

trading is carried out in compliance with the rules, if any, of the [regulated market] on which the [relevant securities] are to be admitted to trading, including any rules concerning public disclosure and trade reporting.

3. In respect of shares and other securities equivalent to shares, the time period referred to in paragraph 1 shall, in the case of a secondary offer, start on the date of [adequate public disclosure] of the final price of the [relevant securities] and end no later than 30 calendar days after the date of [allotment].
4. In respect of bonds and other forms of securitised debt (which are not convertible or exchangeable into shares or into other securities equivalent to shares), the time period referred to in paragraph 1 shall start on the date of [adequate public disclosure] of the terms of the offer of the [relevant securities] (i.e. including the spread to the benchmark, if any, once it has been fixed) and end, whatever is earlier, either no later than 30 calendar days after the date on which the issuer of the instruments received the proceeds of the issue, or no later than 60 calendar days after the date of [allotment] of the [relevant securities].
5. In respect of securitised debt convertible or exchangeable into shares or into other securities equivalent to shares, the time period referred to in paragraph 1 shall start on the date of [adequate public disclosure] of the final terms of the offer of the [relevant securities] and end, whatever is earlier, either no later than 30 calendar days after the date on which the issuer of the instruments received the proceeds of the issue, or no later than 60 calendar days after the date of [allotment] of the [relevant securities].

Disclosure and reporting conditions for stabilisation

2.3.5



Table: Article 9 of the Buy-back and Stabilisation Regulation

Article 9


Disclosure and reporting conditions for stabilisation


1. The following information shall be [adequately publicly disclosed] by issuers, [offerors], or entities undertaking the [stabilisation] acting, or not, on behalf of such persons, before the opening of the offer period of the [relevant securities]:
 - (a) the fact that [stabilisation] may be undertaken, that there is no assurance that it will be undertaken and that it may be stopped at any time;
 - (b) the fact that [stabilisation] transactions are aimed to support the market price of the [relevant securities];
 - (c) the beginning and end of the period during which [stabilisation] may occur;


- (d) the identity of the [*stabilisation*] manager, unless this is not known at the time of publication in which case it must be publicly disclosed before any [*stabilisation*] activity begins;
- (e) the existence and maximum size of any [*overallotment facility*] or [*greenshoe option*], the exercise period of the [*greenshoe option*] and any conditions for the use of the [*overallotment facility*] or exercise of the [*greenshoe option*].


The application of the provisions of this paragraph shall be suspended for offers under the scope of application of the measures implementing [the *Prospectus Directive*], from the date of application of these measures.

2. Without prejudice to Article 12(1)(c) of [the *Market Abuse Directive*], the details of all [*stabilisation*] transactions must be notified by issuers, [*offerors*], or entities undertaking the [*stabilisation*] acting, or not, on behalf of such persons, to the competent authority of the relevant market no later than the end of the seventh daily market session following the date of execution of such transactions.
3. Within one week of the end of the [*stabilisation*] period, the following information must be adequately disclosed to the public by issuers, [*offerors*], or entities undertaking the [*stabilisation*] acting, or not, on behalf of such persons:
 - (a) whether or not [*stabilisation*] was undertaken;
 - (b) the date at which [*stabilisation*] started;
 - (c) the date at which [*stabilisation*] last occurred;
 - (d) the price range within which [*stabilisation*] was carried out, for each of the dates during which [*stabilisation*] transactions were carried out.
4. Issuers, [*offerors*], or entities undertaking the [*stabilisation*], acting or not, on behalf of such persons, must record each [*stabilisation*] order or transaction with, as a minimum, the information specified in Article 20(1) of [the *ISD*] extended to *financial instruments* other than those admitted or going to be admitted to the *regulated market*.
5. Where several [*investment firms*] or [*credit institutions*] undertake the [*stabilisation*] acting, or not, on behalf of the issuer or [*offeror*], one of those persons shall act as central point of inquiry for any request from the competent authority of the *regulated market* on which the [*relevant securities*] have been admitted to trading.

- 2.3.6  The FSA accepts as *adequate public disclosure*:
- (1) disclosure through a *regulatory information service* or otherwise in accordance with *Part 6 rules*; or
 - (2) the equivalent disclosure mechanism required to be used in relation to the relevant *regulated market*.

2.3.7  Market integrity requires the *adequate public disclosure* of *stabilisation* activity by *issuers* or by entities undertaking *stabilisation*, acting or not on behalf of these *issuers*. Methods used for *adequate public disclosure* of such information should be efficient and can take into account market practices accepted by competent authorities. [Note: Recital 16 *Buy-back and Stabilisation Regulation*]

2.3.8  There should be adequate coordination in place between all *investment firms* and *credit institutions* undertaking *stabilisation*. During *stabilisation*, one *investment firm* or *credit institution* shall act as a central point of inquiry for any regulatory intervention by the competent authority in each Member State concerned. [Note: Recital 17 *Buy-back and Stabilisation Regulation*]

2.3.9  For the purposes of article 9(2) of the *Buy-back and Stabilisation Regulation*, the FSA is the competent authority of those markets listed as *regulated markets* at <http://www.fsa.gov.uk/register/exchanges.do>. *Persons* undertaking *stabilisation* will be taken to have notified the FSA for the purposes of article 9(2) if they email details of all their *stabilisation* transactions to stabilisation@fsa.gov.uk clearly identifying the offer being *stabilised* and the contact details for the *persons* undertaking the *stabilisation*.

Specific price conditions

2.3.10  Table: Article 10 of the Buy-back and Stabilisation Regulation

Article 10

Specific price conditions

1. In the case of an offer of shares or other securities equivalent to shares, [*stabilisation*] of the [*relevant securities*] shall not in any circumstances be executed above the offering price.
2. In the case of an offer of securitised debt convertible or exchangeable into instruments as referred to in paragraph 1, [*stabilisation*] of those instruments shall not in any circumstances be executed above the market price of those instruments at the time of the public disclosure of the final terms of the new offer.

Conditions for ancillary stabilisation

2.3.11  Table: Article 11 of the Buy-back and Stabilisation Regulation

Article 11

Conditions for ancillary stabilisation

In order to benefit from the exemption provided for in Article 8 of [the *Market Abuse Directive*], [ancillary stabilisation] must be undertaken in accordance with Article 9 of this Regulation and with the following:

- (a) [relevant securities] may be overallocated only during the subscription period and at the offer price;
- (b) a position resulting from the exercise of an [overallocation facility] by an [investment firm] or [credit institution] which is not covered by the [greenshoe option] may not exceed 5 % of the original offer;
- (c) the [greenshoe option] may be exercised by the beneficiaries of such an option only where [relevant securities] have been overallocated;
- (d) the [greenshoe option] may not amount to more than 15% of the original offer;
- (e) the exercise period of the [greenshoe option] must be the same as the [stabilisation] period required under Article 8;
- (f) the exercise of the [greenshoe option] must be disclosed to the public promptly, together with all appropriate details, including in particular the date of exercise and the number and nature of [relevant securities] involved.

2.3.12 G *Overallocation facilities and greenshoe options* are closely related to stabilisation, by providing resources and hedging for *stabilisation* activity. [Note: Recital 19 *Buy-back and Stabilisation Regulation*]

2.3.13 G Particular attention should be paid to the exercise of an *overallocation facility* by an *investment firm* or a *credit institution* for the purpose of *stabilisation* when it results in a position uncovered by the *greenshoe option*. [Note: Recital 20 *Buy-back and Stabilisation Regulation*.]

2.4 Stabilisation when the Buy-back and Stabilisation Regulation does not apply

- 2.4.1 **R** To comply with ■ MAR 2.2.1 R (2) a *firm* must comply with the provisions in articles 8, 9, 10 and 11 of the *Buy-back and Stabilisation Regulation* (see ■ MAR 2.3) subject to the modifications set out in the remainder of this section.
- 2.4.2 **R** For the purposes of the application of article 2(6) of the *Buy-back and Stabilisation Regulation* to this section, references to "*relevant securities*" are to be taken as references to *securities* which are within ■ MAR 2.2.1 R (2).
- 2.4.3 **R** For the purposes of the application of article 2(8) of the *Buy-back and Stabilisation Regulation* to this section, the requirement for the competent authority to agree to the standards of transparency does not apply.
- 2.4.4 **R** Article 8 of the *Buy-back and Stabilisation Regulation* is subject to the following modifications:
- (1) the references to "*adequate public disclosure*" are to be taken as including any public announcement which provides adequate disclosure of the fact that *stabilisation* may take place in relation to the offer, for example:
 - (a) in the case of a screen-based announcement, wording such as "stabilisation/FSA"; or
 - (b) in the case of a final offering circular or prospectus, wording such as "In connection with this [issue][offer], [name of *stabilisation* manager] [or any *person* acting for him] may over-allot or effect transactions with a view to supporting the market price of [description of *relevant securities* and any associated investments] at a level higher than that which might otherwise prevail for a limited period after the issue date. However, there may be no obligation on [name of *stabilisation* manager] [or any agent of his] to do this. Such stabilising, if commenced, may be discontinued at any time, and must be brought to an end after a limited period."; and
 - (2) a *person* is taken to comply the requirements of article 9(1) of the *Buy-back and Stabilisation Regulation* for these purposes if a

public announcement before the opening of the offer period indicates (in whatever terms) the fact that *stabilisation* may take place so long as any preliminary or final offering circular (or prospectus) contains the information specified in that article (other than information on the maximum size of any overallotment facility).

2.4.5 **R** Article 9 of the *Buy-back and Stabilisation Regulation* is subject to the following modifications:

- (1) the references to "*adequate public disclosure*" are to be taken as including any public announcement which complies with **■ MAR 2.4.4 R**;
- (2) article 9(2) does not apply;
- (3) article 9(3) does not apply; and
- (4) in article 9(4) the phrase "order or" does not apply.

2.4.6 **R** Article 10 of the *Buy-back and Stabilisation Regulation* is modified so that the reference to "public disclosure" is to be taken as including any public announcement which complies with **■ MAR 2.4.4 R**.

2.4.7 **R** Article 11 of the *Buy-back and Stabilisation Regulation* is subject to the following modifications:

- (1) the reference to "disclosure to the public" is to be taken as including any public announcement which complies with **■ MAR 2.4.4 R** and
- (2) article 11(b) and (d) do not apply.

2.5 The Price Stabilising Rules: overseas provisions

2.5.1

R

- (1) A person who in any place outside the *United Kingdom* acts or engages in conduct:
 - (a) for the purposes of *stabilising* the price of *investments*;
 - (b) in conformity with the provisions specified in (2), (3) or (4); and
 - (c) in relation to an offer which is governed by the law of a country (or a state or territory in a country) so specified;is to be treated for the purposes of section 397(5)(b) of the *Act* (misleading statements and practices) as acting or engaging in conduct for that purpose and in conformity with the *price stabilising rules*.
- (2) In relation to the United States of America, the specified provisions are:
 - (a) Regulation M made by the Securities and Exchange Commission (17 CFR 242, # 100-105).
- (3) In relation to Japan, the specified provisions are
 - (a) The Securities and Exchange Law of Japan, (Law No 25, April 13 1948), Article 159, paragraphs 3 and 4;
 - (b) Cabinet Orders for the Enforcement of the Securities and Exchange Law of Japan (Cabinet Order 321, September 30, 1965), Articles 20 to 26;
 - (c) Ministerial Ordinance concerning the Registration of Stabilisation Trading (Ordinance of the Ministry of Finance No 43, June 14, 1971);
 - (d) Ministerial Ordinance concerning rules and otherwise governing the soundness of securities companies (Ordinance of the Ministry of Finance, No 60, November 5, 1965), Article 2.
- (4) In relation to Hong Kong, the specified provisions are:

(a) The Securities and Futures (Price Stabilizing) Rules, Cap. 571 W made by the Hong Kong Securities and Futures Commission.

(5) The provisions in (2), (3) and (4) are specified as they have effect from time to time, so long as this paragraph has effect.

2.5.2

R

A *person* who is treated under ■ MAR 2.5.1 R (1) as acting or engaging in conduct in conformity with the *price stabilising rules* is also to be treated to an equivalent extent as so acting or engaging for the purposes of:

- (1) ■ MAR 2.2.1 R (2) and ■ MAR 2.2.2 G, provided that the *investments* concerned are not admitted to trading on a *regulated market* and there has been no request for admission to trading on a *regulated market*;
- (2) Part XIV (Disciplinary measures); and
- (3) Part XXV (Injunctions and Restitution) of the *Act*.

2.5.3

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2.5.6

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2.6

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2



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2.8

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2

List of specified exchanges (This is the list of other specified exchanges referred to in MAR 2.2.1R(2))

Any prescribed market which is not a regulated market

Any recognised overseas investment exchange

American Stock Exchange (AMEX)

Australian Stock Exchange

Bolsa Mexicana de Valores

Canadian Venture Exchange

Hong Kong Stock Exchange

Johannesburg Stock Exchange

Korea Stock Exchange

Midwest Stock Exchange

Montreal Stock Exchange

New York Stock Exchange (NYSE)

New Zealand Stock Exchange

Osaka Securities Exchange (OSE)

Pacific Stock Exchange

Philadelphia Stock Exchange

Singapore Exchange Securities Trading Limited

Tokyo Stock Exchange (TSE)

Toronto Stock Exchange

[Deleted]

[Deleted]

Market Conduct

Chapter 3

[Deleted]





[Chapter Deleted]

Chapter 4

Support of the Takeover Panel's Functions



4.1 APPLICATION AND PURPOSE

Application

4.1.1 **R** This chapter applies to every *firm* whose *permission* includes, or ought to include, any *designated investment business*, except as set out in **■** MAR 4.4.1 R.

4.1.2 **G** **■** MAR 4.1.1 R applies regardless of whether the *firm's* activity:

- (1) is a *regulated activity*;
- (2) is carried on from an office of the *firm* in the *United Kingdom*; or
- (3) is in respect of a *client* in the *United Kingdom*.

Purpose

4.1.3 **G** [deleted]

4.1.4 **G** [deleted]



4.2

- 4.2.1 [Deleted]
- 4.2.2 [Deleted]
- 4.2.3 [Deleted]
- 4.2.4 [Deleted]
- 4.2.5 [Deleted]



4.3 SUPPORT OF THE TAKEOVER PANEL'S FUNCTIONS

4.3.1 **R** A *firm* must not act, or continue to act, for any *person* in connection with a transaction to which the *Takeover Code* applies (including a *transaction* subject to rule 8 (Disclosure of dealings during the offer period; also indemnity and other arrangements) of the *Takeover Code*) if the *firm* has reasonable grounds for believing that the *person* in question, or his principal, is not complying or is not likely to comply with the *Takeover Code*.

- 4.3.2** **G**
- (1) The *Takeover Panel* publishes notices regarding compliance with the *Takeover Code*. It may also, from time to time, name in those notices *persons* as *persons* that, in the *Takeover Panel's* opinion, are not likely to comply with the *Takeover Code*. Any notices of this type will be available on the *Takeover Panel's* website (www.thetakeoverpanel.org.uk).
 - (2) A *firm* should keep itself informed of *Takeover Panel* notices and take them into account in seeking to comply with **■ MAR 4.3.1 R**. If the *Takeover Panel* were to name such a *person* in such a notice, the *FSA* would expect a *firm* to comply with **■ MAR 4.3.1 R** by not acting or continuing to act for that *person*.
 - (3) The *FSA* would not regard a *firm* as in breach of **■ MAR 4.3.1 R** where the *Takeover Panel* has indicated that it is content for the *firm* to act in relation to that transaction.

- 4.3.3** **G**
- (1) Where a restriction under **■ MAR 4.3.1 R** applies, among other things the *firm* is prevented from carrying on any *designated investment business* activity, or *communicating* or *approving* any *financial promotion*, in connection with a transaction to which the *Takeover Code* applies.
 - (2) Where a restriction under **■ MAR 4.3.1 R** applies, the *firm* is not prevented from carrying on other activities (including *regulated activities*) in relation to that *person*. This includes *designated investment business* activity which is not in connection with a transaction to which the *Takeover Code* applies.

- 4.3.4** **G**
- (1) Where a restriction under **■ MAR 4.3.1 R** applies, an *authorised professional firm* is not prevented from providing professional advice or representation in any proceedings to the *person* where that falls within section 327(8) of the *Act*. This means that the *person* can obtain legal advice or representation

in any proceedings from a law firm and accounting advice from an accounting firm: see ■ MAR 4.4.1 R (2).

- (2) While the FSA recognises the duty of *authorised professional firms* to act in the best interests of their clients, the duty cannot override the provisions of the *Takeover Code* so as to require the *authorised professional firm* to provide services in breach of, or enable breach of, the *Takeover Code*.

4.3.5

R

A firm must provide to the Takeover Panel:

- (1) any information and documents in its possession or under its control which the *Takeover Panel* requests to enable the *Takeover Panel* to perform its functions; and
- (2) such assistance as the *Takeover Panel* requests and as the *firm* is reasonably able to provide to enable the *Takeover Panel* to perform its functions.

4.3.6

G

In ■ MAR 4.3.5 R, "documents" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to providing documents include references to producing a copy of the information in legible form.

4.3.7

G

As a result of section 413 of the *Act* (Limitation on powers to require documents), ■ MAR 4.3.5 R does not require a *firm* or an *authorised professional firm* to produce, disclose or permit the inspection of *protected items*.

4.4 EXCEPTIONS

4.4.1

R

This chapter is subject to the following exceptions:

- (1) this chapter does not require an *authorised professional firm* to contravene any rule or principle of, or requirement of a published guidance note relating to, professional conduct applying generally to members of the profession regulated by its *designated professional body*;
- (2) this chapter does not prevent an *authorised professional firm* from providing professional advice, that is, in accordance with section 327(8) of the *Act*, advice:
 - (a) which does not constitute carrying on a *regulated activity*; and
 - (b) the provision of which is supervised and regulated by a *designated professional body*;
- (3) this chapter does not have effect in relation to an *authorised professional firm* in respect of *non-mainstream regulated activity*; and
- (4) this chapter does not apply to:
 - (a) a *UCITS qualifier*; or
 - (b) an *incoming EEA firm* which has *permission* only for *cross border services* and which does not carry on *regulated activities* in the *United Kingdom*.

Chapter 5

Multilateral trading facilities (MTFs)



5.1 Application

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering various topics relating to automated trading and direct electronic access. See <http://www.fsa.gov.uk/static/pubs/other/esma-guidelines.pdf>]

5.1.1

R

This chapter applies to:

- (1) a *UK domestic firm* which operates an *MTF* from an establishment in the *United Kingdom* or elsewhere; or
- (2) an *overseas firm* which operates an *MTF* from an establishment in the *United Kingdom*.

5.1.2

R

In this chapter, provisions marked "EU" apply to an *overseas firm* as if they were *rules*.

5.1.3

[Deleted]



5.2 Purpose

5.2.1

G

The purpose of this chapter is to implement the provisions of *MiFID* relating to *firms* operating *MTFs*, specifically articles 14, 26, 29 and 30 of *MiFID*. This chapter does not apply to bilateral systems, which are excluded from the *MTF* definition. It sets out for reference other provisions of the *MiFID Regulation* relevant to the articles being implemented.

5.2.2

[Deleted]

5.2.3

[Deleted]

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5.2.8

[Deleted]

5.3 Trading process requirements

5.3.1

R

A firm operating an *MTF* must have:

- (1) transparent and non-discretionary rules and procedures for fair and orderly trading;

[Note: Article 14(1) of *MiFID*]

- (2) objective criteria for the efficient execution of orders;

[Note: Article 14(1) of *MiFID*]

- (3) transparent rules regarding the criteria for determining the *financial instruments* that can be traded under its systems;

[Note: Subparagraph 1 of Article 14(2) of *MiFID*]

- (4) transparent rules, based on objective criteria, governing access to its facility, which rules must provide that its members or participants are *investment firms*, *BCD credit institutions* or other persons who:

- (a) are fit and proper;
- (b) have a sufficient level of trading ability and competence;
- (c) where applicable, have adequate organisational arrangements;
- (d) have sufficient resources for the role they are to perform, taking into account the different financial arrangements that the *firm* operating the *MTF* may have established in order to guarantee the adequate settlement of transactions; and

[Note: Article 14(4) and 42(3) of *MiFID*]

- (5) where applicable must provide, or be satisfied that there is access to, sufficient publicly available information to enable its users to form an investment judgment, taking into account both the nature of the users and the types of instrument traded.

[Note: Subparagraph 2 of Article 14(2) of MiFID]

Publication of pre and post-trade information for shares not admitted to trading on a regulated market

5.3.2 **G** In the case of shares not *admitted to trading* on a *regulated market*, the FSA expects that in order to fulfil the requirements in ■ MAR 5.3.1 R as regards fair and orderly trading, the *firm* operating the MTF will make public on reasonable commercial terms:

- (1) on a continuous basis during *normal trading hours*, information about the quotes and orders relating to these shares which the MTF displays or advertises to its users; and
- (2) as close to real time as possible, information about the price, volume and time of transactions in these shares executed under its systems.

5.3.3 **G** The *firm* may make information about a large quote, order or transaction available under ■ MAR 5.3.2 G on a delayed basis, but only to the extent reasonably necessary to protect the interests of the relevant user who placed the order, provided the quote or executed the transaction.

Publication of post-trade information for financial instruments other than shares

5.3.4 **G** Where *financial instruments* other than shares are traded on an MTF, and the same or substantially similar instruments are also traded on a UK RIE, a *regulated market* or an EEA *commodities market*, the FSA expects that in order to fulfil the requirements in ■ MAR 5.3.1 R as regards fair and orderly trading, the *firm* operating the MTF will make public, on reasonable commercial terms and as close to real time as possible, the price, volume and time of the transactions executed under its systems.

5.3.5 **G** For large transactions in *debt securities*, an indication that volume exceeded a certain figure (not being less than £7 million or its equivalent) instead of the actual volume is sufficient transparency of the volume of a trade.

5.3.6 **G** The *firm* may make information about a large quote, order or transaction available under ■ MAR 5.3.4 G on a delayed basis, but only to the extent reasonably necessary to protect the interests of the relevant user who placed the order, provided the quote or executed the transaction.

Operation of a primary market in shares not admitted to trading on a regulated market

5.3.7 **G** The FSA will be minded to impose a variation on the *Part IV permission* of an MTF operator that operates a primary market in shares not *admitted to trading* on a *regulated market* in order to ensure its fulfilment of the requirements in ■ MAR 5.3.1 R as regards fair and orderly trading.

5

Transferable securities traded without issuer consent

5.3.8

R

Where a *transferable security*, which has been *admitted to trading* on a *regulated market*, is also traded on an *MTF* without the consent of the *issuer*, the *firm* operating the *MTF* must not make the *issuer* subject to any obligation relating to initial, ongoing or ad hoc financial disclosure with regard to that *MTF*.

[Note: Article 14(6) of *MiFID*]



5.4 Finalisation of transactions

5.4.1 **R** A firm operating an *MTF* must:

- (1) clearly inform its users of their respective responsibilities for the settlement of transactions executed in that *MTF*; and
- (2) have in place the arrangements necessary to facilitate the efficient settlement of the transactions concluded under its systems.

[Note: Article 14(5) of *MiFID*]

5.4.2 [Deleted]
5.4.3 [Deleted]
5.4.4 [Deleted]
5.4.5 [Deleted]
5.4.6 [Deleted]
5.4.7 [Deleted]
5.4.8 [Deleted]





5.5 Monitoring compliance with the rules of the MTF

5.5.1

R

A *firm* operating an *MTF* must:

- (1) have effective arrangements and procedures, relevant to the *MTF*, for the regular monitoring of the compliance by its users with its rules; and
- (2) monitor the transactions undertaken by its users under its systems in order to identify breaches of those rules, disorderly trading conditions or conduct that may involve market abuse.

[Note: Article 26(1) of *MiFID*]

5.5.2

[Deleted]

5.5.3

[Deleted]

5.6 Reporting requirements

5.6.1

R

A *firm* operating an *MTF* must:

- (1) report to the *FSA*:
 - (a) significant breaches of the *firm's* rules;
 - (b) disorderly trading conditions; and
 - (c) conduct that may involve market abuse;
- (2) supply the information required under this *rule* without delay to the *FSA* and any other authority competent for the investigation and prosecution of market abuse; and
- (3) provide full assistance to the *FSA*, and any other authority competent for the investigation and prosecution of market abuse, in its investigation and prosecution of market abuse occurring on or through the *firm's* systems.

[Note: Article 26(2) of *MiFID*]

5.7.1

R

5.7 Pre-trade transparency requirements for shares

- (1) Unless (2),(3) or (4) applies, in respect of shares *admitted to trading on a regulated market*, a *firm* operating an *MTF* must make public, on reasonable commercial terms and on a continuous basis during *normal trading hours*:
- (a) the current bid and offer prices which are advertised through its systems; and
 - (b) the depth of trading interests at those prices.

[Note: Article 29(1) of *MiFID*]

- (2) Paragraph (1) does not apply to systems operated by an *MTF* to the extent that those systems satisfy one of the criteria in (a) or (b), subject to (c):
- (a) they must be based on a trading methodology by which the price is determined in accordance with a reference price generated by another system, where that reference price is widely published and is regarded generally by market participants as a reliable reference price;
 - (b) they formalise negotiated transactions, each of which meets one of the criteria in (i) and (ii), subject to the provisions in (iii) and (iv):
 - (i) it is made at or within the current volume weighted spread reflected on the order book or the quotes of the market makers of the *MTF* operating that system or, where the share is not traded continuously, within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the system operator;
 - (ii) it is subject to conditions other than the current market price of the share.
 - (iii) For the purposes of (b), the other conditions specified in the rules of the *MTF* for a transaction of this kind must also have been fulfilled.

(iv) Negotiated transaction has the meaning given in Article 19 of the *MiFID Regulation*.

[Note: Article 19 of the *MiFID Regulation* is reproduced in ■ MAR 5.7.9 EU.]

(c) In the case of systems having functionality other than as described in (a) or (b), the disapplication does not apply to that other functionality.

(3) Paragraph (1) does not apply in relation to orders held in an order management facility maintained by the *MTF* pending their being disclosed to the market.

(4) (a) Paragraph (1) does not apply in relation to orders that are large in scale compared to normal market size for the share or type of share in question.

(b) An order will be considered to be large in scale if it meets the criteria set out in Article 20 of the *MiFID Regulation*.

[Note: Article 20 of the *MiFID Regulation* is reproduced in ■ MAR 5.7.10 EU.]

Pre-trade information

5.7.2



1. **An investment firm or market operator operating an *MTF* or a regulated market shall, in respect of each share admitted to trading on a regulated market that is traded within a system operated by it and specified in Table 1 of Annex II [of the *MiFID Regulation*], make public the information set out in paragraphs 2 to 6.**
2. **Where one of the entities referred to in paragraph 1 operates a continuous auction order book trading system, it shall, for each share as specified in paragraph 1, make public continuously throughout its *normal trading hours* the aggregate number of orders and of the shares those orders represent at each price level, for the five best bid and offer price levels.**
3. **Where one of the entities referred to in paragraph 1 operates a quote-driven trading system, it shall, for each share as specified in paragraph 1, make public continuously throughout its *normal trading hours* the best bid and offer by price of each market maker in that share, together with the volumes attaching to those prices.**

The quotes made public shall be those that represent binding commitments to buy and sell the shares and which indicate the price and volume of shares in which the registered market makers are prepared to buy or sell.

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- In exceptional market conditions, however, one-way prices may be allowed for a limited time.
4. Where one of the entities referred to in paragraph 1 operates a periodic auction trading system, it shall, for each share specified in paragraph 1, make public continuously throughout its *normal trading hours* the price that would best satisfy the system's trading algorithm and the volume that would potentially be executable at that price by participants in that system.
 5. Where one of the entities referred to in paragraph 1 operates a trading system which is not wholly covered by paragraph 2 or 3 or 4, either because it is a hybrid system falling under more than one of those paragraphs or because the price determination process is of a different nature, it shall maintain a standard of pre-trade transparency that ensures that adequate information is made public as to the price level of orders or quotes for each share specified in paragraph 1, as well as the level of trading interest in that share. In particular, the five best bid and offer price levels and/or two-way quotes of each market maker in that share shall be made public, if the characteristics of the price discovery mechanism permit it.
 6. A summary of the information to be made public in accordance with paragraphs 2 to 5 is specified in Table 1 of Annex II [of the *MiFID Regulation*].

[Note: Article 17 of the *MiFID Regulation*]

Table 1: Information to be made public in accordance with Article 17

5.7.3



Type of system	Description of system	Summary of information to be made public, in accordance with Article 17
Continuous auction order book trading system	A system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with matching buy orders on the basis of the best available price on a continuous basis	The aggregate number of orders and the shares they represent at each price level, for at least the five best bid and offer price levels
Quote-driven trading system	A system where transactions are concluded on the basis of firm quotes that are continuously	The best bid and offer by price of each market maker in that share, together with the vol-

Type of system	Description of system	Summary of information to be made public, in accordance with Article 17
	made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of members and participants to deal in a commercial size and the risk to which the market maker exposes itself	umes attaching to those prices
Periodic auction trading system	A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention	The price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price
Trading system not covered by first three rows	A hybrid system falling into two or more of the first three rows or a system where the price determination process is of a different nature than that applicable to the types of system covered by first three rows	Adequate information as to the level of orders or quotes and of trading interest; in particular, the five best bid and offer price levels and/or two-way quotes of each market maker in the share, if the characteristics of the price discovery mechanism so permit

[Note: Table 1, Annex II of the *MiFID Regulation*]

Publication of pre-trade information

5.7.4



1. A regulated market, MTF or systematic internaliser shall be considered to publish pre-trade information on a continuous basis during normal trading hours if that information is published as soon as it becomes available during the normal trading hours of the regulated market, MTF or systematic internaliser concerned, and remains available until it is updated.
2. Pre-trade information ... shall be made available as close to real time as possible. ...

[Note: Article 29(1) and (2) of the *MiFID Regulation*]

5.7.5



Information which is required to be made available as close to real time as possible should be made available as close to instantaneously as technically possible, assuming a reasonable level of efficiency and of expenditure on systems on the part of the person concerned. The information should only be published close to the three minute maximum limit in exceptional cases where the systems available do not allow for a publication in a shorter period of time.

[Note: Recital (18) to the *MiFID Regulation*]

Disapplication of the pre-trade transparency requirements

5.7.6



The obligation in ■ MAR 5.7.1 R (1) to make public certain pre-trade information is disappplied in ■ MAR 5.7.1 R (2) based on the market model or the type and size of orders in the cases identified in the *MiFID Regulation*, and as reproduced for reference in ■ MAR 5.7.8 EU, ■ MAR 5.7.9 EU, ■ MAR 5.7.10 EU and ■ MAR 5.7.11 EU. In particular, the obligation is disappplied in respect of transactions that are large in scale compared with the normal market size for the share or type of share in question.

[Note: Article 29(2) of *MiFID* and Recital 12 and Articles 18, 19, 20, 33 and 34 of the *MiFID Regulation*]

5.7.7



If granting waivers in relation to pre-trade transparency requirements, or authorising the deferral of post-trade transparency obligations, *competent authorities* should treat all *regulated markets* and *MTFs* equally and in a non-discriminatory manner, so that a waiver or deferral is granted either to all *regulated markets* and *MTFs* that they authorise under [the *MiFID*] Directive 2004/39/EC, or to none. *Competent authorities* which grant the waivers or deferrals should not impose additional requirements.

[Note: Recital 12 to the *MiFID Regulation*]

5.7.8



1. Waivers in accordance with Article 29(2) and 44(2) of [the *MiFID*] Directive 2004/39/EC may be granted by the *competent authorities* for systems operated by an *MTF* or a *regulated market*, if those systems satisfy one of the following criteria:

- (a) they must be based on a trading methodology by which the price is determined in accordance with a reference price generated by another system, where that reference price is widely published and is regarded generally by market participants as a reliable reference price;**
- (b) they formalise negotiated transactions, each of which meets one of the following criteria:**
 - (i) it is made at or within the current volume weighted spread reflected on the order book or the quotes of the market makers of the *regulated market* or *MTF* operating that system or, where the share is not traded contin-**

uously, within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the system operator;

- (ii) it is subject to conditions other than the current market price of the share.

For the purposes of point (b), the other conditions specified in the rules of the regulated market or *MTF* for a transaction of this kind must also have been fulfilled.

In the case of systems having functionality other than as described in points (a) or (b), the waiver shall not apply to that other functionality.

2. Waivers in accordance with Articles 29(2) and 44(2) of [the *MiFID*] Directive 2004/39/EC based on the type of orders may be granted only in relation to orders held in an order management facility maintained by the *regulated market* or the *MTF* pending their being disclosed to the market.

[Note: Article 18 of the *MiFID Regulation*]

5.7.9



For the purpose of Article 18(1)(b) [of the *MiFID Regulation*] a negotiated transaction shall mean a transaction involving members or participants of a *regulated market* or an *MTF* which is negotiated privately but executed within the *regulated market* or *MTF* and where that member or participant in doing so undertakes one of the following tasks:

- (a) *dealing on own account* with another member or participant who acts for the account of a *client*;
- (b) dealing with another member or participant, where both are executing orders on own account;
- (c) acting for the account of both the buyer and seller;
- (d) acting for the account of the buyer, where another member or participant acts for the account of the seller;
- (e) trading for own account against a *client* order.

[Note: Article 19 of the *MiFID Regulation*]

5.7.10



An order shall be considered to be large in scale compared with normal market size if it is equal to or larger than the minimum size of order specified in Table 2 in Annex II [of the *MiFID Regulation*]. For the purposes of determining whether an order is large in scale compared to normal market size, all shares admitted to trading on a regulated market shall be classified in accordance with their average daily turnover, which shall be calculated in accordance with the procedure set out in Article 33 [of the *MiFID Regulation*].

[Note: Article 20 of the *MiFID Regulation*]

Table 2: Orders large in scale compared with normal market size

5.7.11



Class in terms of average daily turnover (ADT)	ADT < €500 000	€500 000 ≤ ADT < €1 000 000	€1 000 000 ≤ ADT < €25 000 000	€25 000 000 ≤ ADT < €50 000 000	ADT ≥ €50 000 000
Minimum size of order qualifying as large in scale compared with normal market size	€50 000	€100 000	€250 000	€400 000	€500 000

[Note: Table 2, Annex II of the *MiFID Regulation*]

5.7.12



The FSA will publish on its website the calculations and estimates for shares *admitted to trading* on a *regulated market*, made by the FSA under the provisions in Articles 33 and 34 of the *MiFID Regulation*.



5.8 Provisions common to pre- and post-trade transparency requirements for shares

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5.8.1



For the purposes of Articles 27, 28, 29, 30, 44 and 45 of [the *MiFID*] Directive 2004/39/EC and of this [*MiFID*] Regulation, pre- and post-trade information shall be considered to be made public or available to the public if it is made available generally through one of the following to investors located in the Community:

- (a) the facilities of a *regulated market* or an *MTF*;**
- (b) the facilities of a third party;**
- (c) proprietary arrangements.**

[Note: Article 30 of the *MiFID Regulation*]

5.8.2



Any arrangement to make information public, adopted for the purposes of Articles 30 and 31 [of the *MiFID Regulation*], shall satisfy the following conditions:

- (a) it must include all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;**
- (b) it must facilitate the consolidation of the data with similar data from other sources;**
- (c) it must make the information available to the public on a non-discriminatory commercial basis at a reasonable cost.**

[Note: Article 32 of the *MiFID Regulation*]

5.8.3



The *FSA* considers that for the purposes of ensuring that published information is reliable, monitored continuously for errors, and corrected as soon as errors are detected (see ■ MAR 5.8.2 EU(a)), a verification process should be established which does not need to be external from the organisation of the publishing entity, but which should be an independent cross-check of the accuracy of the information generated by the trading process. This process should have the capability to at least identify price and volume anomalies, be systematic and conducted in real-time. The chosen process should be reasonable and proportionate in relation to the business.

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5.8.4



- (1) In respect of arrangements facilitating the consolidation of data as required in ■ MAR 5.8.2 EU(b), the *FSA* considers information as being made public in accordance with ■ MAR 5.8.2 EU(b), if it:

- (a) is accessible by automated electronic means in a machine-readable way;
 - (b) utilises technology that facilitates consolidation of the data and permits commercially viable usage; and
 - (c) is accompanied by instructions outlining how users can access the information.
- (2) The *FSA* considers that an arrangement fulfils the 'machine-readable' criteria where the data
- (a) is in a physical form that is designed to be read by a computer;
 - (b) is in a location on a computer storage device where that location is known in advance by the party wishing to access the data; and
 - (c) is in a format that is known in advance by the party wishing to access the data.
- (3) The *FSA* considers that publication on a non-machine-readable website would not meet the *MiFID* requirements.
- (4) The *FSA* considers that information that is made public in accordance with **■ MAR 5.8.2 EU** should conform to a consistent and structured format based on industry standards. *Firms* operating an *MTF* can choose the structure that they use.

5.9 Post-trade transparency requirements for shares

5.9.1

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- (1) In respect of shares *admitted to trading on a regulated market*, unless ■ MAR 5.9.1 R (2) applies and ■ MAR 5.9.7 R is satisfied, a *firm* operating an *MTF* must make public, on reasonable commercial terms and as close to real-time as possible, the price, volume and time of the transactions which are advertised through its systems. This requirement does not apply to the details of a transaction executed on an *MTF* that is made public under the systems of a *regulated market*.

[Note: Article 30(1) of *MiFID*]

- (2) A *firm* may defer publication of trade information required in (1) for no longer than the period specified in Table 4 in Annex II of the *MiFID Regulation* for the class of share and transaction concerned, provided that the following criteria in (a) and (b) are satisfied and subject to the provision in (c):
- (a) the transaction is between an *investment firm dealing on own account* and a *client* of that *firm*;
 - (b) the size of the transaction is equal to or exceeds the relevant minimum qualifying size, as specified in Table 4 in Annex II.
 - (c) In order to determine the relevant minimum qualifying size for the purposes of point (b), all shares *admitted to trading on a regulated market* must be classified in accordance with their average daily *turnover* to be calculated in accordance with Article 33 of the *MiFID Regulation*.

Note: Table 4 of Annex II of the *MiFID Regulation* is reproduced in ■ MAR 7 Annex 1 EU.

5.9.2



Information which is required to be made available as close to real time as possible should be made available as close to instantaneously as technically possible, assuming a reasonable level of efficiency and of expenditure on systems on the part of the person concerned. The information should only be published close to the three minute maximum limit in exceptional

cases where the systems available do not allow for a publication in a shorter period of time.

[Note: Recital 18 to the *MiFID Regulation*]

Post-trade information

5.9.3



1. *Investment firms, regulated markets and investment firms and market operators operating an MTF shall, with regard to transactions in respect of shares admitted to trading on regulated markets concluded by them or, in the case of regulated markets or MTFs, within their systems, make public the following details:*

- (a) the details specified in points 2, 3, 6, 16, 17, 18 and 21 of Table 1 of Annex I [of the *MiFID Regulation*];
- (b) an indication that the exchange of shares is determined by factors other than the current market valuation of the share, where applicable;
- (c) an indication that the trade was a negotiated trade, where applicable;
- (d) any amendments to previously disclosed information, where applicable.

Those details shall be made public either by reference to each transaction or in a form aggregating the volume and price of all transactions in the same share taking place at the same price at the same time.

[Note: Article 27(1) of the *MiFID Regulation*]

Publication of post-trade information

5.9.4



2. ... post-trade information relating to transactions taking place on trading venues within *normal trading hours*, shall be made available as close to real time as possible. Post-trade information relating to such transactions shall be made available in any case within three minutes of the relevant transaction.

3. Information relating to a portfolio trade shall be made available with respect to each constituent transaction as close to real time as possible, having regard to the need to allocate prices to particular shares. Each constituent transaction shall be assessed separately for the purpose of determining whether deferred publication in respect of that transaction is available under Article 28 [of the *MiFID Regulation*].

4. Post-trade information relating to transactions taking place on a trading venue but outside its *normal trading hours* shall be made public before the opening of the next trading day of the trading venue on which the transaction took place.

[Note: Article 29 (2) to (4) of the *MiFID Regulation*]

5.9.5



1. ... A reference to the opening of the trading day shall be a reference to the commencement of the *normal trading hours* of the trading venue....

[Note: Article 4(1) of the *MiFID Regulation*]

Deferred publication of post-trade information

5.9.6



The deferred publication of information in respect of transactions may be authorised, for a period no longer than the period specified in Table 4 in Annex II [of the *MiFID Regulation*] [reproduced in [MAR 7 Annex 1 EU](#)] for the class of share and transaction concerned, provided that the following criteria are satisfied:

- (a) the transaction is between an *investment firm dealing on own account* and a *client* of that firm;
- (b) the size of the transaction is equal to or exceeds the relevant minimum qualifying size, as specified in Table 4 in Annex II.

In order to determine the relevant minimum qualifying size for the purposes of point (b), all shares admitted to trading on a *regulated market* shall be classified in accordance with their average daily turnover to be calculated in accordance with Article 33 [of the *MiFID Regulation*].

[Note: Article 28 of the *MiFID Regulation*]

5.9.6A



The deferred publication of information, referred to in [MAR 5.9.6 EU](#), is authorised by the *FSA*, to the extent set out in that provision, and, in particular, is given effect in [MAR 5.9.1 R \(2\)](#).

5.9.7



An *MTF* must obtain the prior approval of the *FSA* to proposed arrangements for deferred post-trade publication and must clearly disclose such arrangements to market participants and the investing public.

[Note: Article 30(2) of *MiFID*]

[Deleted]

Market Conduct

Chapter 6

Systematic Internalisers

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1



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6.1 Application

- 6.1.1 **R** Except as regards the reporting requirement in ■ MAR 6.4.1 R, this chapter applies to:
- (1) a *MiFID investment firm* which is a *systematic internaliser* in shares when dealing in sizes up to standard market size; or
 - (2) a *third country investment firm* which is a *systematic internaliser* in shares when dealing in the *United Kingdom* in sizes up to standard market size.
- 6.1.2 **R** The *systematic internaliser* reporting requirement in ■ MAR 6.4.1 R applies to an *investment firm* which is authorised by the *FSA*.
- 6.1.3 **R** In this chapter, provisions marked "EU" apply to a *third country investment firm* which is a *systematic internaliser* as if they were *rules*.



6.2 Purpose

6.2.1

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The purpose of this chapter is to implement Article 27 of *MiFID*, which deals with the requirements on *systematic internalisers* for pre-trade transparency in shares, the *execution of orders on behalf of clients* and standards and conditions for trading. It also provides a rule requiring *investment firms* to notify the *FSA* when they become, or cease to be, a *systematic internaliser*, and which gives effect to Article 21(4) of the *MiFID Regulation*. The chapter sets out for reference other provisions of the *MiFID Regulation* relevant to the articles being implemented.

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6.3 Criteria for determining whether an investment firm is a systematic internaliser

6.3.1



1. Where an *investment firm deals on own account* by executing *client orders outside a regulated market or an MTF*, it shall be treated as a *systematic internaliser* if it meets the following criteria indicating that it performs that activity on an organised, frequent and systematic basis:
 - (a) the activity has a material commercial role for the *firm* and is carried on in accordance with non-discretionary rules and procedures;
 - (b) the activity is carried on by personnel, or by means of an automated technical system, assigned to that purpose, irrespective of whether those personnel or that system are used exclusively for that purpose;
 - (c) the activity is available to *clients* on a regular or continuous basis.
2. An *investment firm* will cease to be a *systematic internaliser* in one or more shares if it ceases to carry on the activity specified in paragraph 1 in respect of those shares, provided that it has announced in advance that it intends to cease that activity using the same publication channels for that announcement as it uses to publish its quotes or, where that is not possible, using a channel which is equally accessible to its *clients* and other market participants.
3. The activity of *dealing on own account* by executing *client orders* shall not be treated as performed on an organised, frequent and systematic basis where the following conditions apply:
 - (a) the activity is performed on an ad-hoc and irregular bilateral basis with wholesale counterparties as part of business relationships which are themselves characterised by dealings above standard market size;
 - (b) the transactions are carried out outside the systems habitually used by the *firm* concerned for any business that it carries out in the capacity of a *systematic internaliser*.

[Note: Article 21(1) to (3) of the *MiFID Regulation*]

6.3.2



An activity should be considered as having a material commercial role for an *investment firm* if the activity is a significant source of revenue, or a significant source of cost. An assessment of significance for these purposes should, in every case, take into account the extent to which the activity is conducted or organised separately, the monetary value of the activity, and its comparative significance by reference both to the overall business of the firm and to its overall activity in the market for the share concerned in which the firm operates. It should be possible to consider an activity to be a significant source of revenue for a firm even if only one or two of the factors mentioned is relevant in a particular case.

[Note: Recital 15 to the *MiFID Regulation*]

6



6.4 Systematic internaliser reporting requirement

6.4.1

R

An *investment firm*, which is authorised by the FSA, must promptly notify the FSA in writing of its status as *asystematic internaliser* in respect of shares *admitted to trading on a regulated market*:

(1) when it gains that status; or

(2) if it ceases to have that status.

[Note: Article 21(4) of the *MiFID Regulation*]

6.4.2

G

The notification under ■ MAR 6.4.1 R can be addressed to the *firm's* usual supervisory contact at the FSA.



6.5 Obligations on systematic internalisers in shares to make public firm quotes

6.5.1 **R** A *systematic internaliser* in shares when dealing in sizes up to standard market size must publish a firm quote in relation to any share *admitted to trading* on a *regulated market* for which it is:

- (1) a *systematic internaliser* in that share; and
- (2) there is a liquid market for that share.

[Note: Subparagraphs 1 and 2 of Article 27(1) of *MiFID*]

6.5.2 **R** Where there is no liquid market for a share, the *systematic internaliser* must disclose quotes to its clients on request.

[Note: Subparagraph 1 of Article 27(1) of *MiFID*]

6.5.3 **R** A *systematic internaliser* may:

- (1) update a quote at any time; and
- (2) under exceptional market conditions, withdraw a quote.

[Note: Subparagraph 1 of Article 27(3) of *MiFID*]

6.6 Size and content of quotes

6.6.1 **R** (1) A *systematic internaliser* may decide the size or sizes at which it will quote.

(2) The quote can be up to standard market size for the class of shares to which the share belongs.

[Note: Subparagraph 3 of Article 27(1) of *MiFID*]

6.6.2 **R** Each quote must include:

(1) a firm bid price; or

(2) a firm offer price;

in respect of each size for which the *systematic internaliser* quotes.

[Note: Subparagraph 3 of Article 27(1) of *MiFID*]

6.6.3 **G** A *systematic internaliser* is not obliged to publish firm quotes in relation to transactions above standard market size.[Note: Recital 51 to *MiFID*]



6.7 Prices reflecting prevailing market conditions

6.7.1



A firm bid or offer price in respect of a particular share must reflect the prevailing market conditions for that share.

[Note: Subparagraph 3 of Article 27(1) of *MiFID*]

6.7.2









A *systematic internaliser* shall, for each liquid share for which it is a *systematic internaliser*, maintain the following:

- (a) a quote or quotes which are close in price to comparable quotes for the same share in other trading venues; and**
- (b) a record of its quoted prices, which it shall retain for a period of 12 months or such longer period as it considers appropriate.**



The obligation laid down in point (b) is without prejudice to the obligation of the *investment firm* under Article 25(2) [implemented at SUP 17.4.6 G] of [the *MiFID*] Directive 2004/39/EC to keep at the disposal of the competent authority for at least 5 years the relevant data relating to all transactions it has carried out. [Note: Article 24 of the *MiFID Regulation*]


6.8 Liquid market for shares, share class, standard market size and relevant market

6.8.1  A *systematic internaliser* will need to refer to the provisions in  MAR 6.8.3 EU,  MAR 6.8.4 EU,  MAR 6.8.5 EU,  MAR 6.8.6 EU and  MAR 6.8.7 EU and the material the FSA publishes in relation to those provisions to determine:

- (1) whether there is a liquid market for a share;
- (2) the class to which a share should be allocated;
- (3) the standard market size for each class of shares; and
- (4) the relevant market for a share.

[Note: Article 27(1), (2) and (7) of *MiFID*]

6.8.2  The FSA will publish on its website the material referred to in  MAR 6.8.1 G as regards liquid market for shares, share class, standard market size and the relevant market for a share.

6.8.3  **Shares not traded daily should not be considered as having a liquid market for the purposes of [the *MiFID*] Directive 2004/39/EC. However, if, for exceptional reasons, trading in a share is suspended for reasons related to the preservation of an orderly market or force majeure and therefore a share is not traded during some trading days, this should not mean that the share cannot be considered to have a liquid market.**

[Note: Recital 16 to the *MiFID Regulation*]

- 6.8.4** 
- 1. The most relevant market in terms of liquidity for a financial instrument which is *admitted to trading* on a *regulated market*, hereinafter "the most relevant market", shall be determined in accordance with paragraphs 2 to 8.**
 - 2. In the case of a share or other transferable security covered by Article 4(1)(18)(a) of [the *MiFID*] Directive 2004/39/EC or of a unit in a collective investment undertaking, the most relevant market shall be the Member State where the share or the unit was first *admitted to trading* on a regulated market. ...**

8. Where a financial instrument covered by paragraphs 2 ... was first *admitted to trading* on more than one *regulated market* simultaneously, and all those *regulated markets* share the same home Member State, that Member State shall be the most relevant market.

Where the *regulated markets* concerned do not share the same home Member State, the most relevant market in terms of liquidity for that instrument shall be the market where the turnover of that instrument is highest.

For the purposes of determining the most relevant market where the turnover of the instrument is highest, each competent authority that has authorised one of the *regulated markets* concerned shall calculate the turnover for that instrument in its respective market for the previous calendar year, provided that the instrument was *admitted to trading* at the beginning of that year.

Where the turnover for the relevant financial instrument cannot be calculated by reason of insufficient or non-existent data and the issuer has its registered office in a Member State, the most relevant market shall be the market of the Member State where the registered office of the *issuer* is situated.

However, where the *issuer* does not have its registered office in a Member State, the most relevant market for that instrument shall be the market where the turnover of the relevant instrument class is the highest. For the purposes of determining that market, each *competent authority* that has authorised one of the *regulated markets* concerned shall calculate the turnover of the instruments of the same class in its respective market for the preceding calendar year.

The relevant classes of financial instrument are the following:

(a) shares; ...

[Note: Article 9(1),(2) and (8) of the *MiFID Regulation*]

6.8.5



1. A share admitted to trading on a *regulated market* shall be considered to have a liquid market if the share is traded daily, with a free float of less than EUR 500 million, and one of the following conditions is satisfied:

(a) the average daily number of transactions in the share is not less than 500;

(b) the average daily turnover for the share is not less than EUR 2 million.

However, a Member State may, in respect of shares for which it is the most relevant market, specify by notice that both those conditions are to apply. That notice shall be made public.

2. A Member State may specify the minimum number of liquid shares for that Member State. The minimum number shall be no greater than five. The specification shall be made public.
3. Where, pursuant to paragraph 1, a Member State would be the most relevant market for fewer liquid shares than the minimum number specified in accordance with paragraph 2, the *competent authority* for that Member State may designate one or more additional liquid shares, provided that the total number of shares which are considered in consequence to be liquid shares for which that Member State is the most relevant market does not exceed the minimum number specified by that Member State.
- The *competent authority* shall designate the additional liquid shares successively in decreasing order of average daily turnover from among the shares for which it is the relevant *competent authority* that are *admitted to trading on a regulated market* and are traded daily.
4. For the purposes of the first subparagraph of paragraph 1, the calculation of the free float of a share shall exclude holdings exceeding 5% of the total voting rights of the *issuer*, unless such a holding is held by a collective investment undertaking or a pension fund.
- Voting rights shall be calculated on the basis of all the shares to which voting rights are attached, even if the exercise of such a right is suspended.
5. A share shall not be considered to have a liquid market for the purposes of Article 27 of [the *MiFID*] Directive 2004/39/EC until six weeks after its first *admission to trading on a regulated market*, if the estimate of the total market capitalisation for that share at the start of the first day's trading after that admission, provided in accordance with Article 33(3) [of the *MiFID Regulation*], is less than EUR 500 million.
6. Each *competent authority* shall ensure the maintenance and publication of a list of all liquid shares for which it is the relevant *competent authority*.
- It shall ensure the list is current by reviewing it at least annually.
- The list shall be made available to the Committee of European Securities Regulators. It shall be considered as published when it is published by the Committee of European Securities Regulators in accordance with Article 34(5) [of the *MiFID Regulation*].
- [Note: Article 22 of the *MiFID Regulation*]



In order to determine the standard market size for liquid shares, those shares shall be grouped into classes in terms of the average value of or-

ders executed in accordance with Table 3 in Annex II [of the *MiFID Regulation*].

[Note: Article 23 of the *MiFID Regulation*]

6.8.7



Table 3: Standard market sizes

Class in terms of average value of transactions (AVT)	AVT < €10 000	€10 000	€20 000	€30 000	€40 000	€50 000	€70 000	Etc
	<AVT < €20 000	<AVT < €30 000	<AVT < €40 000	<AVT < €50 000	<AVT < €70 000	<AVT < €90 000		
Standard market size	€7 500	€15 000	€25 000	€35 000	€45 000	€60 000	€80 000	Etc

[Note: Table 3 of Annex II of the *MiFID Regulation*]

6.8.8



The FSA will publish on its website a link to the calculations and estimates for shares admitted to trading on a regulated market, made by the FSA under the provisions in Articles 33 and 34 of the *MiFID Regulation*.


6

6.9 Publication of quotes


6.9.1 **R** Where a publication obligation arises under **■ MAR 6.5.1 R**, a *systematic internaliser* must make its quotes public:

- (1) on a regular and continuous basis during normal trading hours; and
- (2) in a manner which is easily accessible to other market participants on a reasonable commercial basis.

[Note: Subparagraphs 1 and 2 of Article 27(3) of *MiFID*]

- 6.9.2 
1. **A regulated market, MTF or systematic internaliser shall be considered to publish pre-trade information on a continuous basis during *normal trading hours* if that information is published as soon as it becomes available during the *normal trading hours* of the regulated market, MTF or systematic internaliser concerned, and remains available until it is updated.**
 2. **Pre-trade information, and post-trade information relating to transactions taking place within *normal trading hours*, shall be made available as close to real time as possible. Post-trade information relating to such transactions shall be made available in any case within three minutes of the relevant transaction.**
 3. **Information relating to a portfolio trade shall be made available with respect to each constituent transaction as close to real time as possible, having regard to the need to allocate prices to particular shares. Each constituent transaction shall be assessed separately for the purposes of determining whether deferred publication in respect of the transaction is available under Article 28 [of the *MiFID Regulation*].**

[Note: Article 29(1) to (3) of the *MiFID Regulation*]

6.9.3 

Information which is required to be made available as close to real time as possible should be made available as close to instantaneously as technically possible, assuming a reasonable level of efficiency and of expenditure on systems on the part of the person concerned. The information should only be published close to the three minute maximum

limit in exceptional cases where the systems available do not allow for a publication in a shorter period of time.

[Note: Recital 18 to the *MiFID Regulation*]

6.9.4



For the purposes of Articles 27, 28, 29, 30, 44 and 45 of [the *MiFID*] Directive 2004/39/EC and of this Regulation, pre- and post-trade information shall be considered to have been made public or available to the public if it is made available generally through one of the following to investors located in the Community:

- (a) the facilities of a *regulated market* or an *MTF*;**
- (b) the facilities of a third party;**
- (c) proprietary arrangements.**

[Note: Article 30 of the *MiFID Regulation*]

6.9.5



Any arrangement to make information public, adopted for the purposes of Articles 30 and 31 [of the *MiFID Regulation*] shall satisfy the following conditions:

- (a) it must include all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;**
- (b) it must facilitate the consolidation of the data with similar data from other sources;**
- (c) it must make the information available to the public on a non-discriminatory commercial basis at a reasonable cost.**

[Note: Article 32 of the *MiFID Regulation*]

6.9.6



For the purposes of ensuring that published information is reliable, monitored continuously for errors, and corrected as soon as errors are detected (see ■ MAR 6.9.5 EU(a)), and in respect of arrangements facilitating the consolidation of data as required in ■ MAR 6.9.5 EU(b), the guidance in ■ MAR 5.8.3 G and ■ MAR 5.8.4 G applies equally to *firms* falling within this chapter, and should be read as if references to provisions and types of *firm* in ■ MAR 5 were references to the corresponding provisions and types of *firm* in this chapter.

6.10 Execution price of retail client orders

6.10.1

R

A *systematic internaliser* must, while complying with the obligation to execute orders on terms most favourable to the *client* set out in ■ COBS 11.2, execute an order up to standard market size received from a *retail client* in relation to shares for which it is a *systematic internaliser*:

- (1) at the price quoted at the time of the reception of the order; or
- (2) if the order does not match the quotation size or sizes, in compliance with the execution price rules in ■ MAR 6.12.1 R or ■ MAR 6.12.2 R.

[Note: Subparagraphs 3 and 6 of Article 27(3) of *MiFID*]

6.11 Execution price of professional client orders

- 6.11.1** **R** *A systematic internaliser may execute an order up to standard market size received from a professional client in relation to shares for which it is a systematic internaliser:*
- (1) at the price quoted at the time of the reception of the order; or
 - (2) at a better price for the *professional client* where:
 - (a) this price falls within a published range close to market conditions; and
 - (b) the order is of a size bigger than the size customarily undertaken by a retail investor; or
 - (3) at a different price which benefits the *professional client* where:
 - (a) execution in several securities is part of one transaction; or
 - (b) the order is subject to conditions other than the current market price.

[Note: Subparagraphs 4 and 5 of Article 27(3) of *MiFID*]

- 6.11.2** **EU** **For the purposes of the fourth subparagraph of Article 27(3) of [the *MiFID*] Directive 2004/39/EC, an order shall be regarded as being of a size bigger than the size customarily undertaken by a retail investor if it exceeds EUR 7 500.**

[Note: Article 26 of the *MiFID Regulation*]

- 6.11.3** **EU** **1. For the purposes of the fifth sub-paragraph of Article 27(3) of [the *MiFID*] Directive 2004/39/EC, execution in several securities shall be regarded as part of one transaction if that one transaction is a portfolio trade that involves 10 or more securities.**

For the same purposes, an order subject to conditions other than the current market price means any order which is neither an order

for the execution of a transaction in shares at the prevailing market price, nor a *limit order*.

[Note: Article 25(1) of the *MiFID Regulation*]



6.12 Execution price of client orders not matching quotation sizes

6.12.1

R

Where a *systematic internaliser* quotes:

- (1) in only one quote in a share; or
- (2) its highest quote is lower than the standard market size for the class of shares to which the share belongs;

and it receives a *client* order that is bigger than the quotation size, but lower than the standard market size, the order may be executed, but that part of the order which exceeds the quotation size must either be executed at the quoted price or, if it is a *professional client* order, as permitted under the execution price provisions in ■ MAR 6.11.1 R.

[Note: Subparagraph 6 of Article 27(3) of *MiFID*]

6.12.2

R

Where a *systematic internaliser* quotes in different sizes and it receives a *client* order between those sizes, the order may be executed:

- (1) at one of the quoted prices in compliance with the client order handling rules set out in ■ COBS 11.3, ■ COBS 11.4.1 R and ■ COBS 11.4.5 R; or
- (2) if it is a *professional client* order, as permitted under the execution price provisions in ■ MAR 6.11.1 R.

[Note: Subparagraph 6 of Article 27(3) of *MiFID*]

6.13 Standards and conditions for trading

6.13.1

R

A *systematic internaliser* must have clear standards which set out and govern the basis on which it will decide which investors are given access to its quotes. The standards must operate:

- (1) in an objective, non-discriminatory way within the categories of *retail* and *professional clients*; and
- (2) on the basis of its commercial policy, including considerations such as:
 - (a) investor credit status;
 - (b) counterparty risk; and
 - (c) final settlement of the transaction;

and a *systematic internaliser* may refuse to enter into or discontinue business relationships with investors on this policy basis.

[Note: Recital 50 and Article 27(5) of *MiFID*]

6.13.2

G

Systematic internalisers might decide to give access to their quotes only to *retail clients*, only to *professional clients*, or to both. They should not be allowed to discriminate within those categories of *clients*.

[Note: Recital 50 to *MiFID*]

6.14 Limiting risk of exposure to multiple transactions


6.14.1 **R** A *systematic internaliser* may limit the number of transactions from the same *client* that it undertakes to enter at the published quote, provided it does so in a non-discriminatory way within the categories of *retail* and *professional clients*.

[Note: Recital 50 and Article 27(6) of *MiFID*]

6.14.2 **R** A *systematic internaliser* may limit the total number of transactions from different *clients* at the same time that it undertakes to enter at the published quote, provided that it does so:

- (1) in a non-discriminatory way within the categories of *retail* and *professional clients*;
- (2) in accordance with the provisions of the *client* order handling rules set out in ■ COBS 11.3, ■ COBS 11.4.1 R and ■ COBS 11.4.5 R; and
- (3) that the number or volume of orders sought by *clients* considerably exceeds the norm.

[Note: Recital 50 and Article 27(6) of *MiFID*]

6.14.3  2. For the purposes of Article 27(6) of [the *MiFID*] Directive 2004/39/EC, the number or volume of orders shall be regarded as considerably exceeding the norm if a *systematic internaliser* cannot execute those orders without exposing itself to undue risk.

In order to identify the number and volume of orders that it can execute without exposing itself to undue risk, a *systematic internaliser* shall maintain and implement as part of its risk management policy under Article 7 of Commission Directive 2006/73/EC [the *MiFID implementing Directive*] a non-discriminatory policy which takes into account the volume of the transactions, the capital that the firm has available to cover the risk for that type of trade, and the prevailing conditions in the market in which the *firm* is operating.

3. Where, in accordance with Article 27(6) of [the *MiFID*] Directive 2004/39/EC, an *investment firm* limits the number or volume of orders it undertakes to execute, it shall set out in writing, and make available to *clients* and potential *clients*, the arrangements designed to ensure that such a limitation does not result in the discriminatory treatment of *clients*.

[Note: Article 25(2) and (3) of the *MiFID Regulation*]

Chapter 7

Disclosure of information on certain trades undertaken outside a regulated market or MTF



7.1 Application

Who?

7.1.1

R

This chapter applies to:

- (1) a *MiFID investment firm*; and to
- (2) a *third country investment firm*.

What?

7.1.2

R

A *firm*, which, either on its own account or on behalf of *clients*, concludes *transactions* in shares *admitted to trading* on a *regulated market* outside a *regulated market* or *MTF*, must make public the volume and price of those *transactions* and the time at which they were concluded.

[Note: article 28(1) of *MiFID*]

Where?

7.1.3

R

This chapter applies in respect of *transactions* in shares (which are admitted to trading on a *regulated market*) executed in the *United Kingdom*.

7.1.4

G

Article 32 (7) of *MiFID* provides that the *competent authority* of the Member State in which a *branch* is located shall assume responsibility for ensuring that the services provided by the *branch* within its territory comply with the obligations under Article 28.

Status of EU provisions as rules in certain instances

7.1.5

R

In this chapter, paragraphs marked "EU", including ■ MAR 7 Annex 1 EU, shall apply to a *third country investment firm* as if those provisions were *rules*.

7.2 Making post-trade information public

Publication of information

7.2.1

R

(1) Unless (2) applies, the information required by **■ MAR 7.1.2 R** shall be made public as close to real-time as possible, on a reasonable commercial basis, and in a manner which is easily accessible to other market participants.

[Note: article 28(1) of *MiFID*]

(2) A firm may defer publication of trade information required in (1), for no longer than the period specified in Table 4 in Annex II of the *MiFID Regulation* for the class of share and *transaction* concerned, provided that the criteria in (a) and (b) are satisfied, subject to the provision in (c):

- (a) the *transaction* is between an *investment firm dealing on own account* and a *client* of that *firm*;
- (b) the size of the *transaction* is equal to or exceeds the relevant minimum qualifying size, as specified in Table 4 in Annex II.
- (c) In order to determine the relevant minimum qualifying size for the purposes of (b), all shares *admitted to trading* on a *regulated market* must be classified in accordance with their average daily turnover to be calculated in accordance with Article 33 of the *MiFID Regulation*.

[Note: Table 4 of Annex II of the *MiFID Regulation* is reproduced in **■ MAR 7 Annex 1 EU**.]

7.2.2

E

Details of information to be made public

A *firm* ... shall, with regard to *transactions* in respect of shares *admitted to trading* on *regulated markets* concluded by them ... make public the following details:

- (a) the details specified in points 2, 3, 6, 16, 17, 18 and 21 of Annex I [of the *MiFID Regulation*];
- (b) an indication that the exchange of shares is determined by factors other than the current market valuation of the share, where applicable;

- (c) an indication that the trade was a negotiated trade, where applicable;
- (d) any amendments to previously disclosed information, where applicable.

Those details shall be made public either by reference to each *transaction* or in a form aggregating the volume and price of all *transactions* in the same share taking place at the same time.

[Note: article 27(1) of the *MiFID Regulation*]

Information requirements specific to systematic internalisers

7.2.3



By way of exception, a *systematic internaliser* shall be entitled to use the acronym 'SI' instead of the venue identification referred to in [MAR 7.2.2 EU \(a\)](#) in respect of a *transaction* in a share that is executed in its capacity as a *systematic internaliser* in respect of that share.

The *systematic internaliser* may exercise that right only as long as it makes available to the public aggregate quarterly data as to the *transactions* executed in its capacity as a *systematic internaliser* in respect of that share relating to the most recent calendar quarter, or part of a calendar quarter, during which the firm acted as a *systematic internaliser* in respect of that share. That data shall be made available no later than one month after the end of each calendar quarter.

It may also exercise that right during the period between 1 November 2007, or the date on which the firm commences to be a *systematic internaliser* in relation to a share, whichever is the later, and the date that aggregate quarterly data in relation to a share is first due to be published.

[Note: article 27(2) of the *MiFID Regulation*. The date, '1 November 2007', is specified in article 41(2) of the *MiFID Regulation*]

7.2.4



The aggregated quarterly data referred to in the second subparagraph of [MAR 7.2.3 EU](#) shall contain the following information for the share in respect of each trading day of the calendar quarter concerned:

- (a) the highest price;
- (b) the lowest price;
- (c) the average price;
- (d) the total number of shares traded;
- (e) the total number of *transactions*;
- (f) such other information as the *systematic internaliser* decides to make available.

[Note: article 27(3) of the *MiFID Regulation*]

7.2.5



Arrangements between firms for making information public

Where the *transaction* is executed outside the rules of a *regulated market* or an *MTF*, one of the following ... *firms* shall, by agreement between the parties, arrange to make the information public:

- (a) the *firm* that sells the share concerned;
- (b) the *firm* that acts on behalf of or arranges the *transaction* for the seller;
- (c) the *firm* that acts on behalf of or arranges the *transaction* for the buyer;
- (d) the *firm* that buys the share concerned.

In the absence of such an agreement, the information shall be made public by the *firm* determined by proceeding sequentially from point (a) to point (d) until the first point that applies to the case in question.

The parties shall take all reasonable steps to ensure that the *transaction* is made public as a single *transaction*. For those purposes two matching trades entered at the same time with a single party interposed shall be considered to be a single *transaction*.

[Note: article 27(4) of the *MiFID Regulation*]

7.2.6



Deferred publication of large transactions

The deferred publication of information in respect of *transactions* may be authorised, for a period no longer than the period specified in **MAR 7 Annex 1 EU** for the class of share and *transaction* concerned, provided that the following criteria are satisfied:

- (a) the *transaction* is between an investment *firm dealing on own account* and a *client* of that firm;
- (b) the size of the *transaction* is equal to or exceeds the relevant minimum qualifying size, as specified in **MAR 7 Annex 1 EU**.

In order to determine the relevant minimum qualifying size for the purposes of point (b), all shares *admitted to trading on a regulated market* shall be classified in accordance with their average daily *turnover* to be calculated in accordance with Article 33 of the *MiFID Regulation*.

[Note: article 28 of the *MiFID Regulation*]

7.2.6A



The deferred publication of information, referred to in **MAR 7.2.6 EU**, is authorised by the *FSA*, to the extent set out in that provision, and, in particular, is given effect in **MAR 7.2.1 R (2)**.

PAGE
5

7.2.7



Publication and availability of post trade transparency data

Post-trade information relating to *transactions* taking place on *trading venues* and within normal trading hours, shall be made available as close to real time as possible. Post-trade information relating to such *transactions* shall be made available in any case within three minutes of the relevant *transaction*.

[Note: article 29(2) of the *MiFID Regulation*]

7.2.8



Information relating to a *portfolio trade* shall be made available with respect to each constituent *transaction* as close to real time as possible, having regard to the need to allocate prices to particular shares. Each constituent *transaction* shall be assessed separately for the purposes of determining whether deferred publication in respect of that *transaction* is available under **MAR 7.2.6 EU**.

[Note: article 29(3) of the *MiFID Regulation*]

7.2.9



Post-trade information relating to *transactions* taking place on a *trading venue* but outside its normal trading hours shall be made public before the opening of the next *trading day* of the *trading venue* on which the *transaction* took place.

[Note: article 29(4) of the *MiFID Regulation*]

7.2.10



For *transactions* that take place outside a *trading venue*, post-trade information shall be made public:

- (a) if the *transaction* takes place during a *trading day* of the most relevant market for the share concerned, or during the firm's normal trading hours, as close to real time as possible. Post-trade information relating to such *transactions* shall be made available in any case within three minutes of the relevant *transaction*;
- (b) in a case not covered by point (a), immediately upon the commencement of the firm's normal trading hours or at the latest before the opening of the next *trading day* in the most relevant market for that share.

[Note: article 29(5) of the *MiFID Regulation*]

7.2.11



Public availability of post-trade information

For the purposes of **MAR 7**, post-trade information shall be considered to be made public or available to the public if it is made available generally through one of the following to investors located in the Community:

- (a) the facilities of a *regulated market* or an *MTF*;
- (b) the facilities of a third party;
- (c) proprietary arrangements.

[Note: article 30 of the *MiFID Regulation*]

7.2.12



Arrangements for making information public

Any arrangement to make information public, adopted for the purposes of **MAR 7.2.11 EU**, shall satisfy the following conditions:

- (a) it must include all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;
- (b) it must facilitate the consolidation of the data with similar data from other sources;
- (c) it must make the information available to the public on a non-discriminatory commercial basis at a reasonable cost.

[Note: article 32 of the *MiFID Regulation*]

7.2.12A

G

- (1) The FSA considers that for the purposes of ensuring that published information is reliable, monitored continuously for errors, and corrected as soon as errors are detected (see ■ MAR 7.2.12 EU(a)), and in respect of arrangements facilitating the consolidation of data as required in ■ MAR 7.2.12 EU(b), the guidance in ■ MAR 5.8.3 G and ■ MAR 5.8.4 G (subject to additional guidance in (2)) applies equally to *firms* falling within this chapter, and should be read as if references to provisions and types of *firm* in ■ MAR 5 were references to the corresponding provisions and types of *firm* in this chapter.
- (2) In addition to ■ MAR 5.8.4 G, as applied to *firms* in this chapter under (1), for the purposes of facilitating the consolidation of transparency data with similar data from other sources, the FSA considers information as being made public in accordance with ■ MAR 7.2.12 EU(b), if, in addition to ■ MAR 5.8.4 G (1)(a) to ■ (c), each trade is published through only one primary publication channel.

Publication of results of calculations and estimates made by the FSA

7.2.13

G

The information relating to 'minimum qualifying size' referred to in Article 28 of the *MiFID Regulation* (see ■ MAR 7.2.6 EU) and the results of calculations and estimates required to be published as a result of Articles 33 and 34 of the *MiFID Regulation* are available at www.fsa.gov.uk and at mifidatabase.cesr.eu/.

Trade Data Monitors

7.2.14

G

The FSA considers that a *firm* will satisfy its obligations under ■ MAR 7.2.12 EU if:

- (1) in assessing the arrangements, the *firm* follows the guidelines published on the FSA's website at www.fsa.gov.uk/pubs/international/guidelines_tdm.pdf; and
- (2) it has been confirmed that the arrangements will enable the *firm* to comply with the guidelines through either:
 - (a) a statement by the FSA; or
 - (b) a report by an external auditor to the provider of the arrangements which is made available to *firms* and, on request, to the FSA.

A "trade data monitor" is a provider of such arrangements which has been assessed by the FSA or an external auditor as having the capability to provide services and facilities to *firms* in accordance with the guidelines published on the FSA's website at www.fsa.gov.uk/pubs/international/guidelines_tdm.pdf.

Use of a trade data monitor does not affect a *firm's* obligations under ■ MAR 7.2.10 EU regarding the timing of the disclosure of post-trade information.



Deferred publication thresholds and delays

Table 4: Deferred publication thresholds and delays

The table below shows, for each permitted delay for publication and each class of shares in terms of average daily *turnover* (ADT), the minimum qualifying size of *transaction* that will qualify for that delay in respect of a share of that type.

	Class of shares in terms of average daily turnover (ADT)			
	ADT < €100 000	€100 000 ≤ ADT < €1 000 000	€1 000 000 ≤ ADT < €50 000 000	ADT ≥ €50 000 000
	Minimum qualifying size of transaction for permitted delay			
60 minutes	€10 000	Greater of 5% of ADT and €25 000	Lower of 10% of ADT and €3 500 000	Lower of 10% of ADT and €7 500 000
180 minutes	€25 000	Greater of 15% of ADT and €75 000	Lower of 15% of ADT and €5 000 000	Lower of 20% of ADT and €15 000 000
Until end of trading day (or roll-over to noon of next trading day if trade undertaken in final 2 hours of trading day)	€45 000	Greater of 25% of ADT and €100 000	Lower of 25% of ADT and €10 000 000	Lower of 30% of ADT and €30 000 000
Until end of trading day next after trade	€60 000	Greater of 50% of ADT and €100 000	Greater of 50% of ADT and €1 000 000	100% of ADT
Until end of second trading day next after trade	€80 000	100% of ADT	100% of ADT	250% of ADT
Until end of third trading day next after trade		250% of ADT	250% of ADT	



Market Conduct

MAR TP 1 Transitional Provisions

GEN contains some technical transitional provisions that apply throughout the *Handbook* and which are designed to ensure a smooth transition at *commencement*. These include transitional provisions relevant to record keeping and *notification rules*.

1) Transitional Provisions for The Code of Market Conduct - (MAR 1)

There are no transitional provisions for The Code of Market Conduct (The Code of Market Conduct).

2) Transitional Provisions for Price stabilising rules (Price Stabilising Rules)

SUP contains transitional provisions which carry forward into MAR 2 (Price stabilising rules) written concessions relating to pre-commencement provisions.

3) Transitional provisions for MAR 6 (systematic internaliser reporting requirements)

A provision giving effect to Article 21 (4) of the *MiFID Regulation* as regards creating the initial list of all *systematic internalisers*.

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	MAR 2	R	Expired		
2	MAR 6	R	An <i>investment firm</i> , which is authorised by the <i>FSA</i> , must notify the <i>FSA</i> in writing by 1 December 2007 if at 1 November 2007 it is a <i>systematic internaliser</i> in respect of shares admitted to trading on a <i>regulated market</i> .	From 1 November 2007 to 2 December 2007	1 November 2007

Market Conduct

Schedule 1 Record Keeping requirements

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MAR 2.7R	Price stabilising action	Full details as noted in MAR 2.7.2 R	On initiation of stabilising action	3 years

Market Conduct

Schedule 2 Notification requirements

There are no notification requirements in *MAR* .

Market Conduct

Schedule 3 Fees and other required payments

There are no requirements for fees or other payments in *MAR*.

Market Conduct

Schedule 4 Powers Exercised

The following powers in the *Act* have been exercised by the *FSA* to make the *rules* in *MAR*:

- Section 118(8) (Market abuse)
- Section 138 (General rule-making power)
- Section 143 (Endorsement of codes etc.)
- Section 144 (Price stabilising rules)
- Section 145 (Financial promotion rules)
- Section 149 (Evidential provisions)
- Section 150(2) (Actions for damages)
- Section 156 (General supplementary powers)

The following powers in the *Act* have been exercised by the *FSA* to give the *guidance* in *MAR* (including the *guidance* comprising of the *Code of Market Conduct*):

- Section 119 (The code)
- Section 120 (Provisions included in the Authority's code by reference to the City Code)
- Section 121 (Codes: procedure)
- Section 157(1) (Guidance)

Market Conduct

Schedule 5 Rights of action for damages

1. The table below sets out the *rules* in *MAR* contravention of which by an *authorised person* may be actionable under section 150 of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.
2. If a "yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 150 unless a "yes" appears in the column headed "Removed". A "yes" in the column headed "Removed" indicates that the *FSA* has removed the right of action under section 150(2) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.
3. In accordance with the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256), a "*private person*" is:
 - i. any individual, except when acting in the course of carrying on a *regulated activity*; and
 - ii. any *person* who is not an individual, except when acting in the course of carrying on business of any kind; but does not include a government, a local authority or an international organisation.
4. The column headed "For other person?" indicates whether the rule is actionable by a *person* other than a *private person*, in accordance with those Regulations. If so, an indication of the type of *person* by whom the *rule* is actionable is given.

Chapter / Appendix	Section / Annex	Paragraph	For Private Person?	Removed	For other person?
<i>MAR</i> 1 (no rules)					
All rules in <i>MAR</i> 2 except <i>MAR</i> 2.3.3 E and <i>MAR</i> 2.3.4 E			Yes	Yes <i>MAR</i> 2.1.9 R	No
<i>MAR</i> 2.3.3 E, <i>MAR</i> 2.3.4 E and <i>MAR</i> 2.3.5 E			No		No
All rules in <i>MAR</i> 3 except <i>MAR</i> 3.5.7 E			Yes	Yes <i>MAR</i> 3.1.5 R	No
<i>MAR</i> 3.5.7 E			No		No
<i>MAR</i> 4 (all rules)			Yes	No	No

Market Conduct

Schedule 6 Rules that can be waived

As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the *FSA* has power to waive all its *rules*, other than *rules* made under section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FSA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.