

Post-trade transparency reporting of multi-security contingent trades

03/12/25

The purpose of this document is to articulate what AFME and its members believe to be the appropriate procedures and methodologies in the post-trade reporting of contingent package and portfolio trades in **bonds** under the revised RTS 2 of MiFID 2. These recommendations are proposed for use in both the EU and UK jurisdictions.

Regulatory Context

- 1) The concept and implementation of the 'PORT' flag in post-trade transparency reporting was introduced in 2024 in both the EU and the UK.
- 2) RTS 2 already had an existing 'TPAC' flag for package trades.
- 3) RTS 2 Article 1(1.b) defines a package transaction (for bonds) as:
 - a. *"a transaction which involves the execution of two or more component transactions in financial instruments and:*
 - b. *which is executed between two or more counterparties;*
 - c. *where each component bears meaningful economic or financial risk which is related to all the other components;*
 - d. *where the execution of each component is simultaneous and contingent upon the execution of all other components."*
- 4) The Revised EU RTS 2 (Annex II, Table 3) mandates that the 'PORT' flag be used for any
"Transaction in five or more different financial instruments where those transactions are traded at the same time by the same client and against a single lot price and that is not a 'package transaction' as referred to in Article 1(1)."
- 5) Additionally, ESMA's Manual on pre-trade and post-trade transparency under MiFID II / MiFIR, as updated on 10th July 2023, under table 68 in section 4.2.5.1 states:
"Portfolio transactions flag for non-equity instruments: ESMA notes that the definition in RTS 2 of the portfolio trade flag (PORT) explicitly excludes the possibility to assign to a trade both, the PORT flag and the package transaction flag (TPAC) since it is stated that the portfolio transaction is not a 'package transaction'. Therefore, whenever a portfolio transaction meets the criteria of a package transaction the use of the package transaction flag (TPAC) should prevail and the transaction should be flagged as such."
- 6) Similarly, in the UK, Annex A of the Markets in Financial Instruments (Non-equity Transparency Rules) Instrument 2024 (FCA 2024/38) the FCA defines a portfolio trade as:
"transactions in 5 or more different bond instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price."

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- 7) Paragraph 7.57 of the FCA's PS24/14 states:
"Where a transaction qualifies as both a package and portfolio transaction, the package transaction flag 'TPAC' should be used."
- 8) Clearly, these 2 definitions are not mutually exclusive when dealing with contingent transactions that involve 5 or more different components since the 'PORT' transactions are defined as those involving
"five or more different financial instruments" and a package (TPAC) transaction as those involving *"the execution of two or more component transactions"*.
- 9) ESMA guidance on the procedure to follow with regard to the application of publication deferrals under RTS 2 for contingent, multi-security trades exists in RTS 2 Article 7(8) which reads:
"Where the package transaction is eligible for deferred publication pursuant to Article 8, information on all components shall be made available after the deferral period for the transaction has lapsed."
- 10) In the UK, Annex B paragraph 11.5.1 R (3) of the FCA's PS24/14 detailing Amendments to the Market Conduct sourcebook (MAR) states:
"Where one or more of the components of a package transaction fulfils the conditions for an applicable deferral in accordance with MAR 11.5.1R(1) and (2), publication of the post-trade transparency information about all the components of the package transaction may be deferred until the applicable maximum deferral period has lapsed."
- 11) No such guidance around deferrals exists for contingent, multi-security trades that are reported using the 'PORT' flag in either EU or UK.

AFME Recommendations

- Given all of the above regulatory context, and specifically the lack of guidance on deferral practice for multi-security contingent trades reported using the 'PORT' flag, AFME and its members recommend following FCA and ESMA guidance (points 5 and 7 in *Regulatory Context* section above) that the 'TPAC' flag be used for trade reporting under RTS 2 of **all** contingent, multi-security trades.
- As a logical extension of this, the text relevant to the procedure to be followed in the application of publication deferrals for **all** contingent, multi-security trades is that contained in points 9 and 10 above i.e. that the publication deferral duration relevant to **all** securities contained in **all** contingent, multi-security trades (that are reported using the 'TPAC' flag) be the one with the longest deferral period.