MiFIR / MiFID II reforms in the EU and the UK

Implementation Guide for firms operating in wholesale secondary markets

October 2024

Association for Financial Markets in Europe
www.afme.eu

Disclaimer

October 2024

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Foreword

As an ongoing AFME member priority, AFME has been highly engaged with the evolving EU and UK regulatory landscape on secondary capital markets. With some of the key reforms gradually progressing to final rules, we have been working alongside members to help them effectively understand and transition to the new frameworks across different jurisdictions.

AFME is pleased to partner with Linklaters in helping financial institutions navigate and implement regulatory requirements as it relates to MiFIR/D II. This guide analyses and outlines the key regulatory and implementation issues related to areas such as market structure, transparency, market data, consolidated tape, investment research and execution of client orders, highlighting key considerations for financial institutions in the EU and UK. This guide is primarily written for sell-side firms operating in wholesale secondary markets, however, it may be of wider interest to other market participants.

MiFIR/D is a vital piece of legislation for ensuring the competitiveness of the EU's secondary markets and fostering a truly pan-European capital market. After two years of negotiations, the final EU MiFIR/D II Review texts came into force on 28 March 2024. The EU MiFIR/D II Review presents a range of implementation milestones and a constellation of mandates, prompting the European Commission and the European Securities Markets Authority (ESMA) to provide clarifications on the new secondary capital markets architecture and transitional provisions by means of an interpretative notice and a statement, respectively. Since May, ESMA has issued numerous tranches of consultation packages to begin work on the draft technical standards stemming from mandates in Level 1.

In the UK, the Financial Conduct Authority (FCA) has been delivering the HM Treasury's Wholesale Markets Review through a structured approach and targeted consultations, a process which is still ongoing.

Concurrently, the EU and the UK have launched initiatives to review key MiFID investment research rules as part of the EU Listing Act and the UK Investment Research Review, respectively. These reviews share the common goal of bolstering EU and UK capital markets through a revised framework for the investment research ecosystem.

While some of these reforms have crystallised, many parts of the rulebooks are still pending and being revised in tight sequence.

We expect the regulatory agenda for secondary capital markets to remain very busy over the next 12 months.

"Significant economic growth can only be achieved with well-functioning, deep and liquid capital markets. We will continue to work closely with our members to assess the impact of existing and forthcoming regulatory initiatives in the EU and the UK."

Adam Farkas
Chief Executive
Association for Financial Markets in Europe

Introduction

Our MiFID Implementation Guide provides a holistic yet detailed overview of the state of play and key implementation pain points for our members, which are sell-side firms operating in wholesale secondary markets. This guide covers regulatory developments up until 1st October 2024, and will be reviewed on a regular basis until end of 2025.

Market Structure and Transparency

Reviewing EU and UK market structure and transparency under MiFIR/D II has been high on policymakers' agenda, with progress leading to a comprehensive review of relevant frameworks across both sides of the Channel.

In our consultation responses and reports, we provide substantive evidence and/or data led analysis to ensure that the ongoing calibration of the regulatory framework in the EU and the UK meets the stated objective of promoting growth and improving competitiveness of equity and bond markets:

- On equity market structure issues, we have consistently argued in favour of reducing complexity and safeguarding investor choice across equities trading mechanisms as this allows for cheaper and more efficient execution to the benefit of end investor returns.

- On bond trading, the proposed changes in the EU and UK MiFIR have a direct impact on the trading of government, corporate and covered bonds. As such, due to the delicate balance between levels of transparency and liquidity provision by committed market makers, it is important to prevent other market participants from altering their behaviours based on information obtained from the transparency regime. Our extensive post-trade data analysis calculates the level of "undue risk" market makers would experience.

Market Data

Data users and consumers face high market concentration which increases costs and limits choice. These higher market data costs affect the whole value chain. In the end, private investors and pension savers suffer from fewer choices, less transparency, higher costs, lower savings, and companies may face reduced access to capital.

We have contributed to the various stages of the FCA Wholesale Data Market Study, with the final report published in March 2024. In our response, we encouraged the FCA not to wait until the consolidated tapes are launched, and to take action under a clearer and expedited timeline. We urged the FCA to provide more concrete proposals for a regulatory reform plan covering exchange data and data vendors.

The ESMA consultation on draft technical standards on reasonable commercial basis prompted a similar debate in the EU. Buy-side and sell-side are deeply engaged in ensuring that pricing of market data is based on the actual cost of production and dissemination plus a reasonable margin, bearing in mind that market data is a by-product of the trading activity (and that no-value based pricing is allowed).

Solving these market data issues is of utmost importance in order for the UK and the EU to achieve their stated objectives of growth and competitiveness in their respective capital markets.

Consolidated Tape

AFME sees the consolidated tape as a key tool for democratising access to equities and bond data, by giving a common view of the market to all investors (benchmarking tool), irrespective of resources and level of sophistication, with a comprehensive and standardised view of equities and bond trading environments.

An appropriately constructed consolidated tape will contribute to a truly pan-European market, reducing home bias and unlocking increased capital market participation.

On the bond tape, in the UK, AFME advocated against any payments to data providers, either as a one-off basis or in a recurring form. This will help ensure that potential consolidated tape providers are not disproportionately burdened which could undermine the efforts for developing a successful, low cost consolidated tape. In the EU, whilst revenue sharing as part of a bond tape is a voluntary option for a CTP, AFME are advocating that the tender process should not discriminate in the assessment process against those CTP candidates who choose not to offer revenue sharing.

In June 2024, we published a position paper in favour of including pre-trade data in the UK equities consolidated tape. This was followed in July by the publication of a joint industry statement signed by AFME and allied trade associations restating the case for a tape with pre- and post-trade data from the date of launch. In the EU, we have welcomed the requirement for ESMA to assess the effectiveness of the consolidated tape for shares by no later than 30 June 2026, including the appropriateness of adding additional features to the equity pre-trade tape, which we would strongly support.

Investment Research

AFME has led sell-side engagement on investment research proposals in the UK, initiated by HM Treasury's Investment Research Review.

This included recommendations from Rachel Kent, who led the review, which called for 'action to protect and develop the UK as a centre of excellence for investment research'. Acting on the recommendation for additional optionality for research payments 'as soon as practical', the FCA consulted on relevant rules in April 2024.

AFME worked closely with both sell-side and buy-side trade associations to advance our members' positions that the new payment option should be flexible and less onerous than existing payment structures, and that the UK regime should not be more restrictive or inflexible than other jurisdictions. The FCA Policy Statement on "Payment Optionality for Investment Research", introducing a new "CSA-like" payment option, was published in July 2024, with rules entering into force on 1st August 2024.

With similar objectives in mind, in 2022 the European Commission launched the EU Listing Act Package, linked to the Capital Market Union goal to improve access to market-based sources of finance for small and large firms. During the negotiations, proposals for a new research payment option were eventually agreed in the final MiFID text, which is expected to be published in the Official Journal of the European Union in Q4 2024. We have welcomed the flexibility offered by the new EU rules on research payments.

Member States will have 18 months to transpose the MiFID changes under the EU Listing Act package into domestic rules. At this stage firms are weighing the costs and benefits brought about by the new frameworks in the UK and EU and take up remains to be seen.

Execution of Client Orders

In the EU, new technical standards are being introduced which impose enhanced requirements in respect of firms' order execution policies. If finalised as proposed, firms would need to implement more prescriptive processes around their order execution policies, including monitoring, regular reviews and senior management sign offs. By way of example, the new requirements would see firms having to pre-select venues eligible for client order execution per class of financial instruments and per category of client. Current proposals could lead to a potentially granular grouping of instruments for these purposes which (if retained in the final rules) would result in firms having to set out and refine their order execution processes for potentially a large number of different asset classes / instrument groups.

The draft proposals are due to be finalised and submitted to the European Commission by 29 December 2024. They are likely to apply from 29 September 2025.

Implementation Guide

This guide provides an overview of key upcoming developments arising from changes to EU MiFIR / MIFID II and from related aspects of the UK Wholesale Markets Review, as well changes to the investment research framework in the EU and the UK.

This guide is primarily relevant to **sell-side firms operating in wholesale secondary markets**, and covers **six topic areas**, each of which can be read on its own:

1. Market structure
2. Transparency
3. Market data
4. Consolidated tape providers
5. Investment research
6. Execution of client orders

For each topic, the guide provides an **"executive summary"** setting out a high-level description of some main issues, the key timings for implementation and key implementation challenges for sell-side firms. This is followed by more **in-depth analysis** on each topic. Where topics are interrelated, the guide cross-refers to other sections of the guide.

The guide predominantly includes comments on **key implementation challenges for sell-side firms** that facilitate trading in wholesale secondary markets (rather than firms that operate trading venues). While we have indicated the likely severity of these implementation challenges, firms should make their own detailed assessment of the likely impact of the upcoming changes to EU and UK requirements on them.

(red)	Significant implementation challenges for sell-side firms (that do not operate a trading venue). Challenges may arise from divergences between the EU and UK regimes, may be due to the complexity of underlying rule changes, or may reflect that significant changes need to be made to firms' systems and control environments.
(amber)	Some implementation challenges for sell-side firms (that do not operate a trading venue).
(green)	No or limited implementation challenges for sell-side firms (that do not operate a trading venue).

Although in some instances implementation challenges may be rated as "green" or "amber" reflecting the cost / effort of achieving regulatory compliance with a new or revised regulatory requirement, there could be broader key issues and (potentially adverse) impacts of a particular regulatory change on sell-side firms' business and the markets in which they operate. Where there are significant broader business or market impacts of a regulatory change, we have indicated this in "red" on the basis that (beyond pure regulatory compliance) firms will need to reflect on these wider business / market impacts as part of their implementation projects.

The Appendices contain a general timeline showing all developments covered by this guide (as well as separate timelines for topics 1 to 5), and key AFME papers on the topics considered in this guide.

1. Market structure

Executive summary

The key change in this area is a change to the definition (both in the EU and UK) of what constitutes a "systematic internaliser" (SIs), which is currently defined as a firm that deals on own account "on an organised, frequent, systematic and substantial basis". Although the change is intended to simplify the analysis, there is a risk (in the UK) that the revised definition could capture firms that are not currently SIs in non-equity instruments.

Although this change is coupled with a general trend of reducing regulatory obligations for SIs (particularly a helpful removal of SI-specific non-equity pre-trade transparency requirements in both the EU and UK), there is currently some level of uncertainty as to which obligations will continue to apply to UK SI's in the non-equity space, making it difficult to fully assess what the impact would be on firms that could be newly captured as an SI for particular non-equity instruments. A review of the UK SI regime / obligations is due to be published in Q4 2024, which should give further clarity on future SI obligations.

Firms will need to re-assess their SI status against the new definitions, although (if the regulatory obligations placed on SIs are not too onerous, they could choose to opt into being an SI to avoid taking regulatory risk in making the assessment). It is worth noting that, in the UK, the FCA has powers to reintroduce SI-specific non-equity transparency obligations in the future, meaning that the definition of SI could become more relevant in the future for UK firms providing SI activity in the non-equity space (i.e. even if firms chose to opt in for now, they may need to make a full assessment against the new UK SI definition at some point in the future).

The UK is also planning to test a new trading platform that would facilitate secondary market trading in unlisted shares (known as PISCES). This represents an opportunity for sell-side firms to either act as an operator of such a new platform, or to act as sponsor for issuers trading on the new platform or as an intermediary enabling investor access to the new platform. In either case, firms will need to watch which legal and regulatory obligations will apply to either of these roles (as these are still evolving over the coming months) and put relevant processes in place to comply.

	EU developments	UK developments
SI definition	The definition of "systematic internaliser" (SI) has been amended to remove the current quantitative SI calculations, replacing it with a purely qualitative definition instead. The new EU SI definition in MiFID II appears to be limited to firms dealing off-venue on own account in *equity* instruments on an organised, frequent and systematic basis. However, firms can also opt into being an SI, both in respect of equity and non-equity instruments. Further detail on the interpretation of the revised definition is likely to follow in the Level 2 texts or in separate guidance.	Although the UK is also moving from a quantitative to a qualitative SI definition, the UK SI definition (as amended within FSMA 2023) retains a reference to "substantial" off-venue own account dealing and is not limited to equity instruments. As in the EU, firms can continue to opt into being an SI in respect of both equity and non-equity instruments. The FCA has proposed guidance on the new UK SI definition within the "systematic internaliser" definition in the Glossary and the PERG sourcebook of the FCA Handbook.

Overview of RAG ratings (with further detail on each topic below)

Topic	Jurisdiction	RAG rating
SI definition	EU & UK	
SI obligations	EU & UK	
Trading venue definition	EU & UK	
PISCES / intermittent trading	UK	
Direct electronic access	EU	

Timeline	Key issues & implementation challenges
EU The revised EU SI definition sits within MiFID II, meaning that the amendment will need to be implemented by Member States by September 2025 **UK** The FCA guidance on the UK SI definition is expected to be finalised in November / Q4 2024. The change to the SI definition (which sits within FSMA 2023 but is also replicated in the FCA Handbook Glossary) and the new guidance may come into effect from 1 January 2025 because the suspension of SI calculations (Art 16ZA MiFID Delegated Regulation) will fall away at the end of 2024 and SI calculations would need to be made going forward, unless the revised SI definition applies. We understand that the FCA will publish a CP on the SI regime and SI obligations in Q4 2024 (see below).	**Commentary on divergences and UK implementation** These changes will be more challenging in the UK as the tests within the SI definition (rather than just the ability to opt in) continue to apply in respect of non-equity instruments. The related guidance on the SI definition proposed in the FCA CP is broad and could capture firms that are not currently SIs in non-equity instruments. As firms await the final FCA guidance and confirmation of what obligations SIs will be subject to, firms will need to assess whether to simply opt into SI status (if this does not lead to substantial obligations) or whether to undertake analysis of their business against the new SI definition and FCA guidance (if the obligations on SIs are substantial). If the revised UK SI definition applies from January 2025 (i.e. before the FCA's review of the SI regime is completed), any firms that are not currently SIs in particular financial instruments, but which may be captured by the definition / guidance, would have to implement systems to comply with the current SI obligations (e.g. FIRDS reporting). This will be subject to any transitional provisions or other measures the FCA may put in place to prevent firms becoming subject to new regulatory obligations at such short notice (or potentially at all while the outcomes of the review of the UK SI regime are pending). **Commentary on EU implementation** In the EU, even though the revised SI definition will not apply until the changes to MiFID II have been implemented locally, firms that are not caught by the quantitative tests within the current SI definition could decide to opt out of being an SI for particular instruments, once the DPE regime for post-trade reporting starts to apply from 3 February 2025.

	EU developments	UK developments
SI obligations	SI obligations have been significantly revised. For SIs in all asset classes: • Post-trade transparency waterfalls will be decoupled from counterparties' SI status. Instead, waterfalls will depend on 'designated publishing entity' (DPE) status of counterparties (with firms opting in at an asset class level) (see Transparency section below). • FIRDS reporting (Article 27 MiFIR) will become the responsibility of DPEs (instead of SIs) (see Transparency section below). • A firm's SI status is still relevant when filling in certain fields within transaction reports (as well as for ISIN creation). • The "reasonable commercial basis" (RCB) requirements (Article 13 MiFIR) have been extended to apply to SIs. They will be supplemented by new RTS which incorporate and "strengthen" current RCB guidelines (see Market data section below). • ESMA published a consultation paper on 10 July 2024 that included proposals for a new ITS for the notification of investment firms acting as SIs to competent authorities. While firms previously had to notify their NCAs of their SI status, the ITS introduces a standard template for this notification. In this regard, a first notification is to be submitted to the NCA when a firm commences activities as an SI in one or more classes of financial instrument or decides to opt-in. However, all current SIs would need to submit the notification when the ITS becomes applicable, as ESMA is intending to create a new SI register. For SIs in equity instruments: • Requirements in respect of quoting obligations have been amended which may result in firms having to quote in certain equity instruments in larger sizes than is currently the case (see Transparency section below for an explanation of this and other changes impacting SIs in equity instruments). For SIs in non-equity instruments: • SIs no longer have to provide pre-trade transparency in respect of non-equity instruments (see Transparency section below for this and other changes impacting SIs in non-equity instruments).	In the UK, the FCA currently intends to delete SI-specific requirements to provide non-equity pre-trade transparency (see Transparency section below), although the FCA will have the option of re-introducing SI-specific non-equity pre-trade transparency requirements in the future (with that power being hardwired into s.18 FSMA 2023). Post-trade reporting waterfalls have already been decoupled from counterparties' SI status as the UK has moved to a new designated reporter (DR) regime, with post-trade reporting waterfalls determined by counterparties' DR status, which applies at an entity level (see Transparency section below). The FCA will shortly undertake a detailed review of remaining SI obligations and the continued relevance of the SI concept / regime more broadly. This should consider knock-on consequences of the wider UK wholesale markets reforms on other SI-specific obligations (including FIRDS reporting).
Trading venue definition	The trading venue definition has been moved from MiFID II into MiFIR. This does not impact ESMA's Opinion on the trading venue perimeter, which was published on 2 February 2023. The Opinion is intended to clarify the perimeter in respect to which systems should be viewed as 'multilateral systems' under MiFID II, and therefore need to be authorised as a trading venue.	There are no changes proposed to the UK definition of "multilateral system". In July 2023, the FCA issued new guidance on the regulatory perimeter for trading venues. The guidance was intended to provide greater clarity on when firms may be operating a multilateral system and so require authorisation as a trading venue.

Timeline	Key issues & implementation challenges
EU Changes to post-trade reporting waterfalls / the new DPE regime will apply from 3 February 2025. FIRDS reporting will not become a DPE responsibility until changes to RTS 23 are applicable (see ESMA's commentary on Art 27 MiFIR in its interactive single rulebook). Revisions to RTS 23 are due to be submitted to the Commission by December 2024 but may (as currently proposed) not apply until 18 months after OJ publication). Draft RTS on the RCB requirements will be submitted to the Commission by 29 December 2024. Once published in the OJ, the RCB RTS will apply 3 months later. ESMA's CP on the proposed new ITS on SI notifications closed on 15 October 2024, with final ITS to be submitted to the Commission by March 2025 (followed by a period for adoption and publication). The changes to the equity SI quoting obligations rely on amendments to RTS 1 which are due to be finalised and submitted to the Commission by 29 December 2024 (see more detail on timing in the Transparency section below). The removal of SI non-equity pre-trade transparency requirements has been effective since 28 March 2024. **UK** The removal of the SI non-equity pre-trade transparency requirements has not been effected yet. Timing is unclear but will likely be clarified in November / Q4 2024 when the FCA is expected to publish a policy statement on its wider overhaul of the UK non-equity transparency regime (see Transparency section below). The UK DR regime for post-trade reporting has applied since February 2024. The FCA review of UK SI regime / obligations is expected to be published in Q4 2024.	**Commentary on EU implementation** Firms that are SIs will need to make SI notifications to NCAs using the new template in the ITS. Firms will also need to update their systems to interact with / interrogate the new ESMA SI register. See Market data section below for further detail on potential implementation challenges relating to the RCB requirements. Regarding the move of post-trade reporting waterfalls to the new DPE regime, implementation will require firms to assess their offering against the DPE asset class taxonomy, submit elections as DPE for particular asset classes, put in place processes to interrogate the ESMA DPE database (see Transparency section below for further detail). **Commentary on UK implementation** Uncertainty about what SI obligations will be until FCA DP in Q4 2024
EU & UK No further changes envisaged	N/A as firms will already have considered the new ESMA and FCA guidance on the trading venue perimeter.

	EU developments	UK developments
PISCES / intermittent trading	There is currently no equivalent proposal to introduce an intermittent trading platform in the EU.	In March 2024, HM Treasury published an open consultation on the upcoming Sandbox trial of a new Private Intermittent Securities and Capital Exchange System (PISCES), which will allow intermittent secondary market trading of shares that are not already admitted to trading. PISCES is intended to help private companies to "scale-up" and transition to the UK public markets in the future, while also enabling investors to take advantage of the growth in, and success of, the UK private markets. The HM Treasury CP suggests that issuers whose shares are traded on PISCES would be subject to a bespoke disclosure regime, with disclosures being made to a "private perimeter" of eligible investors, rather than to the public. The "private perimeter" of eligible investors would consist of investors that (i) meet relevant legislative / regulatory requirements (such as being a professional rather than retail investor), and (ii) meet any additional eligibility criteria which may have been set by the PISCES operator / issuer. HM Treasury also envisages a bespoke MAR regime for shares traded on PISCES. Other regulatory requirements applicable to PISCES operators and intermediaries facilitating investor access to PISCES (such as transaction reporting and transparency obligations) would also be tailored (but are yet to be confirmed by the FCA), e.g. transaction reporting requirements.
Direct electronic access	As an amendment to s.2 MiFID II, the licensing requirement for persons only dealing on own account on a trading venue via DEA is removed (on the basis that DEA providers will act as gatekeepers to ensure that DEA users have the necessary and appropriate systems and controls in place and orderly trading can be maintained).	No UK changes to DEA. There is currently an exemption from UK licensing for firms that deal on own account only, unless they are members / participants in a trading venue or have direct electronic access ("DEA") to a trading venue. In the UK (unlike the EU) this licensing exemption has not been extended to remove the licensing requirement for DEA users that only deal on own account. However, DEA users established outside the UK may be able to rely on the overseas person exclusion in order to access UK venues without the need for a UK licence.

Timeline	Key issues & implementation challenges
UK HM Treasury's open consultation closed on 17 April 2024. HM Treasury will use feedback to refine the proposed framework for PISCES before laying legislation for the PISCES Sandbox, which is due to be in place by the end of 2024. The PISCES Sandbox is proposed to be in place for 5 years. We would expect the FCA to give an indication of the regulatory requirements that would apply to PISCES operators (and potentially intermediaries facilitating investor access to PISCES) ahead of the commencement of the PISCES Sandbox.	**Commentary on UK implementation** Implementation challenges will depend on whether firms are intending to become a PISCES operator or to act as an intermediary facilitating investor access to PISCES. Assuming the latter, at this stage, firms should watch carefully as legal and regulatory obligations of intermediaries are developed. For example, the HM Treasury CP implied that PISCES operators and companies whose shares are traded on PISCES may be able to rely on assessments made by intermediaries (such as assessments on whether investors fall into the "private perimeter", i.e. are actually entitled to participate in the investment / share transfers in question). Intermediaries may also be responsible for enforcing that information is not shared outside the private perimeter. It is not clear whether the timeline for trading events on PISCES will allow for investment research to be produced.
EU This change is contained in MiFID II and will need to be implemented in Member States by September 2025.	Sell-side firms offering DEA to clients will already have controls in place to ensure that DEA users have the necessary and appropriate systems and controls in place and orderly trading can be maintained but may wish to review the strength of these controls. While firms offering DEA previously had to confirm whether DEA users had a MiFID licence, this will no longer be required where DEA users dealing only on own account now fall into the licensing exemption.

2. Transparency

Executive summary

The requirements on the disclosures firms have to give to the market about orders / quotes and executed trades have been significantly amended in both the EU and UK regulatory regimes. The changes impact both pre-trade and post-trade transparency requirements in respect both equity instruments and bonds and derivatives (referred to below as non-equity instruments).

Several of the changes will be welcome – particularly the deletion (both in the EU and UK) of pre-trade transparency requirements for investment firms in the bond & derivatives space. There has also been a significant overhaul of other transparency requirements for bonds and derivatives in both markets, including "simplifying" deferrals for post-trade transparency.

In terms of implementation timelines, the direction of travel on equity and bond & derivatives transparency requirements (referred to below as non-equity transparency requirements) is clearly set in the EU (through amendments to MiFIR) and in the UK (through some final rules in the equities space and detailed consultation on non-equity requirements). However, much of the detail is still to be finalised in both markets (and in some instances we are still awaiting consultations or regulatory guidance in key areas). Over the next 12-24 months, relevant requirements will be finalised and need to be implemented.

Key implementation challenges for sell-side firms in this space include the following:

- Firms will need to keep abreast of a plethora of consultations and policy papers setting out the details of these changes in both the EU and UK, which firms will need to engage with and, ultimately, implement. In many cases, consultations on related topics (such as the consolidated tape, see below) will have impacts on transparency requirements (and vice versa), resulting in sequential knock-on changes. Implementation timelines are therefore complex, with incremental changes required to systems over the near- to medium-term.

- This is an area where there is divergence between changes to the EU and UK requirements, meaning that relevant systems will need to be split (or significantly adapted) for use in the two markets. Interactions between the regulatory regimes in both markets can also be complex, e.g. where the counterparties to a trade are located in the EU and UK, respectively, or where firms established in one market execute trades on trading venues in the other market.

- In applying relevant "simplified" waivers and deferrals, there are instances where "undue risk" is increased for sell-side firms, for example because simplified deferrals may result in a greater level of transparency than is the case under current EU and/or UK rules. There will also be instances where trading in certain bonds & derivatives may be impacted by divergent post-trade deferral requirements in the UK & EU, and where sell-side firms may be exposed to greater levels of "undue risk" under the rules of one market (specifically the EU) than the other.

- While changes to the scope of transparency requirements are generally welcome, firms will need to adapt their systems to reflect these in order to avoid regulatory risk of overreporting. There are also some uncertainties about whether particular instruments would be in scope of the revised transparency requirements, with firms having to engage legislators, regulators, and/or trade bodies to achieve consensus, or having to take some regulatory risk.

- As reporting templates and the detailed requirements around pre-trade transparency waivers and post-trade deferrals develop, these will significantly impact firms' reporting systems (as noted, in ways that differ between EU and UK regimes and often involve sequential and incremental changes). Firms will need to allow resource to implement these changes to their EU and UK systems over the near- to medium-term.

Overview of RAG ratings (with further detail on each topic below)

Topic	Jurisdiction	RAG rating
Cross-cutting issues		
Post-trade reporting waterfalls	EU	
Reference data reporting (FIRDS)	EU (& possibly UK)	
Transaction reporting	EU (& UK to follow)	
Clock synchronisation	EU	
Circuit breakers	EU	
Equity transparency		
Pre-trade transparency (venues)	EU	
Pre-trade transparency (SIs)	EU	
Order execution (SIs)	EU	
Tick sizes & mid-point matching (SIs)	EU & UK	
Post-trade transparency (equity-specific changes)	EU	
Share trading obligation	EU	
Bond and derivatives transparency (non-equity transparency)		
Post-trade transparency (trading venues and investment firms, non-equity specific changes)	EU & UK	
Instrument scope	EU & UK	
Pre-trade transparency (SIs)	EU & UK	
Pre-trade transparency (trading venues)	EU & UK	
Post-trade risk reduction services	EU & UK	
Transaction reporting (non-equity instruments in scope)	EU	

	EU developments	UK developments
Cross-cutting issues		
Post-trade reporting waterfalls	**Article 20 & new Article 21a MiFIR** Responsibility for post-trade reporting will be decoupled from counterparties' SI status and will, instead, depend on whether counterparties have opted into being a "designated publishing entity" (DPE). The election will be at an **asset class** level. Post-trade reporting waterfalls will be as follows: • Where only one counterparty is a DPE, the DPE will have the post-trade reporting obligation. • Where both or neither counterparty are DPEs, the seller will have the post-trade reporting obligation. ESMA will set up a DPE register which counterparties check to confirm who has regulatory responsibility for post-trade reporting. The register will indicate the asset classes for which a firm is a DPE, using the following taxonomy: • **Equity instruments:** shares; depositary receipts; ETFs; certificates; other equity-like financial instruments; and • **Non-equity instruments:** bonds; ETCs; ETNs; interest rate derivatives; credit derivatives; structured finance products; emission allowances.	**UK RTS 1 and 2** As in the EU, responsibility for post-trade reporting will be decoupled from counterparties' SI status and will, instead, depend on whether counterparties have opted into being a "designated reporter" (DR). The election will be at an **entity** level. The FCA publishes a register of designated reporters, which counterparties check to confirm who has regulatory responsibility for post-trade reporting. In terms of reporting waterfalls: • DRs will have the regulatory responsibility to submit post-trade reports where they transact with any counterparty that is not itself a designated reporter. • Where two investment firms trade with each other and both counterparties are DRs, the seller will have regulatory responsibility to report, unless the buyer and seller agree that the buyer will report. • Where neither counterparty is a DR, the selling firm will report. As noted, firms elect their DR status at an entity level, meaning that they will be DRs in respect of any MiFID financial instrument they trade. Note that, once the new UK non-equity transparency regime has been finalised, it will be re-written into MAR11 within the FCA Handbook, and UK RTS 2 will be deleted. The rules for the DR regime will be re-written into MAR11 at the same time.

Timeline	Key issues & implementation challenges
EU Existing reporting waterfalls (which depend on counterparty SI status) continue to apply. ESMA will set up a DPE register by 29 September 2024 (with firms encouraged to submit their DPE elections to their NCAs ahead of that date). The DPE will apply from 3 February 2025. The DPE register will initially be published in XLSX format and will be updated "regularly". ESMA intends to integrate the DPE register into its IT systems so that it can be accessed on a dedicated portal, and to discontinue the XLSX version of the register, from end of 2025. **UK** The UK DR regime came into force on 29 April 2024.	**Commentary on EU implementation** In the EU, firms will need to register as DPEs with local NCAs (noting that ESMA have indicated that NCAs may impose their own information requirements for these purposes, which firms will need to monitor across jurisdictions). Firms will also need to build systems to interrogate ESMA's new DPE register to determine counterparties' DPE status. Notably, firms will need to update their systems when ESMA moves from the XLSX version of the register to the integrated version around end of 2025. **Commentary on UK implementation** In the UK, the FCA has decided against allowing designation at an asset class level. This posed an issue for firms that do not have systems to support post-trade reporting in all asset classes. The FCA has amended the rules in Art 12 of UK RTS 1 (and similarly in UK RTS 2 for non-equity post-trade reporting) to give DRs the option to bilaterally arrange to move reporting responsibility to the other counterparty (provided this is also a DR). Firms should also be able to enter into assisted reporting arrangements in respect of any of their post-trade reporting obligations.

	EU developments	UK developments
Reference data reporting (FIRDS)	**Article 27 of MiFIR** • The scope of the obligation to supply financial instrument reference data has been widened. The reference data reporting obligation formerly applied to financial instruments admitted to trading on regulated markets or traded on MTFs or OTFs, however, going forward the obligation will apply to financial instruments (i) admitted to trading; (ii) traded on a trading venue; (iii) where the issuer has approved trading of the issued instrument; or (iv) where a request for admission to trading has been made. • Additionally, SIs will no longer be required to report reference data for financial instruments and instead the obligation will fall on DPEs for OTC derivatives only (rather than all financial instruments) that are not covered by the aforementioned scope. This means that DPEs will be obliged to submit reference data on OTC derivatives falling within scope of transaction reporting, where that reference data is not already reported by trading venues. **ESMA's May 2024 CP on amendments to RTS 23** • RTS 23 is being amended to reflect (amongst other things) amendments to Article 27 MiFIR to the effect that relevant instrument reference data is going to be used not just for transaction reporting purposes going forward (as is currently the case) but also for transparency purposes. • ESMA proposes a common daily reporting frequency for all reference data for both transaction reporting and reference data purposes. • Given that transparency calculations are changing (including, in due course, in RTS 1 and 2, see below) following the MiFID II / MiFIR Review, ESMA is adapting RTS 23 to reflect what information will be needed to support the revised calculations. There will need to be further amendments to RTS 23 to reflect the final position on derivatives transparency in RTS 2 and the new identifier for OTC derivatives (see below). • Other RTS 23 changes reflect the fact that DPEs will become responsible for reporting reference data of certain non-ToTV instruments. Amongst other changes, ESMA also clarifies that, where both counterparties are DPEs, both need to report reference data (as opposed to just the seller DPE, as is the case for post-trade reporting). • Having been tasked with bringing RTS 23 reporting in line with EMIR and SFTR reporting, ESMA has also undertaking a line-by line-comparison of reporting fields and instructions, resulting in a number of changes to align reference data reporting fields and instructions accordingly. • ESMA is also suggesting some changes to RTS 23 which would support publications under CSDR.	The FCA have not proposed any changes to the UK reference data regime (e.g., they have not linked the reference data reporting obligation to DRs, unlike the EU). The FCA's upcoming review of the UK SI regime (see market structure section above) is likely to touch on RTS 23.

Timeline	Key issues & implementation challenges
EU Changes to FIRDS reporting will only apply once the DPE regime applies, which is set to go live on 3 February 2025 (see above) and the revised RTS 23 is applicable. ESMA will submit final proposals for RTS 23 to the Commission by 29 December 2024. This will be followed by a period for adoption. Note that ESMA has proposed that the revised RTS 23 should only apply 18 months after publication in the OJ. Feedback on the Commission's proposal for the OTC derivative identifier closed on 10 July 2024. The Commission is due to publish the final delegated act in Q3 2024, with the (proposed) application date for the new identifier set as 1 September 2025. Further amendments to RTS 23 will be needed to reflect amendments to non-equity transparency requirements for derivatives in RTS 2. A CP on these RTS 2 amendments is due in early 2025, and it is likely that ESMA will consult on respective changes to RTS 23 at the same time, with a view to submitting final proposals to the Commission by 29 September 2025. **UK** The FCA's review of the UK SI regime is set to commence in Q4 2024.	**Commentary on EU implementation** The incremental nature of amendments to RTS 23 will be a challenge for firms. The addition of new reference data fields to identify benchmark administrators, fund managers, minimum trading values (as proposed by ESMA) will create additional work for firms.

	EU developments	UK developments
Reference data reporting (FIRDS)	• ESMA proposes changes to reference data fields: - Addition of new fields to identify benchmark administrators, fund managers, minimum trading values, DPEs, venues of admission, actions types (i.e. new, modification, termination or error), and the delivery period for commodity derivatives; - Deletion of fields specifying the seniority of bonds, transaction types specified by venues, final price type, reference rate, and FX type. - Amendments to fields including aligning certain field names and changes to the field indicating the date of admission and first trading of an instrument (to ensure it reflects where instruments have been delisted and subsequently re-admitted), amongst other changes. **Identifier for OTC derivatives** The Commission is empowered to specify the identifier for OTC derivatives and, in June 2024, published a draft delegated act and annex proposing identifying reference data to be used with regard to OTC interest rate swaps and OTC credit default swaps for the purposes of the pre- and post-trade transparency requirements. • The Commission proposals seek to ensure that the same identifier can be used for transaction reporting and transparency purposes, as well as allowing "backwards compatibility" of future transaction reports with earlier transaction reports (which currently use ISO 6166 ISIN as the identifier). - But the proposals envisage changes to the data elements which make up the ISIN, notably by removing the expiry date as an ISIN attribute for OTC interest rate swaps. - Although the Commission has not proposed moving to a new identifier based on ISO 4914 UPI and supplemented by additional data, UPI would form part of the identifying reference data (i.e. would be included within the relevant ISIN attributes of financial instruments).	

Timeline	Key issues & implementation challenges

	EU developments	UK developments
Transaction reporting	**Article 26 – Revision of RTS 22** Amongst other changes envisaged to the transaction reporting RTS (RTS 22), the reference to short sale indicator flags is removed, which will enable ESMA to delete these from RTS 22 (as previously proposed by ESMA in its final review report on transaction reporting). ESMA is also required to ensure greater alignment of transaction reporting across the MiFIR, EMIR and SFTR frameworks. In addition, ESMA is due to report to the Commission (after 4 years) on further integration / alignment of MiFIR, EMIR and SFTR reporting requirements. **ESMA CP on changes to RTS 22** In October 2024, ESMA issued a CP on changes to RTS 22. The proposed changes reflect the amendments to Article 26 MiFIR, certain instances of alignment between EMIR, SFTR and MiFIR transaction reporting, and a number of findings from ESMA's 2021 review report on transaction reporting. Proposed changes to transaction reporting fields and identifiers include: • New transaction reporting fields, such as a field for "effective date" and a field indicating the "entity subject to the reporting obligation"; • The deletion of the short sale flag; • Extending TVTIC as an identifier to transactions concluded on third-country venues; • Transaction identification codes (TIC) for off-venue transactions; • A new identifier for aggregated orders (INTC); • A new code (chain identifier) to help identify chain flows; • Alignment with EMIR and SFTR reporting, as well as with EMIR Refit, such as clarifications on how price or complex trades are reported; and • Alignment with recently proposed changes to RTS 23 on reference data reporting; Amongst other changes to RTS 22, ESMA also proposes some changes to the list of exemptions from transaction reporting (and these will, in turn, be relevant for RTS 1 and 2 as these RTS cross-refer to the list of exemptions in RTS 22). ESMA is proposing to: • Extend the exemptions to include disposals in the context of liquidation, bankruptcy or insolvency procedures (or similar instances), and to include auctions in emission allowances; but • Narrow the exemption for novations in derivatives so that novations would only be exempt where they are related to a clearing arrangement. **Instrument scope for transaction reporting** Please refer to the non-equity transparency section below for changes to the non-equity instruments in scope of transaction reporting.	The FCA have not yet proposed any changes to the UK transaction reporting to date. However, according to the latest Regulatory Initiative Grid as of October 2024, an HMT/FCA Discussion Paper on MiFIR transaction reporting will be published in Q4 2024. In PS 23/4, the FCA did note that the changes to the post-trade flags they were proposing would also potentially impact transaction reports because of fields 61 (waiver indicator) and 63 (OTC post-trade indicator). However, they were not proposing any amends to RTS 22 and just stated that: *"We note feedback from respondents as to the potential impact of the divergence between the trade reporting and transaction reporting. Some respondents commented that maintaining alignment between would be highly desirable. We are considering policy options and will communicate our expectations for transaction reporting in due course."*

Timeline	Key issues & implementation challenges
EU The changes will only apply once required revisions to RTS 22 become applicable. ESMA's consultation on RTS 22 closes on 3 January 2025. Although ESMA is required to submit the final draft of revised RTS 22 by September 2025, ESMA has indicated that the final draft RTS 22 will be submitted to the Commission sooner in Q2 2025. In terms of application timings, ESMA has proposed that changes to RTS 22 should be aligned with interdependent requirements (such as RTS 23 reference data requirements) and that firms should have 12 months to implement the revised requirements from when the technical documentation (presumably the finalised RTS 22) is available. **UK** The FCA is expected to publish a discussion paper on UK transaction reporting in Q4 2024. This will be followed by a consultation paper in Summer 2025 and a policy statement in Q4 2025.	**Commentary on EU implementation** Firms will need to implement relevant changes to RTS 22 into their transaction reporting systems. While some of these amendments (e.g. deletion of the short sale flag) will be welcome, overall the proposed changes to RTS 22 will require firms to adapt their transaction reporting systems (both in terms of fine tuning existing outputs to reflect amendments to fields, as well as ensuring that data for newly acquired fields is collated or accessed). Firms should also consider the length of implementation period that would be adequate, given the changes proposed, and may wish to respond to the CP to comment on this.

	EU developments	UK developments
Clock synchronisation	**Article 22c MiFIR** Clock synchronisation requirements will be applied to trading venues, SIs, APAs, CTPs and designated publishing entities under the new post-trade reporting waterfalls. **ESMA's second May 2024 CP** contains draft RTS which specify the level of accuracy to which clocks are to be synchronised. • ESMA has based the new RTS on the current RTS 25 (which sets out clock synchronisation requirements for venues and their participants). ESMA retains, amongst other aspects of RTS 25, UTC as the reference time and synchronisation with timing centres or via global navigation satellite systems. • ESMA proposes to supplement this with new articles and tables in the annex which set out the maximum divergence and timestamp granularity required for SIs, DPEs, APAs and CTPs. • Because of the increased speed of high frequency trading (HFT), ESMA also wants to increase timestamp granularity for venue operators with a gateway-to-gateway latency below 1 millisecond to 0.1 microseconds (from the current 100 microseconds). ESMA proposes to apply the same change to members, participants and users of trading venues that employ HFT techniques. ESMA would retain the other requirements for venue operators as they are currently specified in RTS 25. • For SIs and DPEs, ESMA suggests applying the analogous accuracy levels as for venue members, participants and users, as neither of these firms input data directly to CTPs. However, ESMA proposes to define the accuracy levels for SIs according to the same gateway to gateway latency criterion applicable to operators of trading venues (see column on key implementation challenges / issues on issues this raises for SIs engaged in voice trading). ESMA is interested in feedback on whether the same accuracy level should also apply in respect of SI pre-trade obligations. • For DPEs that are not SIs, ESMA proposes an accuracy requirement of 1 millisecond for both timestamp granularity and maximum divergence from UTC, regardless of the type of trading activity they perform (see column on key implementation challenges / issues on issues this raises for DPEs).	No changes to UK clock synchronisation requirements.

Timeline	Key issues & implementation challenges
EU The amendments will apply once the RTS on clock synchronisation takes effect. ESMA will submit the final proposal for this RTS to the Commission by 29 December 2024. This will be followed by a period for adoption. ESMA has proposed that this RTS should apply from the 20th day following OJ publication.	**Commentary on EU implementation** Sell-side firms that are SIs and DPEs will need to implement these new requirements, noting that ESMA has not proposed an implementation period for the new RTS. Notably, the ESMA CP seems to assume that all SI trading is electronic, meaning that ESMA's proposed time divergences for SIs and DPEs are too short for voice trading by SIs / DPEs. AFME have responded to the ESMA CP indicating that time divergences of 1 second should be maintained to allow for voice trading. Sell-side firms will need to monitor the outcome of this in ESMA's final draft RTS.

	EU developments	UK developments
Circuit breakers	**Recast of RTS 7 into new RTS 7a** ESMA's July 2024 CP on RTS 7a: • Establishes principles-based parameters underpinning circuit breakers, leaving a certain degree of discretion to trading venues in their calibration of circuit breakers. The proposed rules cover the use of trading halts and/or price collars, static and dynamic circuit breakers, as well as requirements for these to be periodically reviewed. • Includes a requirement for trading venues to establish and document a methodology for the calibration of circuit breakers considering a number of listed factors (including the liquidity and volatility profiles of the relevant product), as well as requirements for a periodic review of the methodology; • Sets homogenous standards for public disclosure of information by trading venues on the circumstances leading to trading being halted or constrained. Public disclosure is intended to allow market participants to better anticipate potential trading disruptions and make informed decisions during market volatility. Disclosure should include the design and functioning of circuit breaker mechanisms (including what the effects would be if circuit breakers are triggered), the minimum time of trading halts, the range of any price collars, and whether and in what circumstances venues may make changes to circuit breakers without alerting markets ahead of the change; and • Spells out a duty for trading venues to report annually to NCAs, with ESMA specifying a template for these reports to ensure comparability. The template would include further details on the parameters related to the calibration of circuit breakers compared to what is publicly disclosed.	

Timeline	Key issues & implementation challenges
EU ESMA's CP on recast RTS 7a closed on 15 October 2024. Final draft RTS will be submitted to the Commission by 29 March 2025. This will be followed by a period for adoption and publication. ESMA has proposed that recast RTS 7a should apply from 29 September 2025 (the date by which the underlying Level 1 changes to MiFID II have to be implemented by Member States.	**Commentary on EU implementation** Although organisational requirements around circuit breakers are applicable to regulated markets and MTFs (i.e. will not need to be implemented by sell-side firms), sell-side firms will need to monitor relevant public disclosures by different venues, as these will inform how trading may be impacted in volatile market conditions.

	EU developments	UK developments
Equity transparency		

Pre-trade transparency (trading venues)	**Article 5 MiFIR – Pre-trade transparency waivers**
	Currently equity pre-trade transparency requirements do not apply to equity trades executed under the reference price waiver (RPW) or negotiated trade waiver (NTW), leading to so-called 'dark' trading. The application of both waivers is limited through the double volume cap (DVC) mechanism, which suspends the use of these waivers either on a particular venue or across the EU where 'dark' trading in a particular instrument exceeds 4% of total EU trading on any particular venue, or where more than 8% of total EU wide trading in the instrument is in the 'dark'.
	As part of the updates to MiFIR, the complex DVC mechanism is being replaced with a new single volume cap (SVC) set at 7% of EU-wide trading, which would limit the use of the reference price waiver (but not the negotiated trade waiver) for three (rather than the current six) months.
	ESMA's July CP on Level 2 requirements included amendments to RTS 3 to reflect the changes from a DVC to a SVC mechanism (alongside a number of other changes).
	ESMA's July 2024 CP on Level 2 requirements related to equity transparency also includes:
	• advice to the Commission to amend Commission Delegated Regulation 2017/567 on the "liquid market" definition which is relevant to equity transparency requirements;
	• amendments to Article 6 of RTS 1 which consolidates the list of transactions that can benefit from the NTW; and
	• amendments to Article 7 of RTS 1 which is relevant to determining the applicable large in scale (LIS) threshold.
		Pre-trade transparency waivers
		In the UK, the DVC mechanism, which restricted the use of equity pre-trade transparency waivers (as explained in the EU column), has been deleted.
		FCA PS 23/4 confirmed the following changes to the pre-trade transparency waivers which are available to trading venues trading equity instruments:
		• For the purposes of a reference price waiver (RPW), the reference price may now be sourced from a third country venue where the instrument was first admitted to trading.
		  - The FCA says that it expects venues to have the right policies in place to ensure that (as required by UK MiFIR) the reference prices used are widely published and regarded as reliable reference prices by market participants.
		  - Having received other comments to improve the RPW, the FCA has said that it will undertake a broader review of equity pre-trade transparency waivers (e.g. whether the RPW could be set by reference to composite prices from multiple venues, or could use reference prices from a third country venue with the highest turnover in the instrument).
		• For the purposes of the order management facility (OMF) waiver, the FCA has removed the minimum threshold which reserve or stop orders currently need to meet before they can benefit from the waiver. Instead, venues will be able to set the minimum size of reserve or stop orders in respect of instruments traded in their systems. Venues will be able to take account of the relevant instrument and market conditions. Responding to feedback that this may lead to a "race to the bottom" impacting transparency, the FCA says that it expects venues to set the thresholds while keeping in mind their "overarching obligation to maintain fair and orderly trading".

Pre-trade transparency (SIs)	**Article 14 – Obligation for SIs to make public firm quotes in respect of equities transactions** SIs will be required to make public firm quotes for equities transactions (i.e., shares, depository receipts, ETFs, certificates and other similar financial instruments) up to a size to be determined in ESMA RTS (but which should not be below 2x standard market size). More broadly, several details currently set out in Article 14 around quote sizes will be moved from Level 1 into an RTS. ESMA's July 2024 CP on RTS 1 amendments proposes setting the quoting size up to which SIs will be subject to pre-trade transparency requirements. ESMA envisages setting more granular AVT buckets for liquid shares, liquid depository receipts and ETFs, setting a new SMS for each bucket and specifying that SIs would be subject to pre-trade requirements in respect of firm quotes up to 2xSMS. In each case, ESMA has proposed to set the minimum quote size SIs have to comply with at 1xSMS.	No change to SI quoting size in UK regime

	Timeline	Key issues & implementation challenges
	EU ESMA's CP on changes to RTS 3 (on the SVC mechanism) closed on 15 October 2024, with the final draft RTS due to be submitted to the Commission in March 2025. This will be followed by a period for adoption and publication. The revised RTS 3 is set to apply from 29 September 2025 (which is date from which trading is to be monitored for the purposes of the SVC). Changes to equity pre-trade transparency requirements for venues in RTS 1 are set to apply from 1 May 2025. **UK** Changes to UK equity pre-trade transparency waivers came into effect on 28 April 2023. The DVC mechanism has been deleted from the UK regime with effect from 28 August 2023.	
	EU ESMA's CP on RTS 1 changes in respect of thresholds for SI quoting obligations closed on 15 September 2024, with the final draft RTS 1 amendments due to be submitted to the Commission in December 2024. This is slightly ahead of the deadline mandated in MiFIR because ESMA wants to finalise the relevant RTS 1 changes at the same time as the RTS related to the creation of the equities consolidated tape provider (see CTP section below). This will be followed by a period for adoption and publication. The relevant changes to RTS 1 are set to apply from the 20th day following OJ publication.	The changes to Article 14 and related changes to RTS 1 will, in practice, result in firms having to quote and trade certain equity instruments in larger sizes than is currently the case. Whereas, before the EU MiFIR/D II Review change, firms could give a better price than their quoted price above SMS, now they can only do so above 2xSMS, thereby reducing the opportunities for firms to give price improvement above SMS.

	EU developments	UK developments
Order execution (SIs)	**Article 15 – Execution of client orders** New requirements have been introduced so that SIs are required to establish and implement transparent and non-discriminatory rules and objective criteria for the efficient execution of orders. SIs are required to have arrangements for the sound management of their technical operations, including the establishment of effective contingency arrangements to cope with risks of systems disruption. The content and format of notifications SIs are required to make to competent authorities will also be revised under new ESMA ITS. ESMA's July 2024 CP introduces a proposed template for the notification. **Article 16 – Obligations of competent authorities** Competent authorities are now required to check that SIs comply with the conditions for order execution and price improvement laid out in Article 15 of MiFIR as opposed to the conditions formerly laid out in Article 16 of MiFIR.	
Tick sizes & mid-point matching (SIs)	**Article 17a – Tick sizes and mid-point matching** SIs will be allowed to match at mid-point orders of any size, as opposed to only being able to match orders large in scale. Article 17a(2) specifies that tick size requirements and the requirement for SIs to execute orders at the quoted prices at the time of reception of the order (subject to certain exceptions) in Article 15(2) should not prevent SIs from matching orders at mid-point. This means that orders of any size which would otherwise be subject to the restrictions of tick sizes and Art 15(2) can be matched at mid-point. Quotes and transactions that are not subject to tick size or quote related restrictions will not fall within the scope of Article 17a in any case and hence do not need to benefit from the exemption.	**Tick size regime and mid-point matching** The UK tick size regime has been amended to allow UK trading venues/firms to use the same tick size used by trading venues established overseas where the overseas venues are the primary markets in the relevant financial instrument. UK rules have also been amended to allow for mid-point crossing by SIs.
Post-trade transparency (other than changes to reporting waterfalls, as to which see cross-cutting changes above)	**Article 20 MiFIR** The post-trade disclosure by investment firms in receipt of shares, depository receipts, ETFs, certificates and other similar financial instruments has been slightly revised to require each individual transaction to be made public once through a single APA in the Level 1 rules (whereas currently this is set out in the Level 2 rules). Article 20 also deletes the requirement for ESMA to develop RTS specifying the party to a transaction that has to make the transaction public (reflecting the fact that post-trade reporting waterfalls will be determined under the new designated publishing entity (DPE) regime going forward (see below). **ESMA's July 2024 CP** includes proposals to make certain changes to the equity post-trade reporting requirements in **RTS 1**, such as streamlining relevant reporting flags (amongst other changes). ESMA is seeking feedback on whether to follow the UK approach and remove the agency crossed flag (ACTX flag) and the SI flags of 'SIZE', 'ILQD' and 'RPRI'. ESMA is deleting the DUPL flag, as there should no longer be duplicative reporting through more than one APA. ESMA also seeks feedback on potentially reducing the real-time publication of transactions to be considered "as close as to real time as technically possible" below 1 minute (as previously considered in ESMA's MiFIR Review report on RTS 1).	**Policy Statement (PS23/4): Improving Equity Secondary Markets** The FCA has amended the equity post-trade transparency regime, covering changes to post-trade transparency reporting fields and exemptions, a new DR reporter status for OTC trades (see above), waivers from pre-trade transparency (see above) and tick size regime (see above). The new rules involved amendments to UK RTS 1, UK RTS 2 and UK RTS 11. In respect of exemptions, the FCA (i) expanded the exemption to give-ups and give-ins in the context of requests for market data, as well as amending the definition of such transactions; and (ii) introduced an exemption from post-trade transparency for inter-affiliate transactions. In respect of post-trade reporting flags, the FCA deleted SI-related flags (and other flags including "ACTX" and "DUPL"), as well as introducing the new flags "CLSE" for benchmark trades concluded at the closing price, "PORT" for portfolio transactions and "NLTS" for transactions equal or above the pre-trade LIS threshold bilaterally negotiated off-book and reported to trading venues for acceptance. The flags for negotiated transactions have been consolidated into a single trade waiver flag "NETW". In respect of reporting fields, the "Price" field will (as previously) only be populated with numerical values, but a new "Price conditions" field has been introduced. Additionally, the FCA has clarified that the "Price currency" field should be populated with major currency codes.

Timeline	Key issues & implementation challenges
EU ESMA's CP on the new ITS containing the template for the SI notification closed on 15 October 2024, with the final draft ITS due to be submitted to the Commission in March 2025. This will be followed by a period for adoption and publication. The ITS is set to apply on the 20th day following OJ publication.	**Commentary on EU implementation** All current SIs will need to submit an SI notification using the template in the new ITS. ESMA's CP suggests that this should be done as soon as technically possible, so firms should watch out for further details on this from their NCAs.
EU The changes to the tick size requirements for SIs (Article 17a) have been applicable since 28 March 2024. **UK** Changes to UK tick size regime have applied since 28 April 2023. Mid-point matching by SIs has been permitted since 28 August 2023.	**Commentary on both EU & UK implementation** This is a permissive change which benefits firms conducting SI activity.
EU The ESMA CP on changes to RTS 1 closed on 15 September 2024. ESMA will submit the final proposed amendments to RTS 1 to the Commission in December 2024. The RTS will then need to be adopted by the Commission and go through the legislative process. RTS 1 amendments to equity post-trade reporting requirements for investment firms are set to apply from the 20th day following OJ publication. A new requirement for venues to include the field names prescribed in RTS 1 in post-trade reports is set to apply from 1 May 2025. **UK** The new UK equity post-trade reporting requirements came into force on 29 April 2024.	**Commentary on EU implementation** Firms will need to amend their equity post-trade reporting systems to reflect the changes to RTS 1, once finalised.

2. Transparency

	EU developments	UK developments
Share trading obligation	The scope of the EU STO (Article 23 MiFIR) has been limited to shares with EEA ISINs which are traded on an EU trading venue. However, trading on third-country venues will be allowed where the trade is in the local currency or a non-EEA currency. The carve-out for trades that are "non-systematic, ad hoc, irregular and infrequent" has been removed from Article 23.	The UK STO has been deleted.
Bond & derivatives transparency (non-equity transparency)		
Post-trade transparency (trading venues and investment firms)	**Article 11 – Deferred publication of bonds, SFPs and emission allowances** Currently, competent authorities are required to authorise market operators and investment firms operating a trading venue to provide for the deferred publication of the details on transactions comprising non-equity instruments (bonds, SFPs and emission allowances) based on the size or type of the transaction. Under the new rules, market operators and investment firms operating a trading venue may defer publication provided arrangements for the deferred publication are clearly disclosed to market participants and the public. Such arrangements must be organised by using five deferral buckets based on the size of the transaction and the liquidity of the instrument, with different price / volume deferrals applying to each bucket. • For bonds, maximum deferral periods are set in Level 1 (with the maximum deferral for volume and price set at 4 weeks for very large trades). ESMA has powers to extend the maximum deferral period where there are significant impacts on liquidity of a particular class of instrument. There are separate provisions for transactions in sovereign bonds. • For SFPs and emission allowances, the deferral mechanism is reserved for a new ESMA RTS (see below). ESMA will have to report to the Commission every 2 years on how post-trade deferrals are used in practice. **ESMA's May 2024 CP** on amendments to RTS 2 includes more detailed proposals on the calibration of the post-trade deferral regime: • For **bonds**, price / volume deferrals depend on (i) whether the relevant bond is liquid or illiquid, and (ii) the size of the relevant transaction. ESMA also sets the length of deferral periods (up to maximum deferral periods specified in MiFIR Level 1). ESMA proposes: - Liquidity thresholds for sovereign / other public bonds of >= EUR 1bn, for corporate, convertible and other bonds of >= EUR 500m, and for covered bonds of >= EUR 250m. The bond issuance outstanding amount (rather than initial bond issuance size) will be used for this assessment. (As noted above, the same thresholds are proposed to apply for the "illiquid" pre-trade waiver.) - In setting medium, large and very large transaction sizes for different bond types, ESMA has used data from FITRS in order to set the thresholds in a way that ensures that "the great majority" of trades are subject to real time (non-deferred) post-trade reporting, and that only "a very small proportion" of trades falls into the very large transaction category benefiting from maximum price / volume deferrals.	The FCA states in its consultation paper (**FCA CP23/32**) that post-trade transparency should be given in real-time, except where deferrals are available. This means that trades need to be reported within 5 minutes (at the latest), although for package transactions of any size the rules do not specify a maximum time limit, and the front end of the CP suggests that packages should be reported within 15 minutes. Under the FCA proposals, the post-trade deferral provisions are significantly streamlined, as follows: • The FCA proposes a common deferral framework for bonds and derivatives (although deferral lengths and thresholds would be calibrated differently for different instruments). • Only large trades would be eligible for deferral. The largest trades could benefit from an extended or permanent deferral, depending on the deferral model the FCA specifies in the final rules (see below as to the two deferral models the FCA has presented in the CP). Current deferrals for illiquid instruments are removed (essentially reflecting the reduced instrument scope of the transparency regime, which already focuses on liquid instruments, and the fact that deferral thresholds and lengths (see below) also take into account the liquidity of instruments if traded at particular sizes). • The FCA is removing existing provisions which allow post-trade information to be aggregated in certain circumstances, meaning that post trade data will always be on a trade-by trade basis (either immediately or at the end of a relevant deferral period). • In general, the FCA wants to prioritise earlier publication of price information, whilst volume information could be deferred for longer. There is a general sense of the FCA seeking to reduce the length of deferrals to achieve greater transparency. Within those parameters, the FCA puts forward two different deferral models: 1. Under the first model, there would be two LIS thresholds which would apply as follows: a. for transactions with a notional amount below a first / lower LIS threshold, there would be full (price and volume) transparency in real time; b. for transactions above the lower LIS threshold but below a second / higher LIS threshold, there would be full price transparency after a short deferral (15 minutes for bonds and derivatives), and full volume transparency after a longer volume deferral (T+3 for bonds, end of day for derivatives); and c. for transactions above the higher LIS threshold, there would be extended price and volume deferrals (4 weeks for bonds, T+3 for derivatives).

Timeline	Key issues & implementation challenges
EU & UK These changes are already effective	**Commentary on EU implementation** Although firms do not need to "implement" the changes to the EU STO, they will need to consider its application going forward. In particular, there could conceivably be circumstances where the absence of the carve-out for trades that are "non-systematic, ad hoc, irregular and infrequent" could mean that firms are restricted to on-venue trading in circumstances where off-venue trading would be preferable.
EU Changes to post-trade deferrals will only become applicable once the relevant changes to RTS 2 apply. ESMA will submit final proposals for RTS 2 amendments (in respect of bonds, SFPs and emission allowances) to the Commission by 29 December 2024. The RTS will then need to be adopted / the legislative process followed. It is not clear from the ESMA CP whether there would then be an implementation period before the revisions to RTS 2 apply. We would expect the revised post-trade regime for bonds, SFPs and emission allowances to apply prior to the bond CTP commencing operation (which is expected to be around H2 2025). ESMA's further CP on RTS 2 amendments related to derivatives is expected in early 2025, with the final amendments due to be submitted to the Commission by 29 September 2025. Again, this will be followed by a period for adoption before the revised post-trade transparency regime for derivatives can apply. **UK** FCA CP23/32 closed on 6 March 2024. The Policy Statement is expected to follow in November / Q4 2024. The FCA has proposed an implementation period of 12 months from when the rules are finalised.	**Commentary on divergences / implementation challenges arising from divergence between the EU & UK regimes** The new calibration of deferrals may have different impacts in the different markets depending on the instrument and size of trade, as well as the type and length of deferral allowed under the different sets of rules. Although implementation of the new deferral regimes falls mainly to APAs, sell-side firms / liquidity providers could be exposed to additional "undue risk" in circumstances where the new length of deferrals is considered not to be adequate. **Commentary on EU implementation / key issues** ESMA's proposals for post-trade deferrals for bonds were not based on data analysis seeking to adequately balance the desire for greater transparency with the need of liquidity providers to be protected from "undue risk". This was explained in a joint trade association statement on MIFIR RTS 2 post-trade deferrals for bonds (co-signed by AFME and four other trade associations and addressed to ESMA). As well as recommending that ESMA approach the calibration of post-trade deferrals on the basis of further data analysis, the joint statement also suggested that (i) bond groupings could be revisited by bond types with similar liquidity profiles (as opposed to on the basis of FITRS classification), (ii) there could be additional liquidity determinants (rather than just outstanding issuance size), and (iii) there could be further assessment of the time required to trade out of positions of a given size and using this as the basis for selecting appropriate size thresholds for different deferral categories. By way of further examples, the fact that the ESMA CP does not include in RTS 2 deferrals for illiquidity for SFPs, emission allowances and ETCs / ETNs (i.e. deferrals for post-trade transparency in these instruments is limited to trades above the LIS), and the fact that ESMA has removed the option of deferrals being extended are key concerns for sell-side firms. Firms should monitor whether the final draft RTS produced by ESMA retains these positions. As noted, the EU non-equity regime changes in respect of derivatives will be finalised at a later stage than the regime for bonds etc. An unintended consequence of the earlier RTS 2 amendments (if implemented as proposed by ESMA) appears to be removal of extended / supplementary post-trade deferrals in respect of derivatives trades before the new deferral regime for derivatives (which should otherwise cater for supplementary deferrals) is in place. Firms will need to monitor whether this is addressed in the final draft RTS 2, as well as monitoring whether ESMA's RTS 2 proposals in respect of derivatives adequately cater for supplementary deferrals. **Commentary on UK implementation** In the UK, firms will need to assess the impact of the actual thresholds and caps, once the rules are finalised. In the CP, the FCA acknowledges that, for example, the first deferral model could expose liquidity providers to undue risk in respect of the largest trades, if the length of deferral in 1.c is not calibrated appropriately. On the other hand, although deferral model 2 allows for permanent volume masking for the largest trades to protect liquidity providers, price and volume of all other trades (even those benefiting from deferrals) would be published by the end of the trading day.

	EU developments	UK developments
Post-trade transparency (trading venues and investment firms)	- In setting the lengths of price / volume deferrals, ESMA has allowed for the maximum deferrals set in MiFIR Level 1 in most cases. However, because in ESMA's view medium and large trades contain price forming transactions, ESMA has proposed to only allow price deferral until the end of the trading day for all medium / large trades in any bond type (whereas the MiFIR text would have allowed a maximum price deferral for large trades up to end of T+1 for liquid instruments and up to T+2 for illiquid instruments). • For **SFPs**, ESMA proposes classifying all SPFs as illiquid, and retaining the current size thresholds for pre- and post-trade transparency purposes and the current maximum deferral period. • For **emission allowances**, ESMA proposes classifying European emission allowances (allowances with sub-type "EUAE") as having a liquid market, whilst treating all other emission allowances as illiquid (although ESMA suggests that the latter are, in any event, not currently available for trading in the EU). ESMA proposes to set the LIS thresholds for EU allowances at 5 lots for pre-trade and 25 lots for post-trade purposes (while specifying that trades in other emission allowances would breach the pre- and post-trade LIS thresholds, whatever their size). • For **ETCs and ETNs**, ESMA proposes retaining the current static post-trade LIS threshold at EUR 50m, as well as the maximum deferral period for price / volume information of end of T+2. • Notably, the ESMA CP does not include in RTS 2 deferrals for illiquidity for SFPs, emission allowances and ETCs / ETNs, meaning that deferral for post-trade transparency is limited to trades above the LIS. ESMA has also removed the option of deferrals being extended (see key issues & implementation challenges column). **ESMA's May 2024 CP** on RTS 2 also proposes amendments to the **post-trade reporting fields**, including: • Prescribing the column names in reports, so that post-trade reports from different venues and APAs will become more easily comparable; • Adding a new post-trade reporting field for "Flags" to ensure more consistent reporting of applicable flags; • Adding a new field "Trading system type", as this information will need to be reported by CTPs and is therefore relevant in post-trade reports; and • Removing certain information relevant to emission allowances and derivatives thereof, where that information is included in RTS 23 reference data reports.	2. Under the second model, there would be a single LIS threshold and a cap for the largest trades which would apply as follows: a. for transactions with a notional amount below the LIS threshold, there would be full (price and volume) transparency in real time (as per the first model above); and b. for trades above the LIS threshold, there would be price and volume deferrals (by end of day for bonds and derivatives). However, volume information would not need to be provided (permanently) for trades above the "largest transactions" cap (although the post-trade report would indicate that the volume of the trade was above the cap), similarly to CFTC rules applicable to swaps and FINRA rules applicable to bonds. The CP indicates how relevant thresholds and caps would be set for different bonds and derivatives to show what the impact of each model would be on transparency. Points to note include: • For bonds, the FCA proposes to group sovereign / public bonds by reference to issuance size, country of issuer and maturity, and corporate / other bonds by reference to currency, issue size and rating. This reflects the FCA's analysis that these factors influence liquidity and transaction size, meaning that relevant thresholds and deferral periods can be more appropriately calibrated than under the current regime (under which too many bonds can be grouped together). • For OTC derivatives, the FCA proposes nine maturity groups for each class of derivative, with relevant LIS thresholds / caps set differently for each group, essentially set by the FCA after considering the average daily liquidity of instruments of the relevant tenor (thereby reflecting liquidity providers' ability to hedge their exposures). • The FCA also wants to include swaps with broken tenors as Category 1 instruments, while acknowledging that there may need to be features in the rules to protect the anonymity of relevant trades (such as rounding the notional amount to the nearest whole value and rounding the tenor to the nearest week, month or year). The FCA is seeking feedback on these proposals. • Index CDS (iTraxx Europe Main and iTraxx Europe Crossover) will be in scope of transparency going forward. These index CDS are not currently treated as liquid by the FCA transparency calculations. • For packages, the FCA proposes that post-trade reporting of the whole package can be deferred where any component of the package benefits from deferral.

Timeline	Key issues & implementation challenges

	EU developments	UK developments
Post-trade transparency (trading venues and investment firms)	**ESMA's July 2024 CP** included a proposal on flags for non-equity post-trade transparency reports. ESMA proposes: • Aligning the post-trade transparency flags with the revised post-trade transparency regime, by including one new post-trade deferral flag for each of the five deferral buckets of bond transactions. For ETCs, ETNs, SFPs and emission allowances there would be a single deferral flag (DEFR); • Creating new flags for supplementary deferral flags relating to volume omission and publication in aggregated form to avoid confusion between flags applicable under the old and new regime; and • Introducing a new flag (MHPT) for all matched principal transactions. • ESMA has also asked for views on whether to delete the agency-cross trade flag (ACTX). **Article 11a – Deferred publication of derivatives** Currently, competent authorities are required to authorise market operators and investment firms operating on a trading venue to provide for the deferred publication of the details on transactions comprising ETDs and OTC derivatives based on the size or type of the transaction. Under the new rules, trading venues may defer the publication of the details on transactions comprising ETDs and OTC derivatives based on the size or type of the transaction, provided arrangements for deferred publication are clearly disclosed to market participants and the public. Such arrangements must be organised by using five deferral buckets based on the size of transaction and the liquidity of the instrument, with different price / volume deferrals applying to each bucket. However, the maximum deferral periods are not specified in Level 1. ESMA is mandated to revise RTS 2 to reflect these new rules on deferrals in respect of derivatives. This CP is expected in early 2025 (see timeline column). In the meantime, an unintended consequence of the earlier RTS 2 amendments related to bonds etc. (see above) appears to be that the earlier RTS 2 amendment (if implemented as proposed by ESMA) would remove the possibility of having extended / supplementary post-trade deferrals in respect of derivatives trades before the new deferral regime for derivatives (which should otherwise cater for supplementary deferrals) is in place (see key implementation challenges / issues column). ESMA will have to report to the Commission every 2 years on how post-trade deferrals are used in practice. **Package orders:** For post-trade transparency purposes, each component of a package transaction will need to be reported (with prices allocated to the different component instruments), using a flag indicating that the transaction is a component of a package transaction. Post-trade deferrals may apply to individual components of package transactions.	As noted above, for Category 2 instruments, only the trading venues on which the relevant instruments are traded will need to give post-trade transparency (i.e. investment firms will not need to give post-trade transparency for OTC trades in these instruments). Venue operators would have discretion to set deferrals (i.e. deferral periods and any thresholds). As with pre-trade transparency waivers for Category 2 instruments (see above), venues would have to set out their processes for this in their rulebooks and would need to follow the criteria specified for pre-trade waivers (i.e. taking account of the relevant instrument's liquidity, standardised / frequent trading, impacts of the deferral on liquidity and orderly trading etc.). **Exemptions from post-trade transparency** Once the new UK non-equity transparency regime applies, all relevant rules will be within the FCA Handbook. This means that UK RTS 2 will be deleted (amongst other changes to legislation). Because of this, the FCA will be moving the exemptions from post-trade reporting (which are currently in UK RTS 2) into the Handbook. In doing so, the FCA is proposing to consolidate existing exemptions, amend certain exemptions (such as the exemptions for inter-funds transfers and give-ups and give-ins) and add a new exemption for intra-group transactions for intra-group risk management purposes. These changes reflect changes the FCA has already made to UK RTS 1 in respect of the UK equity transparency requirements. **Content of post-trade reports (reporting fields and flags)** The FCA has proposed several changes to post-trade reporting fields, removing those that are no longer required, clarifying others in order to improve data quality and comparability, and adding new fields to improve transparency data. Key proposals to change the reporting fields include the following: • The FCA wants to delete the "Instrument identification code type" field, retaining the "Instrument identification code" field, and clarifying that this should be populated with the instrument's ISIN (for all non-equity instruments, including OTC derivatives). The FCA indicates that it is open to phasing out ISIN in the future. • Noting issues with the use of ISINs for OTC derivatives (such as challenges in identifying similar instruments which could be treated as identical for liquidity and best execution purposes), the FCA is proposing to introduce UPI for transparency purposes for OTC derivatives. The FCA also proposes additional data fields to supplement UPI to help market participants identify relevant instruments. The additional fields would cover tenor and effective date (or effective start date and expiry date), spread on the floating leg of IRSs, upfront payments forming part of CDS transactions, and the clearing house in which the instrument is cleared. The CP indicates that the FCA is looking to use UPI consistently for reporting purposes, noting that UK EMIR reporting already mandates UPI, and indicating that an FCA review / discussion paper on MiFIR transaction reporting requirements will follow.

Timeline	Key issues & implementation challenges

	EU developments	UK developments
Post-trade transparency (trading venues and investment firms)	**Article 21 – Post-trade disclosure by investment firms in respect of bonds, structured finance products, emissions allowances and derivatives** Investment firms will be permitted to defer the publication of the price or volume of bonds, structured finance products and emission allowances traded on a trading venue on the same conditions as laid down in Article 11 of MiFIR (as supplemented by RTS 2, see above). Investment firms will be permitted to defer the publication of the price or volume of OTC derivatives (as described in Article 8a(2) on the same conditions as laid down in Article 11a of MiFIR (as supplemented by RTS 2, see above).	• The "Price" field would only be populated with numerical values going forward. A new "Price conditions" field would be used to indicate whether a price is pending (PDNG) or not applicable (NOAP). The FCA has also proposed several other clarifications to the "Price", "Price notation", "Price currency", "Notional currency" and "Notional amount" fields. However, the FCA has steered clear of prescribing how "Price" should be populated for each asset class or sub-class and will, instead, liaise with the industry to develop relevant reporting guidance (produced by the FCA or produced by industry and adopted by the FCA). Such guidance could be more flexibly amended as market practice evolves. • The FCA is introducing a new field "LEI of the clearing house", as information about where a trade is cleared can help price formation, as differences in prices can partly reflect the CCP used for clearing. The "Transaction to be cleared" field would become redundant and be deleted. Key proposals to change reporting flags include the following: • Reflecting similar changes made in EU RTS 2, the FCA is introducing a new PORT flag for transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price. Where a transaction qualifies as both a package transaction and a portfolio transaction, the package transaction flag (TPAC) should be used. • The FCA is removing the illiquid instrument transaction flag (ILQD) and the post-trade flag for transactions above size specific to the instrument transaction (SIZE), which become redundant because of the changes the FCA is making to post-trade deferrals. • Similarly, because there will be less deferral types, redundant "supplementary deferral flags" are being deleted. The FCA would only retain the volume omission flag (VOLO) and the full details flag (FULV), both of which continue to be relevant under the revised transparency regime. • The FCA is also deleting the flag for agency cross-trades (ACTX), as the information is not relevant for price formation, and the flag for non-price forming transactions (NPFT), which is redundant as all non-price forming transactions will be out of scope of post-trade reporting. These changes reflect changes already made to UK RTS 1 relating to UK equity transparency requirements (see above).

Timeline	Key issues & implementation challenges

	EU developments	UK developments

Instrument scope	As previously, trading venues will need to give transparency for non-equity instruments traded on their venues.
	
	Investment firms will need to give post-trade transparency when trading bonds, structured finance products and emission allowances traded on a trading venue (as is currently the case).
	
	Article 8a(2) MiFIR
	
	But the scope of derivatives subject to transparency obligations has been revised, essentially removing the link to the "traded on a trading venue" / TOTV concept.
	
	The following derivatives will be in scope of transparency obligations going forward (with the Commission empowered to make amendments by delegated act, if needed):
	• Exchange-traded derivatives ("ETDs");
	• OTC derivatives which are denominated in major currencies (Euro, Yen, US Dollar or pound sterling) and which are subject to the clearing obligation and actually cleared. Where these OTC derivatives are interest rate swaps, only the most liquid tenor combinations (as specified in the MiFIR Level 1 text) will be in scope; and
	• Credit Default Swaps ("CDS") over global systemically important banks (or which reference indices comprising global systemically important banks) which are centrally cleared (even if not in scope of the clearing obligation).
	
	The scope of OTC derivatives subject to transaction reporting obligations has also been amended in a way that reflects, but is not identical to, the above (see below).
		FCA CP 23/32 – non-equity transparency regime
		
		The FCA has acknowledged (in its consultation paper FCA CP23/32) that the current instrument scope of the UK non-equity transparency regime is too wide (it captures any instruments that are traded on a UK trading venue even when those instruments are traded OTC).
		
		Therefore, the FCA proposes to specify a much-reduced list of instruments (Category 1 instruments) which will be subject to post-trade transparency by venues and investment firms, as well as to pre-trade transparency by venues.
		
		The following are proposed to be Category 1 instruments:
		• Sovereign and corporate bonds that are ToTV, as these are sufficiently standardised (although different liquidity profiles of ToTV bonds are acknowledged through the FCA setting different large in scale (LIS) thresholds).
		• Certain OTC derivatives that are subject to the UK clearing obligation, as these represent the most systemically important, standardised and liquid derivative instruments. Only transactions between counterparties that are also subject to the clearing obligation (or which would be subject to the clearing obligation if established in the UK) will be within Category 1, i.e., excluding transactions between non-financial counterparties and small financial counterparties below the clearing threshold.
		
		This means that FX derivatives and single-name credit default swaps (CDSs) – both of which are not in scope of the UK clearing obligation – would be out of scope of Category 1 (although they would be in scope of Category 2 if traded on venue, see below). This is in contrast to the final position in the EU following EU MiFID II / MiFIR Review, as the EU non-equity transparency regime will also apply to CDSs over GSIBs (or which reference indices comprising GSIBs) which are centrally cleared (even if not in scope of the EU derivatives clearing obligation).
		
		Based on analysis of relevant markets, the FCA also proposes to further reduce Category 1 by excluding some instruments which are subject to clearing, as follows:
		• Forward rate agreements (FRAs), fixed-to-floating IRSs (other than those based on EURIBOR), and basis swaps and overnight index swaps (OIS) based on Japanese Yen are to be excluded from Category 1 altogether.
		• For fixed-to-floating rate swaps and (other) OIS, these will be bucketed by tenor, with only the following included in Category 1:
		  - Fixed-to-float EURIBOR (28 days to 50 years)
		  - OIS SONIA (7 days to 50 years)
		  - OIS SOFR (7 days to 50 years) – although the FCA will monitor how liquidity in longer-term tenors develops before finalising the rules, given that USD LIBOR only ceased in July 2023
		  - OIS €STR (7 days to 3 years)
		  - OIS FedFunds (7 days to 3 months).

Timeline	Key issues & implementation challenges
EU The revised (predominantly reduced) scope of derivatives subject to EU non-equity transparency requirements has been applicable since 28 March 2024. For derivatives that remain in-scope, current RTS 2 requirements continue to apply until any revisions to RTS 2 become applicable (see below). **UK** FCA CP23/32 closed on 6 March 2024. The Policy Statement is expected in November / Q4 2024. The FCA has proposed an implementation period of 12 months from when the rules are finalised.	**Commentary on EU & UK implementation** While changes to the scope of non-equity transparency requirements are generally welcome, firms will need to adapt their systems to reflect these in order to avoid regulatory risk of overreporting. **Commentary on EU implementation** Although this is not an area on which AFME has actively engaged with its members or relevant regulators, we also note that there are some uncertainties about whether particular instruments would be in scope of the revised transparency requirements, with firms having to engage legislators, regulators, and/or trade bodies to achieve consensus, or having to take some regulatory risk. In the EU, this includes instruments that are not TOTV (and so were not previously caught) but which are captured in scope of the transparency regime going forward (such as certain single name CDS on GSIBs). **Commentary on divergences** The divergences between the EU and UK's revised non-equity transparency regimes, such as instrument scope, detailed requirements in respect of post-trade deferrals, and different templates for relevant reports, will represent a key implementation challenge for sell-side firms operating across both UK and EU markets as firms will need to adapt and apply their reporting systems accordingly, i.e. essentially run separate systems in the UK and EU going forward. Interactions between the regulatory regimes in both markets can also be complex, e.g. where the counterparties to a trade are located in the EU and UK, respectively. This is because each counterparty would need to ensure compliance with transparency obligations in their respective jurisdictions. Firms operating in one market could put in place assisted reporting arrangements for post-trade reporting in the other market to help with local compliance.

	EU developments	UK developments
Instrument scope		• For any non-equity instruments that are outside Category 1 but which are traded on venue in the UK (all of which will be classed as Category 2 instruments), the relevant venue will be subject to pre- and post-trade transparency requirements, with no transparency obligations applying to investment firms. • Category 2 instruments would include the following: - Derivatives and structured finance products that are not Category 1 instruments; - Emission allowances; and - Emission allowances derivatives.
Pre-trade transparency (SIs)	**Article 18 MiFIR – Obligation for SIs to make public firm quotes in respect of non-equity transactions** The obligation for SIs to make public firm quotes in respect of non-equity transactions (i.e., bonds, SFPs, emission allowances and derivatives) has been deleted as the EU is of the view that such quotes are tailored to individual clients and have marginal informational value to other clients. Nevertheless, SIs might fulfil pre-trade transparency requirements on a voluntary basis, for example to address needs of their retail clients. **Article 19 MiFIR** The requirement for ESMA to monitor the application of Article 18 of MiFIR has been deleted given that SIs are no longer subject to pre-trade transparency requirements for non-equity transactions.	**SI non-equity pre-trade transparency** SIs are subject to non-equity pre-trade transparency obligations under Article 18 of UK MiFIR. There are provisions within FSMA 2023 which, once in force, will give the FCA the power (but not the obligation) to impose and specify non-equity pre-trade transparency requirements on SIs. The FCA intends for these changes to Article 18 to coincide with the introduction of the new non-equity transparency regime. FCA CP23/32 does not contain SI-specific non-equity pre-trade transparency requirements, i.e. (as in the EU) these requirements will be deleted. SIs are proposed to be treated like any other investment firm under the newly proposed non-equity regime and would notably not be subject to any non-equity pre-trade requirements. The FCA will, however, have the power to reintroduce SI-specific non-equity pre-trade requirements in the future. The FCA also plans a wider review of the UK SI regime, including which SI obligations remain, particularly for SIs in the non-equity space.

	Timeline	Key issues & implementation challenges
	EU The removal of SI-specific non-equity pre-trade transparency requirements has applied from 28 March 2024. **UK** FCA CP23/32 closed on 6 March 2024. The Policy Statement is expected to follow in November / Q4 2024. The FCA has proposed an implementation period of 12 months from when the rules are finalised (although there are some indications that the Q4 2024 policy statement could fast-track implementation of some of the changes, which could include deletion of SI non-equity pre-trade transparency requirements). FCA Review of the UK SI regime is expected in Q4 2024.	

	EU developments	UK developments
Pre-trade transparency requirements (trading venues)	**Articles 8 and 8a – Pre-trade transparency requirements for bonds, Structured Finance Products (SFPs), emission allowances and derivatives** For market operators and investment firms operating a trading venue trading bonds, SFPs and emissions allowances, as well as derivatives, only central limit order book (CLOB) and periodic auction systems (i.e., not voice or RFQ systems) will need to provide non-equity pre-trade transparency. ESMA is tasked to define these trading systems and has, in its **May 2024 CP** on RTS 2, proposed to define: • CLOBs as continuous auction trading systems, as well as trading systems which combine elements of a continuous auction trading system and a periodic auction trading system. ESMA notes in its commentary that a key characteristic of a CLOB is its trading algorithm which executes buy and sell orders without human intervention. • Periodic auction systems as systems that match orders "on the basis of a periodic auction and a trading algorithm operated without human intervention" (i.e. retaining the existing definition in RTS 2, Annex I). • References to other trading systems are being deleted from RTS 2, Annex I, as they are no longer relevant for pre-trade reporting (although they are retained in Annex II for post-trade reporting in the context of the consolidated tape (CTP), see below). **Article 8b – Pre-trade transparency for trading venues in respect of package orders** CLOB and periodic auction systems will need to provide pre-trade transparency on package orders. Pre-trade transparency waivers can be applied for each individual component of a package order. **Article 9 – Pre-trade transparency waivers for bonds, SFPs, emission allowances and derivatives** The pre-trade transparency waivers applicable to bonds, SFPs, emission allowances and derivatives has been revised to align with the changes made to Article 8 of MiFIR and the implementation of Articles 8a and 8b of MiFIR. Notably, the Size Specific to the Instrument (SSTI) waiver for quote and voice trading systems has been deleted, while the waiver for derivatives not subject to the trading obligation has been restricted to OTC derivatives only.	**FCA CP23/32 on non-equity transparency** **Pre-trade transparency & waivers** Under the FCA proposals, venues would continue to give pre-trade transparency on a continuous basis during normal trading hours, giving adequate information about current bid and offer prices, actionable indications of interest and the depth of trading interests at those prices. The FCA is, however, expressly clarifying that trading venues shall have regard to achieving efficient price formation and a fair evaluation of instruments when calibrating pre-trade transparency. The CP indicates that this *"will support high standards of pre-trade disclosure, especially in relation to systems or trading protocols for which our rules do not give detailed requirements"*. This statement reflects the fact that there will be: • Detailed pre-trade requirements for many-to-many or all-to-all trading systems, such as limit order book, periodic auctions or quote driven systems (as currently apply); but • There will be no detailed pre-trade requirements for request-for-quote (RFQ) or voice trading systems, with the FCA indicating that *"in most circumstances the public disclosure of quotes or actionable indications of interest is not necessary in the best interest of efficient price discovery and the support of the provision of liquidity"*. The implication is that, in *some* circumstances, pre-trade transparency may be required from RFQ and voice systems, with the system operator taking a view. The way this is effected is through the table in MAR 11.2.3R, which proposes that trading systems that are not continuous auction systems, periodic auction systems, or continuous quote-driven systems would need to provide *"adequate information as to the level of orders or quotes and of actionable indications of interest; in particular, the 5 best bid and offer price levels and/or 2-way quotes, including actionable indications of interest in each market maker in the financial instrument, <u>if the characteristics of the price discovery mechanism so permit</u>"* (emphasis added).

Timeline	Key issues & implementation challenges
EU RFQ and voice trading systems no longer have to provide non-equity pre-trade transparency as of 28 March 2024. For CLOB and periodic auction systems, current RTS 2 requirements continue to apply until any revisions to RTS 2 become applicable. ESMA's May 2024 CP on amendments to RTS 2 closed on 28 August 2024, and the final amendments to RTS 2 will be submitted to the Commission in December 2024 (followed by adoption / the legislative process). The ESMA CP did not indicate whether there would be a transition period before the revised RTS 2 requirements apply. Regarding package orders, revised Article 8b MiFIR has been applicable from 28 March 2024. However, upcoming RTS 2 amendments will be relevant. ESMA's interactive rulebook indicates that venues operating CLOB or periodic auction systems should continue to apply existing RTS 2 requirements, except where specified (e.g. ESMA indicates that provisions related to SSTI are no longer relevant). Changes to pre-trade SSTI waiver have been applicable since 28 March 2024. ESMA CP on RTS 2 amendments in respect of derivatives is expected in early 2025, with final proposals due to be submitted to the Commission by 29 September 2025. **UK** FCA policy statement on the new UK non-equity transparency regime is expected in November / Q4 2024. The FCA has proposed an implementation period of 12 months from when the rules are finalised (although there are some indications that the Q4 2024 policy statement could fast-track implementation of some of the changes, which could conceivably include the removal of detailed pre-trade requirements for RFQ and voice trading systems).	**Commentary on EU & UK implementation** No implementation required by sell-side firms (although will be relevant to firms which also operate trading venues). However, sell-side firms will be impacted in terms of the level of pre-trade disclosure received from venues.

	EU developments	UK developments
Pre-trade transparency requirements (trading venues)	In **ESMA's May 2024 CP on non-equity transparency requirements in RTS 2**, in respect of pre-trade waivers: • ESMA is deleting references to the SSTI waiver (to reflect the Level 1 change above). Provisions relating to the order management facility (OMF) waiver are not being amended. • ESMA proposes to change the large in scale (LIS) thresholds so that they are set "statically" within RTS 2 (rather than calculated reflecting periodic assessments). Although this is not specifically envisaged in the Level 1 changes to MiFIR, it would mirror the move away from periodic assessments in other areas (i.e. liquidity assessment and thresholds for post-trade deferrals, see below). The proposed "static" pre-trade LIS thresholds are: - EUR 5m for sovereign / other public bonds and covered bonds (which is higher than the current pre-trade LIS thresholds based on 2023 calculations); - EUR 1m for corporate, convertible and other bonds (which is lower than the current pre-trade LIS thresholds based on 2023 calculations); - EUR 250,000 for SFPs; and - 5 lots for EU Emission Allowances. • The amendments to MiFIR Level 1 change the liquid market test to a static assessment (rather than one relying on periodic calculations) for post-trade reporting purposes (see below). ESMA proposes to use the same static assessments for bonds, SFPs and EUAs for the purposes of the pre-trade "illiquid" waiver. • ESMA proposes to treat all ETCs and ETNs as illiquid, as well as proposing a pre-trade LIS threshold of EUR 1m. A further **ESMA CP on RTS 2 amendments in respect of derivatives** will follow in early 2025.	**Pre-trade waivers** Pre-trade transparency waivers are proposed to be streamlined as follows: • For RFQ and voice systems, the size specific to the instrument (SSTI) waiver and the waiver for illiquid instruments would be deleted. Although the FCA says that this reflects the much-reduced scope of instruments subject to transparency and the changes to pre-trade requirements for RFQ / voice systems, firms should carefully assess whether there may be a gap (and whether this would be plugged by the waivers below), given that RFQ / voice systems may need to give pre-trade transparency in certain circumstances to support price formation, as indicated above. • A new waiver for negotiated orders would cover: - Orders for the execution of packages; - Orders for the execution of transactions subject to conditions other than the current market valuation; and - Orders that are negotiated between counterparties, including RFQs, provided they are executed within the spread reflected in the order book, the quotes of the market makers or other trading system providing transparent actionable indications of interest (where available). • The large in scale (LIS) waiver would continue to apply, with the FCA setting the LIS threshold for Category 1 instruments within the Handbook. Trading venues would set their own LIS thresholds for Category 2 instruments following processes they will need to specify in their rulebooks. In setting the LIS thresholds, they will need to apply criteria set out in the proposed FCA rules at MAR 11.3.4R (which include the liquidity of the relevant Category 2 instrument, whether it is traded in a standardised or frequent manner, and any adverse impacts on liquidity or orderly trading).

Timeline	Key issues & implementation challenges

	EU developments	UK developments
Post-trade risk reduction services	**Article 31 – Post-trade risk reduction services** PTRR services will be defined by the Commission in a delegated act (but will include portfolio compression) and will be exempt from relevant transparency obligations as well as the derivatives trading obligation (DTO) and best execution requirements. In addition, firms that provide post-trade risk reduction services will not be considered to operate a multilateral system and therefore would not require authorisation as a trading venue. Article 31(4) MiFIR empowers the Commission to adopt delegated acts specifying (i) what constitutes post-trade risk reduction services; and (ii) the particulars of the transactions to be recorded. Article 31 does not specify a deadline for adopting the delegated acts. The transparency obligation that applied to compression reporting has now been removed.	**FCA CP 24/14** includes proposals to expand the exemptions from transparency obligations (amongst other requirements) for transactions arising from PTRR. The FCA has proposed to expand the list of eligible PTRR services that can benefit from the relevant exemptions, such that it would include (in addition to the current portfolio compression) portfolio rebalancing and basis risk optimisation. For PTRR services to be eligible for the exemptions, the services need to reduce non-market risks in derivatives portfolios and need to result in transactions that do not contribute to the price discovery process (as required by **FSMA 2023**). In addition, the FCA proposes that PTRR services need to meet three additional criteria in order to be eligible for exemption: 1. The PTRR service must be provided by a firm that is not party to a transaction resulting from the service. 2. It must be operated on the basis of non-discretionary rules set in advance by the operator that are based on specified parameters (i.e. the risk parameters that are agreed to be minimised by the PTRR service). 3. The PTRR must result in a single set of transactions that bind all the participants. The FCA also requires PTRR service providers to fulfil a number of conditions in order for transactions resulting from their services to be exempt, as follows: • requirements in respect of service providers' agreements with market participants; • recordkeeping requirements in respect of their PTRR exercises, with providers required to share relevant records with the FCA on request; • requirements to publicly disclose the essential information about the transactions resulting from a PTRR exercise, by the end of the business day after the exercise is complete (with firms no longer required to use an APA for these disclosures). Notably, relevant transactions will not be subject to the non-equity post-trade reporting requirements (i.e. won't need to fulfil the prescribed post-trade formats or indicate with a flag that the transaction resulted from PTRR); and • a new requirement to notify the FCA of the intention to rely on the PTRR exemptions.

Timeline	Key issues & implementation challenges
EU The changes to the PTRR provisions in Article 31 MiFIR will not apply until the Commission delegated act has been created and is applicable (confirmed by ESMA in its interactive rulebook text of Article 31 MiFIR). **UK** The FCA CP closed on 30 September 2024. The revised rules on PTRR services are set to apply three months after the final rules are published. Although the FCA CP does not indicate when the policy statement is due, the draft Handbook text (contained in a new MAR12 in the FCA Handbook) assumes that the new non-equity transparency rules (which will be contained in new MAR11) will be applicable before the PTRR-related changes start to apply. This would suggest that the policy statement is likely to follow some time after the new non-equity transparency rules have been finalised in November / Q4 2024, as a 12 months transition period is expected for the new non-equity transparency regime (see above).	**Commentary on EU implementation** Firms should not seek to benefit from the EU amendments to Article 31 until the delegated act is in place. **Commentary on UK implementation** In the UK, in order for transactions arising from PTRR services to benefit from the exemption to the transparency rules (and other exemptions), sell-side firms will need to take implementation steps with any external PTRR service providers, such as putting in place / updating relevant agreements. Sell-side firms not acting as PTRR service providers may also need to implement changes to exclude the relevant trades from post-trade reporting (i.e. remove them from reports to their APAs), as well as reflecting in their systems that these trades are excluded from the UK DTO. Where sell-side firms are themselves acting as PTRR service providers for other market participants, in addition to putting in place / updating relevant agreements, firms will also need to make arrangements for FCA notifications, ensure that their public disclosures can capture the essential information prescribed by the FCA for the different types of PTRR services, decide whether or not to use APAs for the publication of public disclosures, and ensure relevant recordkeeping processes adequately capture the different types of PTRR service.

	EU developments	UK developments
Transaction reporting	**Article 26 MiFIR - Non-equity instruments in scope of transaction reporting** The new MiFIR transaction reporting scope should result in a narrower population of OTC derivatives that are in scope of transaction reporting. This is because the revised rules remove the TOTV concept for OTC derivatives which limits the OTC derivatives in scope of transaction reporting to: i. OTC derivatives with a TOTV underlier; ii. OTC derivatives referencing a basket / index with a TOTV component; and iii. OTC derivatives that are in scope of the revised transparency regime under the new Article 8a of MiFIR (i.e., derivatives subject to the EMIR clearing obligation and CDS over global systemically important banks (or which reference indices comprising global systemically important banks) which are centrally cleared) – see above. This reduction in scope of reportable OTC derivatives is explained in Recital 19a of MiFIR which states: *"Currently investment firms are required to report their transactions to their competent authority in any financial instrument traded on a trading venue or if the underlying is traded on a trading venue or is an index or basket composed of financial instruments that are traded on a trading venue, regardless of the transaction being executed on venue or OTC. The concept of 'traded on a trading venue' has proven problematic in the case of OTC derivatives, for the same reason it has proven problematic in the case of applicable transparency requirements. Therefore, the new scope for transaction reporting of derivatives clarifies that transactions in OTC derivatives executed on venue shall be reported, and those transactions in OTC derivatives executed off-venue shall only be reported if they are subject to transparency requirements, or if the underlying is traded on a trading venue or is an index or basket composed of financial instruments that are traded on a trading venue."* Note that there are also some extensions in respect of instruments in scope of transaction reporting, as ESMA indicated in its October 2024 CP on changes to RTS 22. Transactions in OTC interest rate swaps, forward rate agreements, overnight index swaps and credit default swaps what are not ToTV and do not have an underlying that is ToTV, but which are caught within the new scope of non-equity transparency requirements (as to which see Instrument scope above) will be caught by transaction reporting requirements going forward. See cross-cutting issues above for changes to RTS 22.	

Timeline	Key issues & implementation challenges
EU The changes to the scope of transactions subject to transaction reporting requirements will not apply until required revisions to RTS 22 become applicable. ESMA's consultation on RTS 22 closes on 3 January 2025. Although ESMA is required to submit the final draft of revised RTS 22 by September 2025, ESMA has indicated that the final draft RTS 22 will be submitted to the Commission sooner in Q2 2025. In terms of application timings, ESMA has proposed that changes to RTS 22 should be aligned with interdependent requirements (such as RTS 23 reference data requirements) and that firms should have 12 months to implement the revised requirements from when the technical documentation (presumably the finalised RTS 22) is available. **UK** The FCA is expected to publish a discussion paper on the UK transaction reporting requirements in Q4 2024. This will be followed by a consultation paper in Summer 2025 and a policy statement by end of 2025.	**Commentary on EU implementation** Firms are unable to rely on the reduced instrument scope for transaction reporting purposes at this stage. Similarly, any extension in instrument scope will not apply until revised RTS 22 becomes applicable. Firms will also need to (for example) continue using the short selling flag until RTS 22 has been revised. Although the revised scope of EU transaction reporting removes the ToTV concept at the level of the OTC derivative being traded, the ToTV concept remains relevant because firms will need to determine whether relevant underliers / components of baskets / indices are ToTV. Firms will, therefore, still need to rely on external ToTV determinations for these purposes going forward. Given the different implementation timings for changes to RTS 2 (see above) and RTS 22, there may be discrepancies between the changes to RTS 2 and RTS 22, i.e. where changes to RTS 2 fields may not be reflected in RTS 22 for a period. In due course, firms will need to update their systems to strip out instruments previously in scope. Firms will also need to reflect any changes to the reporting fields in RTS 22.

3. Market Data

Executive summary

The cost of market data has been a key concern for sell-side firms.

In the EU, ESMA has published proposals which significantly enhanced existing requirements for trading venues to provide market data on a "reasonable commercial basis". The proposals are impactful, as they spell out (amongst other things) that users of market data should not be charged based on the value of the data to them, and that market data vendors should use licensing terms (and practices) which are fair. There will also be requirements on how market data vendors can run audits and enforce potential breaches of market data agreements.

These changes, if appropriately calibrated, should positively impact sell-side firms' access to market data (although precise impacts will have to be observed once the new requirements have bedded down and AFME advocates that there is further room to improve transparency on market data costs and pricing). The proposals are due to be finalised by the end of 2024, although there will then be a period for legal adoption and implementation.

	EU developments	UK developments
Market data	**Article 13 MiFIR** Requirements to make pre- and post-trade market data available on a reasonable commercial basis (RCB) have been extended to SIs (as well as APAs and CTPs). The existing guidelines on what it means to provide pre-trade and post-trade data on a "reasonable commercial basis" are being re-written into new ESMA RCB RTS. The recitals of the regulation amending MiFIR Level 1 do provide that the requirements be "strengthened" (rather than just moved into legislation unamended) to ensure venues, APAs, SIs and CTPs do not charge for the data based on the value it has for the user. Seemingly reflecting this, the MIFIR text adds that RCB includes "unbiased and fair contractual terms". The MiFIR text also requires ESMA to "monitor developments in the cost of data", every two years, with a view to amending the RTS where necessary.	**Market Study (MS23/1.5): Wholesale Data Market Study** This market study (published in February 2024) reviewed the UK RCB framework. We have reflected some of the FCA feedback from the Market Study in the following rows. The FCA is considering further its next steps following the market data study and, specifically, looking at where the issues identified could be addressed through the Smarter Regulatory Framework as well as existing powers. The FCA also sees its work on the UK bond and equities CTP as a first step in addressing some of the identified issues (some of which are noted in the following rows), indicating that any additional FCA action (in terms of rulemaking or guidance) may only be evaluated once the CTPs are in place. **FCA Consultation Paper (CP23/32): Improving transparency for bond and derivatives markets** The FCA CP on the UK transparency framework for the bond and derivative markets in the UK included proposals transferring the RCB provisions relating to trading venues into the FCA Handbook. **Consultation Paper (CP23/33):** The FCA CP on payments to data providers and forms for Data Reporting Services Providers (which also included the Policy Statement for the framework for UK consolidated tape), with regard to market data, focused on (and confirmed) the transfer of the RCB provisions relating to trading venues into the FCA Handbook. Certain comments of the FCA in the context of the potential tender criteria for the bond CTP appear to be based on RCB considerations (see CTP section below). The RCB provisions entered into force in the MAR sourcebook of the FCA Handbook on 5 April 2024.

Overview of RAG ratings (with further detail on each topic below)

Topic	Jurisdiction	RAG rating
Market data	EU & UK	
Pricing of market data (inc use cases)	EU & UK	
Licensing terms	EU & UK	
Audit and enforcement	EU	
Market data policies	EU	
Access and content of delayed data	EU	

Timeline	Key issues & implementation challenges
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJEU, the RCB RTS will apply 3 months later. **UK** The RCB provisions have been moved into the MAR sourcebook of the FCA Handbook effective from 5 April 2024. It is unclear whether (and, if so, when) the FCA will take further steps to enhance existing RCB rules or guidance. The FCA will develop the bond CTP tender criteria (which may include requirements related to RCB, see the CTP section below) during 2024 with a view to the UK bond CTP beginning operation in 2025.	**Commentary on EU implementation** Although the RCB requirements have been extended to SIs, this is unlikely to be relevant for sell-side firms, given that sell-side firms are unlikely to charge for market data.

	EU developments	UK developments
Pricing of market data (inc use cases)	**ESMA's May 2024 CP on RCB RTS** **Fees for market data** Costs and margin are relevant to the calculation of market data fees. Therefore, ESMA proposes to establish the following 'cost categories' relevant to producing and disseminating market data, which, according to ESMA, will make it easier to identify shared / joint costs and to avoid double counting particular costs: • Infrastructure costs; • Connectivity costs to enable user access to data; • Personnel costs; • Financial costs; and • Administrative costs. Where any cost category relates to multiple services (i.e., not just market data services), costs will need to be 'appropriately apportioned' to the production and dissemination of market data. Audit costs would not be included in the above costs categories. ESMA has decided against setting a numerical or percentage threshold for setting an appropriate reasonable margin for market data. Instead, ESMA proposed a principles-based approach for setting a reasonable margin, requiring market data providers to set the margin: • In a way that does not disproportionately exceed the costs of data provision; • (Where the provider offers other services) in a way that reasonably compares to the overall margin of the business; and • In a way that promotes fees which enable data access to the maximum number of users. ESMA provides a template for how market data providers should report to NCAs on their costs and margin when requested to provide this information. The proposed template also captures the fees charged by the data provider, and reasons for applying different fees. **Non-discriminatory access to market data** Importantly, the proposed RTS removes the possibility for data providers to create categories based on the value of data to the user. Instead, different pricing can be set based on different costs incurred by the data provider. ESMA notes that different uses of market data can require different arrangements for data provision (such as different data formats, data volume, latency and distribution channels), which can justify different pricing (on the basis that costs would differ). Fee categories can be set up, provided it is clear how they are set up and that categories are based on 'factual elements' that are 'easily verifiable'. Categories need to have more than one user (to avoid separate fee categories being created for particular users). Different margins (set applying the principles for reasonable margin above) can be applied to different fee categories, although the same margin must apply to all users within each fee category. As noted above, for each category, margin should be based on costs (rather than on the value of the data to the user) and should be expressed as a percentage of costs.	The FCA, in its **Wholesale Data Market Study**, did identify that market data vendors had some market power which could result in harmful commercial practices (such as complex licensing terms, see below). However, the FCA did not find a trend of excessively high returns / high margins in the market data market. Indeed, the FCA did observe switching or partial switching in the market – and competition between MDVs competing on price (as well as on data coverage, customer service, reputation, fee structure and how data can be used). The FCA did, however, indicate that market data users should have reasonable certainty of their overall expenditure in respect of market data over a given period. The FCA will use the market study findings to inform its ongoing work in developing the consolidated tape for bonds and equities, in the first instance, where pricing of CTP data is a key consideration (see below). The FCA thinks that a consolidated tape for equities could potentially challenge existing UK equities data providers to increase the value of their own product offerings through pricing and licensing terms that are more favourable to data users.

Timeline	Key issues & implementation challenges
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJ, the RCB RTS will apply 3 months later. **UK** It is unlikely that any changes will be made to the RCB framework anytime soon, given that it will take some time before the FCA can examine the impact of CTPs on wholesale data markets.	**Commentary on EU implementation** No implementation of these requirements by sell-side firms (assuming firms that are SIs do not charge for their market data). Firms may benefit from the enhanced EU requirements. **Broader key impacts on sell-side firms and related AFME advocacy** The impact of the EU RCB RTS on the cost of market data for sell-side firms will need to be assessed over time. Meanwhile, AFME is advocating (both in the EU and in the UK) for further measures to ensure transparency of costs and market data pricing by market data vendors.

	EU developments	UK developments
Pricing of market data (inc use cases)	To avoid users paying several times for the same data, ESMA also stipulates that each user should only be subject to one fee category. ESMA recommends that the Commission should legislate to make firms redistributing relevant market data subject to similar requirements on non-discriminatory access, costs / margin. The proposed RTS also set out that a list of cost types (and whether any costs are shared with other services) should be disclosed within fees. Firms should also disclose whether margins are included in fees and how firms ensure that margins are reasonable. The disclosure would cover relevant methodologies, rather than disclosing actual costs / margins.	
Licensing terms	In the proposed RCB RTS, ESMA has enhanced the requirements on contractual terms currently contained in the RCB guidelines. • ESMA proposes that data providers should provide pre-contractual information on request, including information on the provision of data and a quote of fees and charges in line with the firm's data policy. • There is also a new general prohibition of unfair terms and conditions in the market data agreement, which ESMA notes is intended to prevent not just unfair terms but also unfair practices (such as frequent and detailed requests from data users). • Terms will also need to be clear and concise, using the terminology defined in the RTS, and be consistent with the firm's data policy. • Data providers should give users two months' notice of amendments to the terms. Fee increases would trigger a termination right (without penalties) for the data user. • ESMA wants to prohibit clauses resulting in direct / indirect fee increases or in being charged more than once for the same data. The draft RTS would also require terms which could result in additional costs for users (such as penalties) to be grouped so that users can assess their cumulative effect. • ESMA is retaining the requirements from the RCB guidelines on 'per user' fees and data unbundling.	The FCA has highlighted the need for data users to be able to access clear and simple licensing terms. Again, the FCA will use the market study findings to inform its ongoing work on developing consolidated tape for bonds and equities in the first instance (which will include requirements around CTP licensing terms, see below). As noted above, the FCA thinks that a consolidated tape for equities could potentially challenge existing UK equities data providers to increase the value of their own product offerings through pricing and licensing terms that are more favourable to data users. In the Market Study, the FCA did find evidence of bundling practices in the market data market. However, the FCA recognised that customers can benefit from bundling (and indeed unbundling products could result in higher costs as well as higher complexity in licensing). Onerous exit terms for users and complex licensing (with complexity carrying the risk of driving additional cost for users) are also observed. However, the FCA finds that issues with complex licensing terms can be linked to underlying restrictions imposed by data generators. The FCA is going to explore potential changes to the RCB framework. This could include amending the FCA Handbook rules by strengthening the RCB framework with more prescriptive requirements to address complex licensing practices by data suppliers. However, it is clear that the FCA wants to observe the impact of its work on consolidated tapes before deciding whether any potential changes to the RCB framework are necessary and proportionate.

Timeline	Key issues & implementation challenges
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJ, the RCB RTS will apply 3 months later. **UK** It is unlikely that any changes will be made to the RCB framework anytime soon, given that it will take some time before the FCA can examine the impact of CTPs on wholesale data markets.	As above.

	EU developments	UK developments
Audit and enforcement	ESMA proposes to significantly enhance the requirements around audit practices. • ESMA wants to prohibit the 'reverse burden of proof' currently in place, as well as require data providers to notify users of the alleged infringement and grounds for suspecting it, limiting information requests to what is strictly necessary in relation to the alleged breach and giving users a right to comment on the facts audited and to challenge audit outcomes. • Data providers would have to disclose audit practices (including relevant procedures and notice periods) in the data agreement. • Importantly, the duration of audits would be limited to three years. Regarding penalties, ESMA incorporates the requirements from the RCB guidelines and also provides that penalties should generally be based on revenues that would have been generated had the user not breached the agreement. ESMA proposes a new time limit of three years following a breach, within which data providers need to alert users.	The FCA Market Study does not specifically identify concerns about audit practices used by market data vendors or about the enforcement of breaches of market data agreements.
Market data policies	Regarding the content and format of market data policies: • ESMA is retaining the list of standardised terms from the current RCB guidelines, seeking feedback on particular terms. • In terms of format and content, data policies should be comprehensive and should include information on fees, terms and conditions. ESMA suggests that data policies should be accessible for free and on a non-discriminatory basis in a single location on the data provider's website.	The FCA Market Study does not include specific commentary identifying shortcomings in market data policies.
Access and content of delayed data	Under the ESMA proposal, access to delayed data (free of charge after 15 minutes) should be improved by requiring data providers not to use registration processes to access delayed data. In terms of content and format of delayed data, ESMA proposes to enhance the current requirements in the RCB guidelines by requiring data providers to include (within post-trade data) all data required by Level 1 and 2 texts (i.e., including flags). ESMA also reiterates the requirement to provide delayed data in a machine-readable format, noting that this should allow automatic data extraction, with all delayed data for each trading day to be provided in the same file.	The FCA Market Study does not specifically identify issues with the accessibility of delayed market data.

Timeline	Key issues & implementation challenges
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJ, the RCB RTS will apply 3 months later.	As above.
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJ, the RCB RTS will apply 3 months later.	As above.
EU ESMA CP on the RCB RTS closed on 28 August 2024, with the final draft RTS due to be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption of the new RTS. Once published in the OJ, the RCB RTS will apply 3 months later.	As above.

4. Consolidated Tape Providers

Executive summary

Both the EU and UK have taken significant steps to incentivise the creation of consolidated tape providers which will produce consolidated CTP data streams from collated post-trade data (and, for equity instruments, pre-trade data). In both markets, there will be one CTP per asset class, with the bond CTP being created first (for operation likely in H2 2025), followed by an equity (shares and ETF) CTP. The EU also intends to create a derivatives CTP.

Transparency requirements are being enhanced partly to improve data quality and comparability, both of which are essential to support the creation of CTPs (and these enhancements are separately outlined in the Transparency section above). Concerns about the costs of market data are (in the view of regulators) partially addressed by giving market participants access to CTP data (see Market Data section above).

As sell-side firms will not be required to submit data directly to CTPs (which will be done by trading venues and APAs), a key concern for sell-side firms will be around whether the CTP tender processes in the EU and UK will result in the right balance being struck between ensuring that (i) CTP data and services are of an adequate quality, and (ii) pricing and the terms of access to CTP data (such as licensing terms) are fair and reasonable.

Sell-side firms will not be required to use CTP data. But once CTPs are operational, it will be up to firms to assess whether CTP data (and/or data purchased directly from other market data vendors) will best serve its intended purpose. This will include firms assessing whether or not CTP data should be accessed in order to achieve best execution for clients. Where firms decide that they want to access CTP data, the relevant licensing arrangements and connectivity will need to be put in place.

	EU developments	UK developments
Asset classes & order of CTP appointment	In the EU, there will be a single CTP per asset class, with the bond CTP being created first, followed by an equities CTP. Unlike the UK, the EU has also confirmed that there will be a CTP for OTC derivatives, once issues regarding derivatives identifiers have been resolved (see Transparency section above for developments on the OTC derivatives identifier).	As in the EU, the UK will have a single CTP per asset class, with the bond CTP being created first, followed by an equities CTP. However, the FCA has not commented on whether there will be a UK CTP for derivatives. **FCA CP 23/32** (which contains final rules on the framework for the UK bond CTP) indicates that the FCA will carry out a post-implementation review of the CTP framework which will assess (amongst other things) whether the "single CTP" model is appropriate, meaning that the FCA could move away from that model once the first bond CTP has completed its tender period of five years. Until then, the FCA's concerns about the impact of the single CTP model on competition have been addressed through mitigants put in place to deal with potential incumbency advantage of the first bond CTP, including an obligation for the CTP to allow an orderly transfer to another CTP of informational assets, the use by the CTP of open data standards to receive data, and the creation of a CT consultative committee (see below) to oversee the BAU operation of the CTP and any future transfer of responsibilities to another CTP. CTPs will also need to provide for client handover to a new CTP within their client agreements. The tender process for the CTP (see below) is also intended to respond to concerns about the lack of competition in the single CTP model, such as the impact this might have on the price of CTP data and / or service levels.
Tender period	Each CTP will be operational for 5 years.	Each CTP will be operational for 5 years.

Overview of RAG ratings (with further detail on each topic below)

Topic	Jurisdiction	RAG rating
Asset classes & order of CTP appointment	EU & UK	
Tender period	EU & UK	
Data outputs from bond CTP (and related inputs)	EU & UK	
Data outputs from equities CTP (and related inputs)	EU & UK	
Revenue sharing (bond and equity CTPs)	EU & UK	
Tender criteria & process (including pricing of CTP data)	EU & UK	

Timeline	Key issues & implementation challenges
EU & UK See below for timelines for the finalisation of technical details and of EU & UK tender processes.	

	EU developments	UK developments
Data outputs from bond CTP (and related inputs)	The EU bond CTP will capture post-trade data (as well as information on market outages, trading suspensions or halts). **Inputs to EU bond CTP** ESMA's second CP includes a new RTS on input / output data for the bond CTP, as well as relevant requirements which will apply to inputs into / outputs from the CTPs for all asset classes. Inputs to CTPs will be made by trading venues and APAs, and these firms will be subject to minimum input data requirements in terms of performance (including latency optimisation), reliability, security and compatibility of input data feeds to CTPs. There will be time limits for when post-trade data (for any asset class) and pre-trade data (for equities, see below) should be submitted to the relevant CTP. Data standards and formats are also prescribed. Inputs (and consequently CTP outputs) will cross-refer to underlying RTS 2 post-trade reporting fields. They will only be supplemented by additional data indicating the trading status of the instruments traded on venue, information on the type of trading system run by the venue and its status, along with certain time stamps indicating when data was submitted to the CTP etc. The RTS also includes requirements for CTPs to check the quality of input data and to have in place cooperation procedures with data contributors to flag and resolve relevant quality issues. The CTP will also have to have an enforcement process in place which could include in a suspension of revenue distribution and/or notification of issues with input data quality to NCAs. CTPs also need to put in place processes check the quality of their data outputs, and there will be a separate RTS setting out the CTPs' annual publication of performance statistics.	The UK bond CTP will capture post-trade data. In addition, the FCA has decided to require the bond CTP to offer a historical data service (i.e. a database of trades in date and time order with subsequent amendments or cancellations reflected in the feed) separately from the live CTP data feed. **Inputs to UK bond CTP** There will be mandatory contribution of relevant post-trade data from trading venues and APAs. It will be up to venues and APAs to connect to the CTP (rather than, as is the case under the EU CTP model, the CTP connecting to different data contributors to collect data). Data will need to be transmitted from data providers and received by the CTP via a standardised, open-source API developed by the CTP. Data providers will not be compensated for their costs of connecting to the CTP. Where the CTP notices potential quality issues with submitted data, it should feed this back to relevant data providers. The CTP will also have to report to the FCA every six months on data quality. These reports will cover the timeliness of data received by the CTP and any quality issues / potentially erroneous data, as well as the timeliness of CTP outputs, performance of CTP IT systems and usage of the CTP.

Timeline	Key issues & implementation challenges
EU ESMA CP on relevant CTP-related RTS closed on 28 August 2024. The final draft RTS will be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption and publication. The CP proposes that the RTS on input / output data from the bond CTP will apply from a date in 2025 (exact date not specified in the CP). **UK** The rules and guidance for the framework for the UK bond CTP took effect on 5 April 2024. **EU & UK** See below for timelines of EU & UK tender processes.	**Commentary on EU & UK implementation** Firms will need to put in place systems to connect to the EU & UK bond CTPs for the purposes of receiving post-trade CTP data feeds (if they wish to access these, which will not be compulsory). Firms do not need to facilitate inputs to the EU & UK bond CTPs, as relevant post-trade data will be submitted to the CTPs by APAs / trading venues. However, there have been some enhancements to the non-equity transparency requirements which are related to the creation of CTPs and which firms will need to implement (see Transparency section above).

	EU developments	UK developments
Data outputs from equities CTP (and related inputs)	The EU equities CTP will capture post-trade data in respect of shares and ETFs (as well as information on market outages, trading suspensions or halts). In addition, the EU equities CTP will need to have capability to capture certain pre-trade equities data from continuous order books or auction systems, so as to be able to publish European best bid and offer (EBBO) data (without publishing the MIC of venues contributing the pre-trade data, so as to not identify these). There is an exemption from mandatory contribution of data to the equities CTP for small regulated markets and SME growth markets meeting specified criteria, although they can opt in (in which case they will need to contribute data to the shares / ETF CTP going forward, without being able to revoke their opt in). By 30 June 2026, ESMA is to make an assessment of the equities CTP and whether the Commission should add additional features to it (such as the MIC of venues contributing pre-trade data). **ESMA's third consultation paper (July 2024)** included a proposal for new RTS on input/output data for the equity CTP. As is the case for input / output data from the bond CTP (see above), the new RTS related to input / output data from the equities CTP will mostly cross-refer to information fields in RTS 1, both in respect of post-trade data and pre-trade data (to the extent the latter is needed to allow the CTP to establish European best bid and offer (EBBO) and relevant data for auction trading systems). The new input / output data RTS only supplements the information already derived from RTS 1 with limited additional data (being timestamp information on when relevant information was input into the CTP etc.). The proposed new RTS also includes two tables that CTPs should disseminate on (i) data related to the status of individual financial instruments and (ii) data related to the status of systems matching orders, respectively.	The FCA is yet to publish its proposals for the UK equities CTP. However, FCA CP 23/32 (on the UK bond CTP) contained some "reflections" on the UK equities CTP. These include the following: • The FCA's further work on an equities CT will give priority to conducting analysis on the possible impact of the inclusion of pre-trade data on the stability and resilience of UK equity markets and the outcomes for different types of users in the market. The FCA has commissioned a study on this. • The FCA is particularly interested in views from potential CTPs about data disaggregation and the extent to which it should be mandated through rules or left to bidders to specify what they will offer as part of a tender process. • A sub-committee of the Secondary Markets Advisory Committee is working on issues relating to market outages and the FCA will take account of its work when considering what information might be included in an equities CT in relation to outages and other trading halts and suspensions. • ETCs and ETNs are not included in the bond CTP. When considering whether to include them in the UK equities CT, the FCA has indicated that it intends to discuss this with industry to find the best solution.

Timeline	Key issues & implementation challenges
EU ESMA third CP (in respect of inputs/outputs from the equities CTP closed on 15 September 2024. The final draft RTS will be submitted to the Commission by 29 December 2024. This will be followed by a period for adoption and publication. ESMA's CP did not indicate how soon after publication the new RTS will apply. **UK** The FCA is yet to consult on the rules for the UK equities (shares and ETF) CTP. In August 2024, the FCA commissioned a study to help shape the design of the UK equities CTP. The FCA will provide an update on this work (and possibly on the timing for the FCA CP on the equities CTP) by end of 2024. **EU & UK** See below for timelines of EU & UK tender processes.	**Commentary on EU & UK implementation** Firms will need to put in place systems to connect to the EU & UK equities CTPs for the purposes of receiving pre- and post-trade CTP data feeds (if they wish to access these, which will not be compulsory). Firms do not need to facilitate inputs to the EU & UK equities CTPs, as relevant data will be submitted to the CTPs by APAs / trading venues. However, there have been some enhancements to the equity transparency requirements which are related to the creation of CTPs and which firms will need to implement (see Transparency section above).

	EU developments	UK developments
Revenue sharing (bond and equity CTPs)	Data contribution to CTPs will be free. But CTPs will not need to provide trade data free of charge after 15 minutes (except to retail investors, academics and NCAs), allowing them to earn a return. The MiFIR Level 1 text envisages certain data contributors sharing in CTP revenue from both the bond and equities CTP. For the **EU bond CTP**, revenue sharing is optional. The legislative text does not indicate how bond CTP revenue may be shared, although the implication from the recitals of the regulation amending MiFIR is that revenue sharing could be used to reward at least the smaller data contributors / bond listing venues. There will be a compulsory revenue sharing mechanism from the **EU equities CTP**. ESMA's second CP (May 2024) includes draft RTS on how revenue is to be distributed from the equities / ETF CTP, applying the relative "weightings" set out in the MiFIR Level 1, which prioritises revenue distribution to small venues / SME growth markets, followed by venues of first admission for "young instruments" issued since March 2019, and finally venues that provide pre-trade transparency information to the CTP. The new RTS sets out a methodology for determining the revenue shares different data contributors would receive, along with suggestions regarding the possible frequency and timing of revenue distribution. The new RTS also includes principles on the suspension of revenue distribution due to data quality issues, although CTPs would themselves set the relevant suspension mechanism, applying the ESMA principles. ESMA has described suspension of revenue share as a "last resort", noting that CTPs should identify and alert data contributors to relevant issues, allowing them to correct these first.	As in the EU, contribution to UK bond CTP will be free of charge, while the UK bond CTP will not be required to make data available free of charge (except to retail investors, academics and the FCA) after 15 minutes. In terms of remunerating data providers for the data submitted through a revenue sharing mechanism from the bond CTP, the FCA has confirmed that the UK rules would not prohibit revenue sharing from the UK bond CTP. This essentially leaves it up to firms bidding to become the UK bond CTP to decide whether they wish to offer revenue sharing (which effectively reflects the position in the EU bond CTP framework, although the EU framework expressly gives bidders the option of offering a revenue sharing mechanism for data contributors). We await FCA proposals for the UK equities CTP, which may include requirements for revenue sharing from the CTP. The FCA has indicated (in the CP setting out the final rules for the UK bond CTP) that it is still considering its approach for revenue sharing. If a revenue sharing approach is adopted, the FCA will consider whether to set a revenue sharing mechanism in its rules (indicating the part of CTP revenues that should be shared and the formula for allocating the shares) or whether to require bidders in the tender process for the equities CTP to outline a revenue sharing scheme based on principles set out as part of the tender process. In both cases, the FCA will consider the impact of the revenue sharing scheme on the economic viability of the CTP and the potential impact on the cost of CTP data.

Timeline	Key issues & implementation challenges
EU The amendments to EU MiFIR came into effect on the Implementation Date. ESMA's second consultation closed on 28 August 2024. ESMA will submit the finalised draft RTS to the European Commission by 29 December 2024. This will be followed by a period for adoption and publication. **UK** The rules and guidance for the framework for the UK bond CTP took effect on 5 April 2024. Whether the UK bond CTP will offer revenue sharing will depend on whether firms tendering for the role offer revenue sharing as a feature for the bond CTP. See below as to timings for the bond CTP tender process. The FCA is yet to consult on the rules for the UK equities (shares and ETF) CTP (which may include proposals for revenue sharing). IN August 2024, the FCA commissioned a study to help shape the design of the UK equities CTP. The FCA will provide an update on this work (and possibly on the timing for the FCA CP on the equities CTP) by end of 2024.	**Commentary on key issues with EU regime** Although revenue sharing from the EU bond CTP is optional, if ESMA were to assign a higher "score" to those potential bond CTP providers in the tender process that do offer revenue sharing, this could, in practice, result in potential providers being "incentivised" to offer revenue sharing so as to not be disadvantaged in the tender process. AFME is therefore advocating that the EU tender process should not discriminate against CTP candidates that choose not to offer revenue sharing.

	EU developments	UK developments
Tender criteria & process (including pricing of CTP data)	There will be separate tender processes for CTPs for the different asset classes. ESMA will consider, amongst other things, the technical capabilities and use of interfaces by applicants, processes to ensure operational resilience, methods for ensuring data quality, but also the simplicity of licences, the number of different licence types / use cases and related costs of accessing relevant data from the potential CTP. In **ESMA's second CP (May 2024)**, ESMA suggests that the CTP tender processes to select the CTP for each asset class should be run as a "competitive procedure with negotiations", under which: • A contract notice and procurement documents would be published by ESMA, triggering the 6 months tender process. These documents will set out the selection and award criteria, and the scoring methodology to be used when assessing applications against these criteria (see below), which cannot be changed once the tender process has been launched; • Potential CTP operators would submit requests to participate in the tender process (with the deadline for this being set at least 32 calendar days after the contract notice); • Requests to participate would first be assessed against exclusion and selection criteria (essentially checking that the applicant is eligible and has the required capacity to carry out the contract). Applicants that meet these criteria would be invited to submit an initial tender (with the deadline for submission being set at least 30 calendar days later); • All initial tenders would then be assessed by the evaluation committee (made up of at least three members from two ESMA departments). The committee can agree the scope of "negotiations", i.e. areas on which applicants can provide clarifications and submit modified tenders as Best and Final Offers (BAFOs); • BAFOs are assessed and scored by the evaluation committee based on pre-defined award criteria and scoring methodology, with the committee producing an evaluation report with an award recommendation; and • The authorisation officer (ESMA's Executive Director) signs off on the award decision. ESMA has set out initial reflections on CTP selection and award criteria and the scoring methodology, as follows: • Selection criteria (which are assessed earlier in the tender process, see above), award criteria (which are assessed later and are subject to negotiation), the minimum requirements and scoring methodology for each criterion may be set differently in the tender processes for the different CTPs, given specific features of the different asset classes.	The FCA is yet to publish the tender criteria and documentation for the UK bond CTP tender process, which will contain much of the detail of what the FCA will assess. The FCA has not yet commented specifically on the tender process for the UK equities CTP, although the process described for the bond CTP below should be capable of being used for the equities CTP as well (with some adjustments for specific characteristics related to equity instruments or specific features of the equities CTP). However, the FCA has spelt out (in **FCA CP 23/32**) how the tender process for the bond CTP has been designed to facilitate competitive pricing of CTP data, while also ensuring CTP data and quality standards of service. • The FCA will run the tender process in two stages, with the first stage focused on bidders' ability to fulfil CTP requirements, including on data quality, which itself will constrain the level of data pricing CTPs can realistically propose. The FCA is still developing the exact tender criteria against which bids will be assessed. The FCA is also developing its thinking on how a commitment to quality of service can be secured from the bidders at this first stage of the process. For example, the FCA is considering requiring bidders to commit to service level targets on areas such as uptime, recovery time after an outage and the timing of data corrections. • The second stage of the tender process will involve a "price auction" to facilitate competitive pricing of CTP data amongst those bidders who are judged to have met the wider requirements including in relation to quality of service. The FCA will return to the "issue of pricing schedules and bidding price parameters once [they] have reconsidered how quality will be assessed in bids". CTPs will be bound to the pricing limitations arrived at in the tender process through their tender contract (which will allow for price increases to reflect inflation and potentially other circumstances when prices may be increased). The requirements on pricing data on a reasonable commercial basis (RCB) will not apply to CTPs. • The FCA has also indicated that it aims for CTP licensing arrangements "to be simple and easy to understand thereby limiting the need for extensive auditing of the use that data users make of the data", noting that the invitation to tender will address issues around different licensing types (reflecting some of the feedback in the final report following the FCA's Wholesale Data Market Study, see Market Data section above). • The FCA will consider in its post implementation review of the bond CTP framework whether the CTP's pricing and charging mechanisms are operating as intended.

Timeline	Key issues & implementation challenges
EU The tender process for the EU bond CTP is set to commence by 29 December 2024 (and ESMA has confirmed that it will launch the bond CTP tender process on 3 January 2025, the first working day after 29 December). The first EU bond CTP provider will be selected by early July 2025. ESMA is due to publish a feedback statement with details of the assessment criteria for the bond CTP tender process by 29 December 2024 (although ESMA has also indicated that some guidance on the assessment of exclusion criteria should be published ahead of that time, perhaps in October / November 2024). Feedback on the criteria and scoring methodology will be summarised in the feedback statement and reflected in the procurement documentation for the first tender process for the bond CTP. The tender processes for the shares and ETF CTP is set to commence by 29 June 2025, and the first EU equities CTP provider is due to be selected by the end of 2025. For the derivatives CTP, the tender process is set to commence within 3 months of the identifier for OTC derivatives being put in place, but no earlier than 6 months after commencement of the equities CTP tender process. **UK** The rules and guidance for the framework for the UK bond CTP took effect on 5 April 2024. The FCA is finalising the tender design to appoint the UK bond CTP and expects to commence the tender process before the end of 2024. Firms interested in tendering to run the UK bond CTP have been asked to contact the FCA by 13 September 2024. The precise timeline for the bond CTP tender process is TBC. Once the tender process completes, this will be followed by authorisation and verification of the chosen bond CTP. The FCA expects that the UK bond CTP will start operation in the second half of 2025. Regarding the UK equities (shares and ETF) CTP, the FCA has not indicated timing for the tender process, given that much of the detail for the UK equities CTP is yet to be confirmed (see above).	**Commentary on EU & UK implementation** The timelines for the EU tender processes are ambitious and don't allow for 'lessons learnt' from the bond CTP to inform the tender process for the other CTPs. This is because the timeline will likely result in CTPs for all asset classes being selected (subject to approval of relevant CTP providers) before the bond CTP is fully operational. Sell-side firms will be interested in following the tender processes for the EU and UK CTPs, in particular in how considerations of data / service quality are balanced with pricing of CTP data.

	EU developments	UK developments
Tender criteria & process **(including pricing of CTP data)**	• Tender criteria will be assessed independently, although where they are interdependent of each other this will also be considered. • ESMA has grouped criteria into the following themes: (i) resilience, cyber-risk and energy consumption; (ii) governance and organisational requirements; (iii) ability to process data and dissemination speed; (iv) data quality, modern interface and record keeping; and (v) costs, fees and revenue redistribution. ESMA's CP indicates that different criteria within each category will be either selection criteria (i.e. relevant in the early part of the process) or award criteria (i.e. relevant in the latter part of the process and subject to potential negotiation). • In respect of fees and costs, ESMA intends to assess the total expenditure to set up the CTP and the cost of operating it as an award criterion (i.e. in the later part of the tender process). For the assessment, ESMA would review the information on expenditure / costs provided by the CTP in line with the new RTS on RCB requirements (see Market Data section above), with ESMA intending to give more weight to operating costs (essentially in order to avoid giving undue advantage to applicants that already have systems in place to run a CTP and that would, therefore, have lower set up expenditure). ESMA would weigh the level of cost against applicants' ability to maintain service quality over the 5-year term, including through investing in innovation. Fees and compliance with RCB requirements would also be an award criterion. For these purposes, ESMA would first score the simplicity of applicants' fee and licensing models, suggesting that the applicant with the lowest number of fee tiers, the lowest number of user types, and the lowest number of types of licensing model, respectively, would receive the highest scores. The remaining RCB requirements (making relevant data available to the public on a reasonable commercial basis, ensuring non-discriminatory access, and providing ESMA with the required cost information) would form the second part of ESMA's assessment. Although applicants would have to comply with Article 13 MiFIR, there is a suggestion that ESMA would not stringently assess against the new RTS on RCB in the first bond CTP tender process, as that RTS will not be in place at that time (although potential applicants will need to bear the draft RTS in mind when preparing their tender documentation). The recitals to the regulation amending MiFIR specifically envisage that ESMA authorisation decision for a CTP should "specify the conditions of operation of the [CTP], in particular the level of fees". • Finally, ESMA will also assess whether applicants for the bond CTP intend to have a revenue distribution scheme which (if so) should "recognise the role [of] small trading venues". • CTPs will need to provide CTP data outputs free of charge to retail investors, academics and NCAs.	The CTP will need to provide the CT data feed to the FCA free of charge. It will also need to have a mechanism in place to identify academics and retail investors to whom the CT data feed would be offered free of charge, as in the EU. Regarding "related services", the legal entity acting as the CTP will not be able to offer value-added services, although a separate group entity would be able to do so.

Timeline	Key issues & implementation challenges

5. Investment Research

Executive summary

In both the EU and UK markets, new rules will allow buy-side firms to pay for investment research and execution services on a different basis. The new payment option is, in both markets, subject to a number of conditions / "guardrails" which buy-side firms need to meet. The guardrails are intended to ensure adequate transparency about the costs of research, quality control and conflict of interest management.

In the UK, where the new payment option has been available to the buy-side since 1 August 2024, the guardrails are more prescriptive and onerous than in the EU. For example, the UK rules require buy-side firms wishing to use the new payment option to put in place a structure for allocating payments to different research providers. These could be similar to commission sharing agreements (CSAs), although the FCA requirements might go beyond requirements in other major jurisdictions. The EU rules (which are not yet applicable), on the other hand, are more flexible as they allow for a fully bundled payment to acquire both execution and research services. In addition, the UK rules require ex ante and ex post costs and charges disclosures indicating the expected annual costs and actual annual costs of research bought alongside execution services, while the EU rules (which are not yet applicable) only require total costs attributable to third-party research (not just research received alongside execution services) provided to the firm to be disclosed to clients on an annual basis, and then only where these costs are known to the firm. However, firms will need to monitor how the new EU payment option is implemented in different EU Member States and will need to take account of any potential nuances in local implementation.

Sell-side firms which provide research and execution services to the buy-side will need to stand ready to support buy-side firms wishing to take up the new UK and EU payment options. This may involve putting in place arrangements to support buy-side firms by putting in place processes to collect amounts in respect of research and distribute these to relevant research providers. As well as putting in place relevant contracts with buy-side firms, sell-side firms will need to ensure proper governance over these payment arrangements. It should be possible to start putting in place arrangements which could meet both the UK and EU guardrails and help buy-side firms set up research payment models that can operate across multiple jurisdictions (if required).

	EU developments	UK developments
Optional rebundling of payments / joint payments for research and execution services	The EU **Listing Act package** amends the MiFID II investment research rules (Article 24(9a) MiFID II) such that they will give firms the option to bundle research / execution payments (irrespective of the size of the issuer). Going forward, this new payment optionality will sit alongside existing ways in which EU firms can pay for investment research, i.e. payments for research from a firm's own resources (P&L) and payments for research from a research payment account (RPA) for specific clients. The existing rule (introduced in February 2022 following the EU MiFID II 'Quick Fix') which allows buy-side firms to rebundle fees for research and execution services where the research relates to SME issuers, provided certain other conditions are met, will be deleted from Article 24(9a) MiFID II.	**FCA Policy Statement 24/9** The FCA has introduced the option for UK firms to pay for third-party investment research and execution services through joint payments. Certain requirements need to be met for firms to avail themselves of the new payment option (see below). These include the use of a structure for allocating payments to different research providers (such as a CSA-like structure), meaning that the new UK payment option does not allow buy-side firms to fully "rebundle" payments as they will still need to identify (when using joint payments for research and execution) amounts attributable to research. As in the EU, this new payment optionality will sit alongside existing ways in which firms can pay for investment research, i.e., payments for research from a firm's own resources (P&L) and payments for research from a research payment account (RPA) for specific clients. The FCA is not changing existing rules on these other payment options. The specific minor non-monetary benefit (MNMB) introduced in the 2021 UK quick fix which effectively allowed rebundling of fees for research on SMEs with execution fees has been deleted. Corporate access relating to SMEs will continue to be a MNMB.

Overview of RAG ratings (with further detail on each topic below)

Topic	Jurisdiction	RAG rating
Optional rebundling / joint payments for research and execution	EU & UK	
Conditions for optional rebundling / joint payments	EU & UK	
Unbundling of research and execution services	EU & UK	
Other changes to inducement rules	EU & UK	
Code of conduct for issuer-sponsored research	EU & UK	
Creation of research platform	UK	
Increasing retail access to investment research	UK	
Bespoke regime for investment research	UK	
Other potential changes related to investment research	UK	

Timeline	Key issues & implementation challenges
EU The Listing Act is expected to be published in the Official Journal in Q4 2024. Following publication in the Official Journal, the amendments to MiFID II will enter into force 20 days later and Member States will then have 18 months to implement the Level 1 changes. **UK** FCA PS24/9 was published on 26 July 2024. The rule changes applied from 1 August 2024, meaning that, from that date, buy-side firms can avail themselves of the new payment option, provided they meet the conditions / guardrails (see below). The FCA will consult in Autumn 2024 on making equivalent changes to COBS 18, which applies to UK AIFMs and UCITS managers. The FCA has also said that it will replace the PRIIPs regime with a new disclosure regime better tailored to the UK market. The FCA will consider, when re-writing the inducement rules relating to providers of packaged products (including funds), how disclosures should be made in the context of the relevant requirements.	**Commentary on EU & UK implementation** It is unclear how many managers will take up the joint payment option, due to the strict controls-related conditions that must be met to use this option (in particular, the need to put in place CSA-like arrangements in the UK) and the commercial challenge of justifying a switch from P&L based payments to clients. It is also uncertain whether this option would have an impact on the quantity and quality of research produced.

	EU developments	UK developments
Conditions for optional rebundling of payments / joint payments	Firms wishing to pay for investment research and execution services on a joint / bundled basis will need to: • Agree a **payment methodology with the research provider**, including how the **cost of research is taken into account** in total investment services charges. • **Disclose their choice of payment method to clients** – i.e., whether they apply a separate or joint payment method for third-party research and execution services. • Have a **policy for research payments** in place (explaining, where providing joint payments, the firm's measures to prevent conflicts of interest) which they should provide to clients. • **Assess the quality, usability and value of the research they use** (not just research received alongside execution services), as well as the ability of the research used to contribute to better investment decisions, on an annual basis. ESMA is empowered to produce guidelines on how firms should conduct these assessments. • Keep a **record of total costs attributable to third-party research** (not just research received alongside execution services) provided to the firm and, on request, make such **information available to clients** on an annual basis, but only where these costs are known to the firm. The Level 1 text does not include an express requirement for buy-side firms to collate information on research costs. There is less detail on these conditions in the EU Level 1 text than there is in the new FCA rules on the "guardrails" (see next column). However, Article 13(1) of the MiFID II Delegated Directive 2017/565 will need to be amended to reflect the fact that payments for research using the new payment option in Article 24(9a) MiFID II should not constitute an inducement. Some amendments will also be required to ESMA's investor protection Q&A to account for the new payment option. In addition, firms will need to monitor how the new payment option is implemented in different EU Member States as there could be nuances in local implementation.	Firms wishing to use the new UK payment option will need to meet a number of conditions / "guardrails", which are intended to prevent opacity of prices paid for research services, allow firms to compare prices paid across research providers, and preserve competition in the separate markets for research and trade execution. The guardrails require: • A CSA-like **structure for allocating payments to different research providers** – both to brokers providing research alongside execution services, as well as independent research providers. • **Account management and administration** to ensure timely payments to research providers in line with the other guardrails. The FCA rules expressly clarify that buy-side firms can outsource the administration of the joint payments research account (and of the payment allocation structure above), although the buy-side firm will continue to be responsible for ensuring that the conditions are complied with. • A **written policy on joint payments**, which will need to set out the firm's approach and processes for complying with the "guardrails". Governance and controls for research acquired via joint payments will need to be separate from those for trade execution. • **Arrangements specifying the methodology for identifying research costs within joint payments.** The FCA has tweaked this in the final rules so that it is no longer necessary to have a "written agreement" with firms providing research and execution services. • A **research budget specifically for research bought on a joint basis**, updated at least annually. The budget should be based on the expected cost of research, rather than linked to execution volumes or values. The FCA's final rules clarify that the budget could be set at "a level of aggregation that is appropriate to [the firm's] investment process, investment products, investment services, and clients", rather than necessarily at individual client level. This is intended to give firms increased flexibility compared to the examples given in the consultation paper, which indicated that budgeting could be done at the level of an investment strategy or group of clients. The FCA indicates in the policy statement that the rules (including those on disclosures below) do not require firms to disclose the overall budget amounts, as this may be commercially sensitive information. It would be possible to **exceed a research budget**, but firms would need to have a policy on how to deal with this circumstance and would need to make certain disclosures to clients (with the final rules clarifying that disclosures on budgets being exceeded should be made "as soon as reasonably practicable and, at the latest, as part of a firm's next periodic report on costs and charges", i.e. do not necessarily require a separate communication to clients).

Timeline	Key issues & implementation challenges
EU The Listing Act package is expected to be published in the Official Journal in Q4 2024 (possibly in October / November 2024). Following publication in the Official Journal, the amendments to MiFID II will enter into force 20 days later and Member States will then have 18 months to implement the Level 1 changes. The Level 1 text does not provide a deadline for ESMA to produce guidelines on the quality assessment. It is not clear when the Commission will amend the MiFID II Delegated Directive to reflect the amendments to MiFID II Level 1 (although ESMA has indicated in its 2025 Annual Work Programme that it will provide advice to the Commission on research during 2025). The timing of any updates to ESMA Q&A is also uncertain. **UK** FCA PS24/9 was published on 26 July 2024. The rule changes applied from 1 August 2024, meaning that, from that date, buy-side firms can avail themselves of the new payment option, provided they meet the conditions / guardrails.	**Commentary on divergences and EU & UK implementation** Sell-side firms who wish to support their buy-side clients in making use of the new payment optionality will need to support buy-side firms' compliance with the EU & UK conditions / guardrails. This may involve formalising a methodology for identifying research costs within bundled research and supporting buy-side firms in complying with relevant budgeting and disclosure obligations, in particular by providing the information buy-side firms will require (such as breakdowns of research and execution fees). **Commentary on UK implementation** The proposed UK rules would allow buy-side firms to delegate administration of accounts for the payment for research and the management of the mechanism for allocating payments to different research providers. This requires sell-side firms to provide CSA-style (or similar) support to the buy-side in order for buy-side firms to make use of the new payment option. Sell-side firms would be paid a fee for the services provided. However, this alone should not result in firms holding these amounts as client money, as the amounts are due to the relevant firm until it receives an instruction to send the monies to a research provider and are not owed to the client. **Commentary on EU implementation** The new EU payment option will need to be implemented in different EU Member States, and there could be nuances in local implementation. Sell-side firms supporting the buy-side in using the new payment option will need to monitor local implementation to ensure that arrangements with the buy-side take account of these potential nuances.

	EU developments	UK developments
Conditions for optional rebundling of payments / joint payments		• **Fair allocation of research costs across clients** at an allocation level "appropriate to its business model" (rather than allocating research costs directly to individual clients). Research cost allocation should be reasonable and fair across clients, ensuring that relative costs allocated are commensurate with the relative benefits received. This is intended to avoid cross-subsidisation for research costs, such as where different clients of a firm have different payment arrangements for research. The final rules allow firms some latitude as to the allocation level, provided that they are appropriate to the firm's investment process, products, services and clients (similarly to the budgeting guardrail above and the disclosure of research providers below). • A **periodic (at least annual) assessment of the value, quality and use of research bought making a joint payment**, as well as how such research contributes to decision-making. In a notable change from the consultation, the final rules require firms to **ensure that relevant research charges are "reasonable"**, but no longer prescribe that there needs to be benchmarking of pricing for research received alongside execution services against "relevant comparators". Guidance in the final Handbook text suggests that firms could meet the requirement if they use benchmarking for this purpose, but other approaches would now be available to firms. • A number of **disclosures** to ensure continued transparency, which will need to be made **before providing services to clients and then at least annually, or more often on request**. Buyside firms would disclose to clients that joint payments are used, and (if relevant) how these are combined with other ways to pay for investment research. They would also summarise or provide their policy on research payments (see above). Importantly, *ex ante* and *ex post* costs and charges disclosures would need to show expected annual costs and actual annual costs of research paid for with a joint payment. This would be done as part of firms' costs and charges disclosures. - In the final rules, the FCA has amended the guardrail on providing **expected annual costs to clients, as part of ex ante disclosures** on costs and charges. As previously proposed, these had to be based on *both* the budget-setting and cost allocation procedures and the actual costs for prior annual periods. They now only need to be based on *the most appropriate* of these. This facilitates asset managers calculating one method only where this is appropriate (e.g. where there is a track record of stable research charges that are unlikely to change) but selecting another method when this is more appropriate (e.g. a new product for which a research budget has been set for the first time, or an existing product where the level of research expenditure is expected to change).

Timeline	Key issues & implementation challenges

	EU developments	UK developments
Conditions for optional rebundling of payments / joint payments		- Firms would also disclose to clients the **most significant benefits and services received from research providers** (by total amount paid) and the **most significant types of research provider** from which these services are purchased "at a level of aggregation appropriate to the firm's investment products, investment services and clients". The latter is a change from the FCA consultation, which had proposed disclosure of the most significant research providers. Guidance in the final Handbook text suggests that a breakdown showing the use of independent research providers and non-independent research providers would be one way of showing the types of providers used. The policy statement confirms that the requirements do not necessitate disclosure of the actual amounts paid to research providers (which may be commercially sensitive or uninformative), but that these disclosures are intended to determine significance more generally.
Unbundling of research and execution services	Brokers will still need to price research and execution services separately (unless the relevant requirements in Article 13 of the MiFID Delegated Directive are amended / removed at a later stage).	Brokers will still need to price research and execution services separately (COBS 2.3C), as well as operating CSA-like structures (see above).
Other changes to inducement rules	Other revisions to the EU inducement rules include the following: • Deletion of the current option to rebundle payments for SME research and execution services on certain conditions (discussed above). • Sales and trading commentary and other bespoke trade advisory services intrinsically linked to the execution of a transaction in financial instruments are expressly not considered to be research for these purposes. Changes relating to issuer-sponsored research which are introduced as part of the Listing Act package are outlined below.	The FCA's final rules also include the following changes (as consulted on): • Deletion of the specific minor non-monetary benefit (MNMB) introduced in the 2021 UK quick fix which effectively allowed rebundling of fees for research on SMEs with execution fees. • A clarification that best execution rules continue to apply unamended and that research received (e.g. when bundled with execution services) should not be taken into account as a factor when assessing best execution. • A new MNMB for short-term commentary without substantive analysis, as well as for bespoke trade advisory services intrinsically linked to execution of a transaction. This is aimed at addressing a concern raised in FCA discussions with industry that buy-side firms should be able to obtain such commentary or advisory services both from (US) brokers and investment advisers.

	Timeline	Key issues & implementation challenges
	N/A	**Commentary on EU & UK implementation** Sell-side firms in the UK will continue to provide separate pricing for execution and research under the revised UK rules (and also under the revised EU rules, unless these requirements are removed from Article 13 of the MiFID Delegated Directive in due course). As such, from the perspective of the provider of research and execution services, neither the new UK nor the new EU payment option represent a full "rebundling".
	EU The Listing Act package is expected to be published in the Official Journal in Q4 2024 (possibly in October / November 2024). Following publication in the Official Journal, the amendments to MiFID II will enter into force 20 days later and Member States will then have 18 months to implement the Level 1 changes. **UK** FCA PS24/9 was published on 26 July 2024. The rule changes applied from 1 August 2024, meaning that, from that date, buy-side firms can avail themselves of the new payment option, provided they meet the conditions / guardrails.	

	EU developments	UK developments
Code of Conduct for issuer-sponsored research	The Listing Act package also introduces MiFID provisions allowing issuer-sponsored research, provided it is produced in compliance with an EU code of conduct, which is intended to ensure the quality of this research. This is because the changes to the unbundling rules (see above) are seen as not being sufficient to improve the research coverage of small and medium-cap companies. Issuer-sponsored research is seen as one way of increasing SME research coverage. ESMA has been tasked with developing a draft RTS to establish this EU code. Only issuer-sponsored research prepared in line with the EU code of conduct can be labelled as 'issuer-sponsored research'; if not, it must be labelled as a marketing communication. EU authorities will have the powers to suspend the distribution of 'issuer-sponsored research' not prepared in accordance with the EU code of conduct.	In July 2023, the **UK Investment Research Review** recommended introducing a code of conduct for all issuer-sponsored research. It proposes introducing a code to enhance the integrity of sponsored research as a potential useful source of information in its own right. However, unlike the EU, the UK review also recommends that the code should be voluntary and may be industry-led (although the FCA could consider recognising the code).
Creation of a Research Platform	A proposal from the European Parliament for an EU-wide marketplace for SME research has not been included in the final **Listing Act amendments to MiFID II**. However, there is a note in the recitals to the directive amending MiFID II to suggest that Member States or ESMA can continue to explore this idea.	The **UK Investment Research Review** proposed the creation of a 'Research Platform'. This would provide a central, independent facility run by a single platform provider to encourage the promotion, sourcing and dissemination of research on issuers. The review envisages the Research Platform covering research on smaller cap companies, which would address the current disparity of available research between larger cap companies and smaller cap companies. However, the review notes that the Platform could also cover publicly listed companies, private companies contemplating a listing, and/or those companies traded on the new 'intermittent trading venues' (PISCES). A key proposal is for research produced by the Platform to be freely available, including to retail investors and other non-institutional investors, to ensure maximum visibility of the participating issuers. This raises the crucial question of how the Platform would be funded. This is not answered by the review, which indicates that funding could be through a levy on issuers, or could be funded by exchanges, through a contribution from government, by investors in issuers covered by the Platform (perhaps combined with a stamp taxes rebate), or through a levy on financial services firms.
Increasing retail access to investment research		The UK Investment Research Review includes a recommendation aimed to increase retail access to investment research.
Bespoke regime for investment research		The UK Investment Research Review includes a recommendation tasking the FCA to consider clarifying aspects of the UK regulatory regime for investment research and consider introducing a bespoke regime.

Timeline	Key issues & implementation challenges
EU The Listing Act package is expected to be published in the Official Journal in Q4 2024 (possibly in October / November 2024). Following publication in the Official Journal, the amendments to MiFID II will enter into force 20 days later and Member States will then have 18 months to implement the Level 1 changes. ESMA is required to produce the RTS on the EU code of conduct for issuer-sponsored research within 12 months of the amending directive entering into force (i.e. 6 months before the MiFID amendments will need to be implemented by Member States). An ESMA CP is expected during 2025. **UK** The UK Chancellor confirmed in July 2023 that the government had accepted all the recommendations made in the Investment Research Review.	**Commentary on EU & UK implementation** Firms providing issuer-sponsored research will need to ensure compliance with the new code(s) of conduct, once established.
UK The UK Chancellor confirmed in July 2023 that the government had accepted all the recommendations made in the Investment Research Review. However, the position of the new UK government on this topic has not been confirmed.	**Commentary on UK implementation & key UK issues** While contribution of sell-side firm research to a UK research platform should not require significant implementation costs / effort, there may be broader impacts on sell-side firms' business models. These include a potential need to re-assess risks associated with the provision of investment research if contribution of research to the new research platform could result in liability issues (for example, if retail investors were able to access research that was not intended for them). The issue of how the research platform would be funded is also still to be resolved, meaning that firms may need to re-assess their research provision in light of any cost implications of participation in the new research platform.
UK Timing unclear and the position of the new UK government has not been confirmed.	In AFME's view, firms should not be compelled to make research available to the retail market. This is because mandatory distribution of investment research to retail investors could discourage the production of research by firms in the UK due to concerns about potential liability issues (similar to those described in the context of the investment research platform above).
UK Timing unclear and the position of the new UK government has not been confirmed.	The existing rules in respect of investment research reflect global standards, are well understood and integrated in sell-side firms' business models. It is AFME's view that retaining the existing requirements (rather than imposing revised or new requirements which would be costly to assess, implement and integrate into global business models) would not put the UK at a competitive disadvantage against other key financial centres.

	EU developments	UK developments
Other potential changes related to investment research		Other recommendations by the UK Investment Research Review, which the FCA is tasked to consider, include recommendations to: • Involve academic institutions in supporting investment research initiatives; and • Review the rules relating to investment research in the context of IPOs.

Timeline	Key issues & implementation challenges
UK Timing unclear and the position of the new UK government has not been confirmed.	Implementation challenges will depend on specific regulatory changes but may require some implementation efforts from sell-side firms providing investment research.

6. Execution of client orders

Executive summary

In the EU, new technical standards are being introduced which impose enhanced requirements in respect of firms' order execution policies. If finalised as proposed, firms would need to implement more prescriptive processes around their order execution policies, including monitoring, regular reviews and senior management sign offs. By way of example, the new requirements would see firms having to pre-select venues eligible for client order execution per class of financial instruments and per category of client. Current proposals could lead to a potentially granular grouping of instruments for these purposes which (if retained in the final rules) would result in firms having to set out and refine their order execution processes for potentially a large number of different asset classes / instrument groups.

The draft proposals are due to be finalised and submitted to the European Commission by 29 December 2024. They are likely to apply from 29 September 2025.

	EU developments	UK developments
Changes to order execution policies	**Article 27 MiFID II** Amendments to Article 27 introduce specific requirements for firms to monitor their order execution arrangements, in particular whether execution venues they use provide for the best possible result. If necessary, firms are required to change their order execution arrangements. ESMA is mandated to develop new RTS setting out criteria that should be taken into account for the purpose of defining and assessing the order execution policy, taking into account the difference between retail and professional clients. ESMA has issued a **July 2024 CP on the new RTS on order execution policies**. The new RTS specify the criteria for how investment firms establish and assess the effectiveness their order execution polices. Whilst the draft RTS draw on existing requirements, they are more prescriptive and include new requirements for investment firms. For example, ESMA is suggesting that firms should pre-select the venues eligible for client order execution per class of financial instruments and per category of client. Importantly, the ESMA CP discusses how financial instruments should be classified for these purposes, suggesting a potentially granular grouping of instruments. Given that all other requirements in the proposed RTS have to be fulfilled for each class of instrument, the more granular the asset class taxonomy, the more onerous the prescriptive requirements would be. ESMA also proposes prescriptive monitoring and review requirements, as well as requirements for firms dealing on own account when executing client orders.	

Timeline	Key issues & implementation challenges
EU The changes to Article 27 MiFID II need to be implemented by Member States by 29 September 2025. ESMA's CP on the RTS on order execution policies closed on 16 October 2024. The final RTS are due to be submitted to the Commission in December 2024. ESMA has not indicated when the new RTS should become applicable to firms, but it is likely that it would apply from 29 September 2025 when the underlying Level 1 change starts to apply.	**Commentary on EU implementation** Firms will need to review their existing order execution policies and monitoring / review processes in light of the new RTS on order execution policies given the more prescriptive nature of the proposed RTS and the fact that relevant requirements would need to be met per asset class and investor category (with potential for asset classes to become quite granular for these purposes).

Appendix 1:Timelines

Timeline 1: All developments covered by this guide

Legend:

- Market structure
- Transparency
- Market data
- Consolidated tape
- Investment research
- Order execution policies

Dec 2023: FCA CP on UK non-equity transparency regime, PS / CP on the UK bond CTP

Feb 2024: Final FCA report in UK Wholesale Data Market Study

Mar 2024: HM Treasury CP on PISCES intermittent trading platform

Apr 2024: FCA confirmed UK CTPs will not contribute to connectivity costs; DRSP Regulations started to apply

DRR and revised equity post-trade reporting requirements started to apply

FCA CP on optional rebundling of research and execution fees

Jul 2024: FCA CPs on DTO and post-trade risk reduction services and the new POATR

1 Aug 2024: Option to make joint payments for research and execution available (following Jul 2024 PS)

Q3 2024: FCA commissioned analysis of impact of including pre-trade data in equities CTP

Nov / Q4 2024: FCA PS on non-equity transparency regime (inc SI definition)

Q4 2024: FCA Review of SI regime / obligations

Q4 2024: FCA direction on DTO

End 2024: Bond CTP framework to be in place, with tender process to commence in Nov 2024

End 2024: PISCES Sandbox to be in place

Q4 2024: FCA DP on transaction reporting

Summer 2025: FCA CP on transaction reporting

Nov 2025: Revised non-equity transparency regime will apply, with bond CTP to commence after that date

End 2025: FCA PS on transaction reporting

Feb 2024: Listing Act package agreed (inc optional rebundling of payments for research and execution)

Mar 2024: Amendments to MiFID II / MiFIR published in OJ, entering into force on 28 March, subject to transitional provisions (on which Commission / ESMA published clarifications)

May 2024: ESMA CPs on (i) RTS 2, RTS 23 & RTS on RCB; (ii) RTS / ITS related to CTPs & clock synchronisation

Jun 2024: Commission published draft delegated act on identifier for OTC derivatives (for transparency obligations)

Jul 2024: ESMA CPs on (i) RTS 3 amends for single volume cap, RTS 1 amends for equity pre-trade transparency, RTS related to equities CTP, RTS on circuit breakers, ITS on SI notifications, RTS 2 amends for bond post-trade transparency; and (ii) order execution policies

29 Sep 2024: ESMA register of designated publishing entities established

Oct 2024: ESMA CP on RTS 22 (transaction reporting) and RTS 24 (order book data)

Oct / Nov 2024: Listing Act package publication in OJ (for local implementation within 18 months)

Dec 2024: ESMA to finalise proposals from May 2024 CPs, RTS 1 amends for equity pre-trade transparency, RTS 2 amends for bond post-trade transparency and RTS on order execution policies from July 2024 CPs

3 Jan 2025: Tender process for bond CTP to commence

Early 2025: ESMA to consult on RTS 2 amends and CTP-related RTS for derivatives

3 Feb 2025: Designated publishing entity regime starts to apply

Mar 2025: ESMA to finalise RTS on single volume cap, ITS on SI notifications, RTS on circuit breakers

Q2 2025: ESMA to finalise changes to RTS 22 (transaction reporting)

Jun 2025: Tender process for equities CTP to commence. Selection of first bond CTP in early Jul 2025

Sep 2025: Amendments to RTS 2 on derivatives transparency (plus knock on amendments), draft RTS on CTP reporting obligations are due

28 Sep 2025: Amendments to MiFID II are due to be implemented by Member States

End 2025: Selection of first equities CTP

Timeline 2: Market Structure

Mar 2024:
HM Treasury CP on PISCES intermittent trading platform

Nov / Q4 2024:
FCA PS on non-equity transparency regime (inc SI definition)

Q4 2024:
FCA Review of SI regime / obligations

End 2024:
PISCES Sandbox to be in place

Mar 2024:
Amendments to MiFID II / MiFIR published in OJ, entering into force on 28 March, subject to transitional provisions (on which Commission / ESMA published clarifications)

Jul 2024:
ESMA CPs including on ITS on SI notifications

Mar 2025:
ESMA to finalise ITS on SI notifications (amongst other technical standards)

28 Sep 2025:
Amendments to MiFID II are due to be implemented by Member States

Timeline 3: Transparency

Dec 2023: FCA CP on UK non-equity transparency regime

April 2024: DRR and revised equity post-trade reporting requirements started to apply

Jul 2024: FCA CPs on DTO and post-trade risk reduction services and the new POATR

Nov / Q4 2024: FCA PS on non-equity transparency regime (inc SI definition)

Q4 2024: FCA direction on DTO

Q4 2024: FCA DP on transaction reporting

Summer 2025: FCA CP on transaction reporting

Nov 2025: Revised non-equity transparency regime will apply, with bond CTP to commence after that date

End 2025: FCA PS on transaction reporting

Mar 2024: Amendments to MiFID II / MiFIR published in OJ, entering into force on 28 March, subject to transitional provisions (on which Commission / ESMA published clarifications)

May 2024: ESMA CPs including on RTS 2, RTS 23 & RTS on RCB; RTS / ITS on clock synchronisation

Jun 2024: Commission published draft delegated act on identifier for OTC derivatives (for transparency obligations)

Jul 2024: ESMA CPs including on RTS 3 amends for single volume cap, RTS 1 amends for equity pre-trade transparency, RTS on circuit breakers, RTS 2 amends for bond post-trade transparency

29 Sep 2024: ESMA register of designated publishing entities established

Oct 2024: ESMA CP on RTS 22 (transaction reporting) and RTS 24 (order book data)

Dec 2024: ESMA to finalise proposals from May 2024 CPs, including RTS 1 amends for equity pre-trade transparency, RTS 2 amends for bond post-trade transparency

Early 2025: ESMA to consult on RTS 2 amends and CTP-related RTS for derivatives

3 Feb 2025: Designated publishing entity regime starts to apply

Mar 2025: ESMA to finalise RTS, including on single volume cap and circuit breakers

Q2 2025: ESMA to finalise changes to RTS 22 (transaction reporting)

Sep 2025: Amendments to RTS 2 on derivatives transparency (plus knock on amendments) are due

Timeline 4: Market Data

Feb 2024:
Final FCA report in UK Wholesale Data Market Study

Mar 2024:
Amendments to MiFID
Amendments to MiFID II / MiFIR published in OJ, entering into force on 28 March, subject to transitional provisions (on which Commission / ESMA published clarifications)

May 2024:
ESMA CPs including RTS on RCB requirements

Dec 2024:
ESMA to finalise proposals from May 2024 CPs, including RTS on RCB requirements

Timeline 5: Consolidated Tape Providers

Dec 2023: FCA PS / CP on the UK bond CTP

Mar 2024: Amendments to MiFID II / MiFIR published in OJ, entering into force on 28 March, subject to transitional provisions (on which Commission / ESMA published clarifications)

Apr 2024: FCA confirmed UK CTPs will not contribute to connectivity costs; DRSP Regulations started to apply

May 2024: ESMA CPs including on RTS / ITS related to CTPs

Q3 2024: FCA commissioned analysis of impact of including pre-trade data in equities CTP

End 2024: Bond CTP framework to be in place, with tender process to commence in Nov 2024

Dec 2024: ESMA to finalise proposals from May 2024 CPs, including RTS / ITS related to CTPs

3 Jan 2025: Tender process for bond CTP to commence

Early 2025: ESMA to consult on RTS 2 amends and CTP-related RTS for derivatives

Jun 2025: Tender process for equities CTP to commence. Selection of first bond CTP in early Jul 2025

Sep 2025: Draft RTS on CTP reporting obligations are due

Nov 2025: Revised non-equity transparency regime will apply, with bond CTP to commence after that date

End 2025: Selection of first equities CTP

Timeline 6: Investment Research

Feb 2024:
Listing Act package agreed (inc optional rebundling of payments for research and execution)

Mar 2024:
HM Treasury CP on PISCES intermittent trading platform

April 2024:
FCA CP on optional joint payments for research and execution fees

1 Aug 2024:
Option to make joint payments for research and execution available (following Jul 2024 PS)

Oct / Nov 2024:
Listing Act package publication in OJ (for local implementation within 18 months / by Q2 2026)

End 2024:
PISCES Sandbox to be in place

Appendix 2: AFME papers

EU MiFIR/D II Review					
Consultation Responses					
No.	**Status**	**Consultation Title**	**Consultation Period**	**AFME Response and PR**	**Related AFME work**
1	In Progress	ESMA RTS 22 – Transaction Data Reporting; RTS 24 – Order Book Data	03/10/2024 to 03/01/2025	In Progress	
2	Closed	Draft RTS – Order Execution Policy	16/07/2024 to 16/10/2024	16 October 2024	
3	Closed	ESMA RTS – Systematic Internaliser; RTS 3 – Volume Cap; RTS 7 – Circuit Breakers	10/07/2024 to 15/10/2024	16 October 2024	
4	Closed	ESMA Technical advice, RTS 1 - equity transparency; RTS - input/output data for shares and ETFs CTP; RTS 2 - the flags	10/07/2024 to 30/09/2024	30 September 2024	
5	Closed	ESMA RTS 2 - Bond Transparency	21/05/2024 to 28/08/2024	28 August 2024 Response Annex Press Release	Joint Statement (03/10/2024) September 2024 Report "UK and EU Fixed Income Data Quality Project Initial Findings and Outline Report" April 2022 Report "MiFIR 2021 Corporate Bond Trade Data Analysis and Risk Offset Impact Quantification" October 2022 Report "MiFIR 2021 Sovereign Bond Trade Data Analysis and Risk Offset Impact Quantification"
6	Closed	ESMA Draft RTS – Reasonable Commercial Basis (RCB)	21/05/2024 to 28/08/2024	28 August 2024 Press Release	Joint Statement (9/10/2024)
7	Closed	ESMA RTS 23 – Reference Data	21/05/2024 to 28/08/2024	28 August 2024 response	
8	Closed	ESMA Technical Standards – Consolidated Tape Providers and DRSPs	23/05/2024 to 28/08/2024	28 August 2024 Response Clock Sync Drafting Suggestions Press Release	

Other briefing notes and position papers

AFME outlines its vision for CMU for the next institutional cycle (AFME, July 2024)
AFME's Recommendations for the MiFIR/DII Review Trilogues (AFME, April 2023)
The health of price formation in European equity markets (AFME, July 2022)
A Cross-Industry Consensus on the EU Equity Consolidated Tape Proposal (AFME, BVI, Cboe, EFAMA, May 2022)
AFME recommendations on the MiFIR review (AFME, June 2022)
The vital role of SIs in European equities markets (AFME, February 2022)

EU Listing Act					
No.	**Status**	**Consultation Title**	**Consultation Period**	**AFME Response and PR**	**Related AFME work**
1	Closed	Political Agreement (February 2024) EC proposal (December 2022) EC - Listing Act pages	12/2022 – 03/2023	28 March 2023 EU Listing Act - Summary of recommendations (March 2022)	
UK Wholesale Market Review					
No.	**Status**	**Consultation Title**	**Consultation Period**	**AFME Response and PR**	**Related AFME work**
1	Closed	FCA Report on Wholesale data market study (MS23/1)	02/03/2023 to 29/09/2023	April 2024 PR	
2	Closed	FCA CP23/32 "Improving transparency for bond and derivatives markets"	20/12/2023 to 06/03/2024	6 March 2024	AFME / The IA Joint Proposal for FCA (6/03/2024)
3	Closed	FCA CP23/33 on Payments to data providers and forms for DRSPs	20/12/2023 to 09/02/2024	9 February 2024	
4	Closed	FCA CP23/15 on "The Framework for a UK Consolidated Tape"	15/09/2023 to 20/12/2023	15 September 2023	Joint Statement on the "Establishment of a UK Consolidated Tape for Equities and ETFs" (July 2024) AFME position paper "The case for including pre-trade data on the UK equities consolidated tape" (June 2024)
5	Closed	FCA CP22/12 on "Improving Equity Secondary Markets" [PS 23/4]	July-September 2022	16 September 2022	
6	Closed	HM Treasury Consultation (2021) and Consultation Response (2022)	July-September 2021	1 September 2021	
UK Investment Research Review					
No.	**Status**	**Consultation Title**	**Consultation Period**	**AFME Response and PR**	**Related AFME work**
1	Closed	FCA PS 24/9 [CP 24/7]	Rules commenced on 01/08/2024	5 June 2024 PR	
2	Closed	Rachel Kent Call for Evidence	3-24/04/2024	24 April 2024	
Other briefing notes and position papers					
Priorities for UK Financial Markets (AFME, July 2024) AFME reaction to key UK ministerial appointments (AFME, July 2024)					

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The Association for Financial Markets in Europe (AFME) is the voice of all Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues.

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