

# MIFID II: ESMA ISSUES LATEST DOUBLE VOLUME CAP DATA

The number of new breaches is 54: 45 equities for the 8% cap, applicable to all trading venues, and 9 equities for the 4% cap, that applies to individual trading venues. Trading under the waivers for all new instruments in breach of the DVC thresholds should be suspended from 12 December 2018 to 11 June 2019. The instruments for which caps already existed from previous periods will continue to be suspended.

In addition, ESMA highlights that some trading venues in the meantime have submitted corrected data that affects past DVC publications. For 1 instrument, this means that the previously identified breach of the cap proved to be incorrect and the suspensions of trading under the waivers should be lifted.

As of 7 December, there is a total of 637 instruments suspended. Please be aware that ESMA does not update DVC files older than 6 months.

ESMA has also updated the [DVC completeness indicators](#) file. In order to assess the contribution of a trading venue both completeness indicators should be considered. The completeness ratio indicates the percentage of reports provided divided by the number of reports expected irrespectively from the number of instruments available for trading on that trading venue. In other words, missing one or a few periods on a large number of instruments, or missing the same number of periods in one instrument only does not change the value of this indicator. This indicator is independent from the number of instruments available for trading on the venue. On the other hand, the completeness shortfall takes into account the number of incomplete ISINs for the trading venue. In other words, missing one or a few periods on a large number of instruments, increases the value of this indicator.

## **Background**

MiFID II introduced the DVC to limit the amount of dark trading in equities allowed under the reference price waiver and the negotiated transaction waiver. The DVC is calculated per instrument (ISIN) based on the rolling average of trading in that instrument over the last 12 months.

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## European Commission reaction to Swiss

# Federal Council announcements

The European Commission respects the wish of the Federal Council to consult all stakeholders on the Institutional Framework Agreement before a formal submission to the Federal Assembly so as to secure an as large backing of the text as possible. We would like to make crystal clear that the final text published today, including annex and protocols, was agreed by the EU and Swiss negotiators and is the result of long, intense and constructive negotiations. We will follow the process closely. We therefore expect the consultation to be swift and hope that its outcome will be positive, as this is necessary to put relations between the EU and Switzerland on a solid institutional footing.

We want to recall that the EU side has invested a lot of time, effort and political goodwill into this process. President Juncker personally spoke 23 times to four Swiss Presidents; 32 rounds of technical negotiations took place. Commissioner Hahn met his Swiss counterpart Federal Counsellor Cassis seven times since January, and spoke to him on the phone numerous times in-between. The EU side has also been willing to address and accommodate the concerns of our Swiss partners. We have shown great flexibility, while respecting the interests of Member States, notably when finding a solution on the dispute settlement and the so-called "flanking measures" on the Swiss side. The text published today is the best possible outcome negotiated between the two sides.

The Commission will now have to discuss and assess the situation, including on the Swiss stock market equivalence decision, and consider the appropriate next steps. The College is expected to discuss these developments at its meeting on Tuesday (11 December).

## ***On the extension of the transitional measures for Croatian workers:***

The European Commission regrets the decision by Switzerland to extend the transitional measures for Croatian workers and self-employed beyond the initial period of two years. The decision is particularly regrettable as there was no rapid growth in the numbers of Croatians working in Switzerland justifying this decision.

We invite the Swiss authorities to consider shortening the period of application of the transitional measures, particularly in view of the undoubted economic benefits of free movement of labour between the EU and Switzerland.

## ***On the cohesion contribution:***

The European Commission looks forward to the Swiss Parliament agreeing on the financing for cohesion policy as soon as possible. We consider the contribution to be the natural consequence of Switzerland's access to the Single Market and it should be proportionate to the substantial benefits Switzerland draws from its participation in the Single Market.

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## Indicative programme – Foreign Affairs Council of 10 December 2018

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'Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.' Robert Schuman 9 May 1950 On 25 March 2017, ...

In response to the illegal annexation of Crimea and deliberate destabilisation of a neighbouring sovereign country, the EU has imposed restrictive measures against the Russian Federation. ...

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