranges to set liquidity bands, with lower LIS pre-trade waiver thresholds set for less liquid instruments in each relevant sub-class. Trading venues will calculate these thresholds on an annual basis.
- > **Post-trade transparency (trading venues and investment firms):** Under the new derivatives transparency regime, price and volume deferrals for derivatives trades will depend on the relevant “deferral bucket” (set by reference to the liquidity of the instrument and the size of the trade). As for bonds, there are five deferral buckets for medium / liquid, medium / illiquid, large / liquid, large illiquid and very large trades. Going forward, the **liquidity of instruments will be assessed statically**, rather than depending on periodic transparency calculations performed by ESMA.

Regarding **ETDs** (i.e. derivatives traded on a regulated market):

- > ESMA has set the **same maximum post-trade deferrals for price and volume** as follows (with venues able to set shorter deferral periods or allow for no deferral if they wish):
 - o For liquid instruments / medium trades until end of day;
 - o For liquid instruments / large trades until T+1;
 - o For liquid instruments / very large trades until T+2; and
 - o For illiquid instruments / any trade size until T+2.
- > For **equity derivatives**, ESMA is treating stock options / futures, ETF options / futures, and dividend index options / futures as liquid, and swaps / portfolio swaps as illiquid. For liquid instruments, ESMA is reintroducing ADNA (as explained above) to set more granular liquidity buckets, allowing different deferral periods to

be set depending on the ADNA of the particular instrument. Venues will calculate ADNA every two years but will be able to choose the time of year to perform and publish the ADNA. For the deferral buckets, ESMA has set medium trades at current post-trade SSTI thresholds, large trades at current LIS thresholds, and very large trades at double the large size thresholds.

- > For **interest rate derivatives**, ESMA is treating only those bond futures, interest rate futures and options which (on the basis of the data analysed) with an average daily number of trades (ADNT) of 50 or more times a day as liquid (see the table on page 48 of the final report for a list of liquid / illiquid instruments and the trade size thresholds for medium, large and very large trades).
- > For **commodity and emission allowed derivatives**, ESMA will treat products with an ADNT above 100 as liquid (see the table on page 49 of the final report for a list of liquid instruments and the relevant trade size thresholds). ESMA will monitor the liquidity profile of commodity and EA derivatives (especially for electricity and gas derivatives) and may adjust the liquidity assessment in RTS 2 if needed.
- > ESMA will treat all **credit and FX derivatives** as illiquid (with ESMA setting the size threshold for deferrals at the current post-trade LIS threshold), and all **securitised derivatives** as liquid (with ESMA setting the medium, large and very large trade size thresholds in line with the CP, see page 51 of the final report).
- > In response to feedback, ESMA has set a deferral trade size threshold of EUR 100,000 for ETDs not falling into the above categories.
- > ESMA will monitor developments in **crypto-derivatives** and decide whether to amend RTS 2 to provide for this in the future.

Regarding **OTC derivatives**:

- > ESMA has **set the same maximum price / volume deferral periods for interest rate swaps**, but **different maximum price and volume deferral periods for credit default swaps** (with volume deferrals being longer).
- > For **interest rate swaps**, ESMA will treat fixed-to-float IRS referencing Euribor, OIS referencing EuroSTR, SOFR and TONA as

liquid (and, in each case, spot and forward-starting contracts will be treated as liquid). OIS referencing FedFunds will be treated as illiquid. Trade size thresholds for medium and large / very large trades have been set as proposed in the CP. The maximum price / volume deferral periods are as follows (see tables on page 62f. of the final report):

- o For liquid instruments / medium trades until end of day;
 - o For illiquid instruments / medium trades until T+1; and
 - o For large or very large trades in either liquid or illiquid instruments three months.
- > As noted above, **FRAs and basis swaps** are not covered in the final ESMA report, given that these may be taken out of scope of the transparency regime in due course.
- > For **credit default swaps**:
- > ESMA has decided to treat all **single name CDSs** as illiquid (a change from the CP, where ESMA had proposed to treat 5-year tenors as liquid). In setting the deferral buckets, ESMA has reduced some of the size thresholds (meaning that smaller trades may benefit from deferrals / longer deferrals). ESMA has also extended the maximum price deferral for certain single name CDSs to T+1 (compared to end of day proposed in the CP) (see the table on p.65 of the final report for the deferral buckets and periods).
 - > ESMA is going to only treat **index CDSs** referencing one of two indices (iTraxx Europe Main and iTraxx Europe Crossover) as liquid (if they have a 5-year tenor and are on-the-run or first off-the-run series), having previously proposed in the CP that CDSs referencing one of four indices should be treated as liquid. Reflecting these changes to the liquidity assessment and feedback to the CP, ESMA has amended several trade size thresholds for the deferral buckets, as well as increasing the maximum price deferral for some index CDS to end of day (up from 15 min, proposed in the CP). See the table on page 69 of the final report for the deferral buckets and period.

- > Reflecting the fact that deferral buckets will be assessed based on a static assessment (rather than regular calculations based on data submitted to ESMA), **FITRS reporting** appears to be set to stop from 1 March 2027 when the new derivatives transparency regime starts to apply.
- > **Post-trade fields & flags:**
 - > ESMA is retaining the current position that post-trade reporting “**as close to real-time as technically possible**” requires trades to be reported with a maximum delay of five minutes. Acknowledging feedback that this may be difficult to comply with for certain products (particularly CDS over G-SIBs), ESMA has amended the deferral regime for those products instead (see above).
 - > In the “**instrument identification**” field, ESMA has provided for firms to report (i) ISIN for all instruments other than OTC derivatives, and (ii) the relevant **identification for OTC derivatives under the new delegated act on identifiers for transparency purposes**. Importantly, ESMA proposes to push back the application date for the new delegated act to 1 March 2027 (from 1 September 2026), so that it starts to apply at the same time as the changes to derivatives transparency.
 - > As proposed in the CP, ESMA is introducing new fields for “**effective date**” and “**expiration date**” for **OTC interest rate swaps**, reflecting the fact that these details will no longer trigger a new ISIN (and therefore can no longer be deduced from reference data) once the new delegated act on OTC identifiers applies.
 - > ESMA is **deleting the “transaction to be cleared” field**, as proposed in the CP. This is because *all* off-venue derivatives trades in scope of the revised transparency regime will be cleared.
 - > In response to feedback, ESMA is *not* going ahead with reporting changes for **CDS prices** (having proposed a new field indicating upfront payments, possibly in combination with a new field indicating standardised coupon in the CP).
 - > ESMA is also *not* introducing a new field showing the **spread for interest rate swaps**, as feedback to the CP suggested this was unnecessary.

- > ESMA is introducing changes to the **post-trade deferral flags** as consulted on. Flags will **reflect the new deferral regime** (indicating relevant deferral buckets, similarly to the post-trade deferral flags introduced for bonds). Where certain derivatives are only subject to a single deferral threshold / duration, these will be flagged with DEFF.
- > Regarding **volume masking**, ESMA has provided that there should be an initial report (with the quantity, notional amount and notional currency fields left empty) and a second report (including the volume information). Both reports should be flagged using the flag for the relevant post-trade deferral bucket. ESMA is not going to require an interim report (proposed in the CP) with volume masking.

ESCB Exemption

Certain transactions entered by members of the European System and Central Banks are exempt from pre- and post-trade reporting under MiFIR. The MiFIR Review introduced a distinction between ESCB members that are also members of the Eurosystem and those that are not, with narrower transparency exemptions available to the latter.

ESMA has finalised certain amendments to RTS 2 to reflect these changes in line with what ESMA has proposed in the CP. As a result, for members of the ESCB that are not members of the Eurosystem, the exemption for transactions for monetary policy purposes will require relevant transactions to be carried out in accordance with national provisions that are equivalent to those in the Statute of the ESCB. For foreign exchange transactions, the transparency exemption will only apply for ESCB / non-Eurosystem members where the relevant transaction is carried out to hold or manage official reserves of the relevant Member State.

RTS on package orders

- > ESMA has finalised changes to the RTS on package orders in line with its proposals in the CP. Under MiFIR Level 1, **pre-trade transparency can be waived for packages** where:
 1. at least one of the components is an instrument for which there is no liquid market; or
 2. at least one of the components is an instrument which is large in scale,
 unless (in either case) there is a liquid market for the package as a whole.

The package order RTS specifies several circumstances when package orders are considered to have a liquid market as a whole. ESMA has amended these provisions in the package order RTS to align them with the new instrument scope for derivatives transparency (Art 8a MiFIR), the new static liquidity assessments in RTS 2, and to ensure that only package orders where all components would be subject to pre-trade transparency themselves could be considered to have a liquid market as a whole.

Derivatives CTP inputs and outputs

ESMA's final report also covers amendments to the new RTS on input and output data of consolidated tape providers (which have recently been published in the Official Journal). The **changes to the input / output data RTS** relate only to **specific data fields relevant to the EU OTC derivatives CTP**.

In line with the approach already taken by ESMA in respect of input/output data for the bond and equity CTPs, ESMA has only specified additional input data requirements where relevant data for the derivatives CTP is not already specified in RTS 2. Where data requirements are already specified in RTS 2, the RTS on input/output data will **cross-refer to RTS 2** (rather than seek to replicate the relevant requirement). ESMA's proposals align with the input / output requirements made for the EU bond and equity CTPs and include the following:

- > ESMA specifies which **data related to the status of individual financial instruments** will need to be input by data contributors to the CTP, and output by the CTP. These include the instrument identification code (to be reported in accordance with the new delegated act on OTC derivatives identifiers for transparency purposes), trading venue identification (segment MIC or operating MIC) and the status of the instrument (i.e. suspended from trading, removed from trading, subject to a trading halt, or available for trading after a suspension, removal or trading halt).
- > Venues should also **provide data related to the status of their systems matching orders**, including the trading venue segment or operating MIC, details of the trading system (i.e. CLOB, quote driven market, periodic auction system, RFQ system, voice trading system, hybrid or other system) and information about the status of the system (i.e. whether the system is active, or subject to a complete or partial outage). Although the EU derivatives CTP will only capture OTC derivatives, ESMA has pointed out that the data on

the status of venues' systems remains relevant, because OTC derivatives will capture in-scope derivatives which are traded on MTFs and OTFs (as ETDs only capture relevant derivatives traded on regulated markets, and not those traded on other venues).

- > In line with inputs / outputs for the bond and equity CTPs, ESMA has identified data fields which are required as **“core market data” for the purposes of the derivatives CTP** but which are not yet covered in RTS 2 (and vice versa). The final report makes certain changes in response to feedback received, such as removing details on upfront payment amounts and spreads from “core market data”.
- > ESMA has also identified **additional data fields** (not required as “core market data” and not yet present in RTS 2) which are essential for the derivatives CTP. Relevant fields proposed by ESMA cross-refer to relevant fields in RTS 2. As for the bond / equity CTPs, additional fields for the derivatives CTP include:
 - > Date / time when the data contributor received the data;
 - > Date / time when the data contributor published the data;
 - > Date / time when the CTP received the data;
 - > Date/ time when the CTP published the data; and
 - > A suspicious data flag (to be populated if the APA or CTP identify potential data quality issues). ESMA will provide further guidance on this field in its Level 3 transparency guidance manual in due course.
 - > By way of comparison with the UK, the FCA has steered clear of requiring the above additional data fields for inputs to / outputs from the UK CTPs.

ETNs and ETCs

- > ESMA is clarifying that exchange traded notes and exchange traded commodities will not be covered by the bond CTP. This is because trading in these instruments (although technically covered by RTS 2) is more akin to trading ETFs.
- > The suggestion is that **ETNs and ETCs will be covered neither by the EU bond nor the EU equity CTP** (which would mirror the position in the UK, where the FCA has recently indicated

that they will consider in the future whether these instruments should be covered by the UK bond or equity CTP, or by neither CTP).

Timing and next steps

The report has been submitted to the European Commission on **11 December 2025**, that will now have three months to decide whether to endorse the proposed changes to these RTS.

ESMA has proposed that all the new rules should apply from **1 March 2027**.

ESMA has also proposed that the new delegated act on identifiers for OTC derivatives for transparency purposes (which was due to apply from 1 September 2026) should not apply until 1 March 2027, aligning with the go-live date of the derivatives transparency changes.

The first EU OTC derivatives CTP is expected to take up operation after that date (with the tender process for the EU derivatives CTP set to run from **January to Summer 2026**).

ESMA will update its Level 3 transparency guidance manual in due course to reflect the changes to the derivatives transparency regime and the creation of the EU OTC derivatives CTP. The manual was recently updated in October 2025 to reflect changes to bond and equity transparency regimes and the creation of the EU bond and equity CTPs.

Documents

ESMA's final report on derivatives transparency, package orders and the EU derivatives CTP is [here](#).

ESMA's press release is [here](#).

Our earlier client note on the April 2025 ESMA CP is [here](#).

Our client note on ESMA's December 2024 final report on changes to bond transparency requirements is [here](#), and on ESMA's December 2024 final report on CTP-related requirements for the bond and equity CTP is [here](#).

Our client note on the new UK bond and derivatives transparency regime, which started to apply on 1 December 2025, is [here](#).

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