European Securities and Markets Authority publishes opinions on amendments to Markets in Financial Instruments Directive II Non-Equity Transparency and Position Limits RTS

Saturday, May 7, 2016

On May 2, the European Securities and Markets Authority (ESMA) published two opinions (Opinions) to revise draft regulatory technical standards (RTS) made under the amended and restated Markets in Financial Instruments Directive (MiFID II) and Markets in Financial Instruments Regulation (MiFIR).

The revisions relate to draft RTS 2 on non-equity transparency and draft RTS 21 on the methodology for the calculation and application of position limits for commodity derivatives. ESMA has submitted revisions to the RTS in response to letters (Letters) published by the European Commission (EC) on April 20, in which the EC confirmed its intention to endorse the draft RTS, subject to certain changes.

In summary, ESMA’s revisions reflect the following:

- In terms of draft RTS 2, ESMA has included changes to allow for phase-in approaches for assessing bond liquidity, and for determining the pre-trade size specific to the instrument threshold for non-equity classes. ESMA has also made other technical amendments.

- In terms of draft RTS 21, ESMA has proposed to increase the range of position limits up to 50 percent for contracts with low levels of liquidity or few market participants. ESMA has included amendments to allow that where there is a significant discrepancy between open interest and deliverable supply, the other months’ position limits should be adjusted. ESMA also has revised and extended the definition of economically equivalent over-the-counter contracts, among other revisions.

ESMA is intending to publish a further opinion on the draft RTS relating to ancillary activities later in May.

The two Opinions and accompanying annexes (which show ESMA’s proposed changes to each draft RTS) can be found here.

The EC’s Letters can be found here.

A copy of ESMA’s press release can be found here.

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