

# ESMA delays publication of double volume cap data

Since 3 January, ESMA has been performing an analysis of the quality and completeness of the data received from trading venues to perform DVC calculations. Based on the analysis performed, ESMA realised that the publication would have resulted in a biased picture covering only a very limited number of instruments and markets.

ESMA is aware of the legal obligation to apply the DVC from January 2018. However, as the publication of the calculations triggers other legal obligations in terms of transparency waivers' suspensions related to dark trading, initiating the new regime based on the insufficient data ESMA has received is not appropriate at this stage

It expects that the actions initiated to bridge this information gap, involving working with national competent authorities (NCAs) and trading venues to address data quality and submission issues, will allow for publication in March.

## **Incomplete data provided by trading venues**

The DVC requires all trading venues listing a particular equity (or equity like) instrument to provide data on trading activity for the complete previous year. A failure to provide this information leads to incompleteness in the relevant data for that instrument.

While ESMA's systems are functioning and ready to receive data, a large proportion of trading venues have yet to provide complete data. ESMA expected to receive data for around 30,000 instruments in the context of the DVC mechanism, on the basis of the data collected for the transitional transparency calculations for equity and equity-like instruments. ESMA has received files from 75% of trading venues. However, this resulted, in most cases, in only partial delivery of the information needed i.e. data delivered by only some, but not all, venues trading an instrument, or data not covering the entire 12-month period from January to December 2017 that is relevant for the DVC calculations in January 2018.

Data completeness is required to undertake the DVC calculations. In this respect, ESMA only received complete data for approximately 650 instruments, i.e. around 2% of the expected total. Additionally, the set of 650 instruments for which complete data is available only encompasses relatively illiquid instruments, which have a limited amount of dark trading. This fact would have rendered a publication at this point in time largely inconsequential. The DVC IT system is more complex compared to the other MiFID II IT systems that ESMA is running. Moreover, ESMA acknowledges that trading venues only had limited time to compute and submit all data as the relevant reporting period only closed on 31 December 2017 and the data had to reach ESMA by close of business on 5 January 2018.

## **ESMA's preparations for applying the DVC mechanism**

ESMA finalised its IT system for the DVC and opened it for the submission of data by trading venues and national competent authorities to ESMA on the 16 October 2017, more than two months in advance of the MiFID II/MiFIR 3 January 2018 application date. ESMA informed trading venues and NCAs about the system specifications by publishing those specifications and organising workshops for trading venues. The system is globally operating as designed and is performing calculations based on the data received as envisaged.

### **Next steps**

ESMA, to ensure a timely publication of DVC data, is already engaging with NCAs and trading venues to close the gaps in reporting as soon as possible. ESMA has analysed the data and is aware of which venues have so far not succeeded in submitting an adequately complete set of data and will address them first to improve the completeness of the available dataset.

ESMA believes that the initial technical and reporting problems leading to this delay can be overcome within the next few weeks. To achieve this, ESMA and the NCAs are depending, and relying, on good cooperation from trading venues to be able to operate the DVC mechanism as envisaged by the co-legislators.

In March, ESMA intends to publish the data covering the previous periods in order to ensure the full application of the DVC as of January 2018.

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## **ESMA issues list of trading venues temporarily exempted from open access under MiFIR**

While MiFIR allows firms to freely choose where to trade and clear their products, which both CCPs and trading venues need to facilitate, trading venues and CCPs may notify ESMA and their national competent authority of their intention to temporarily opt-out from the access provisions for exchange-traded derivatives (ETDs) provided that certain conditions are met. Concerning trading venues for which the annual notional amount of ETDs traded on the venue falls below a certain threshold, the exemption must be approved by ESMA. The list published today provides the list of trading venues which have notified such intention to ESMA.

A similar provision exists for newly established CCPs that intend to temporarily opt-out from the access provisions in respect of transferable securities and money market instruments. However, at the time of publication ESMA has not received any notifications for such temporary exemption.

The list will be updated in case of any changes, including where an exemption is renewed.

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## Eurojust in tonight's edition of Opgelicht?! (NP01)

9 January 2018


At 21:25 tonight, Tuesday 9 January, AVRO-TROS (NP0 1) will broadcast a programme, **Opgelicht?! (in Dutch)** focusing on cybercrime and highlighting the activities of organised crime groups in phishing and other fraudulent financial transactions, including money mules and the theft of bank cards.

The roles of Eurojust and EC3 in combatting cybercrime, and the investigative work of two cybercrime prosecutors, Renske Mackor (currently an Assistant to the Dutch National Member at Eurojust) and Koen Hermans (formerly an Assistant to the Dutch National Member at Eurojust), are

demonstrated.

Related link:

[EMMA Money Mules Action Day](#)

For best viewing of this video, click on the Full Screen icon in the video player: 

The video format used is supported by *Internet Explorer* and *Firefox* browsers. Users of *Chrome*, *Safari* and *Edge* can click on the "Download Media" link (a plug-in may be required if this link is not visible).

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