

# MiFID II

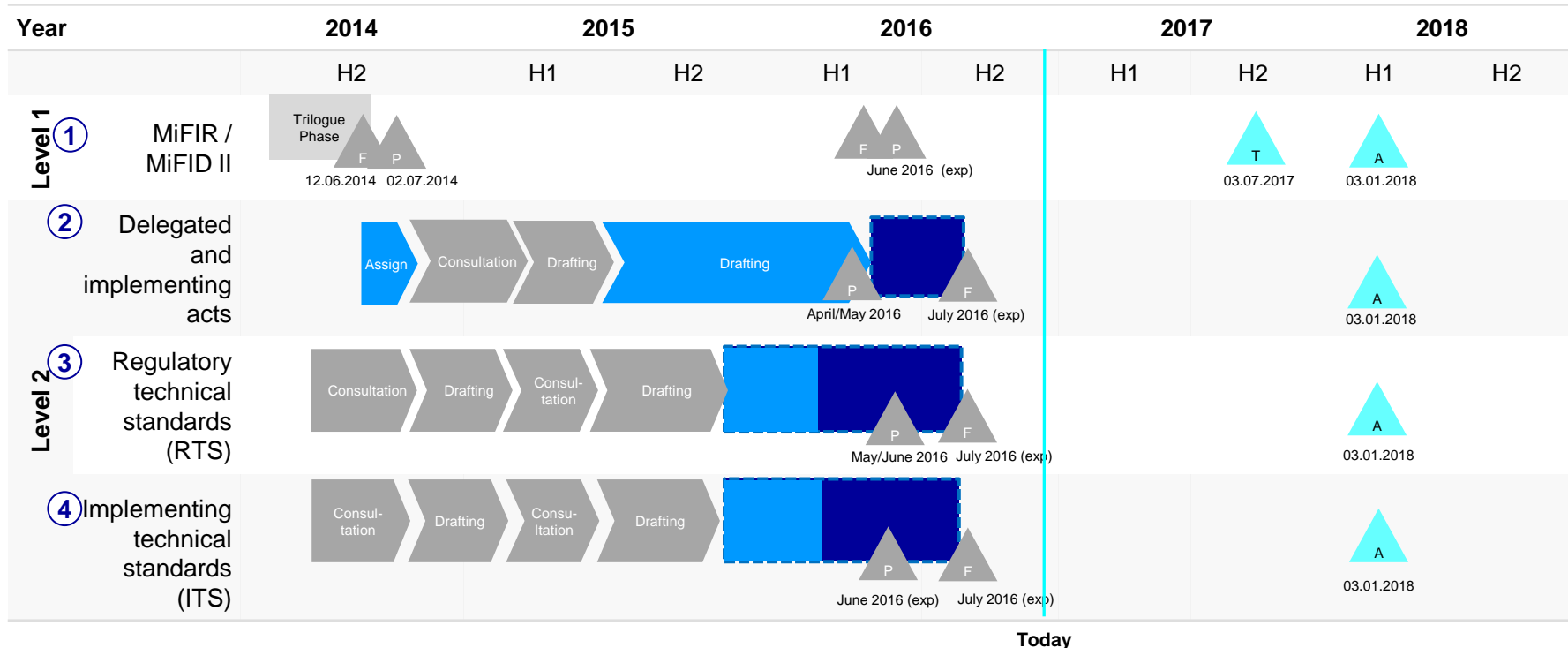
## Upgrade in Belgrade – 15 International Conference

Dr. Sandra Bramhoff

3 November 2016



# MiFIR/ MiFID II Timeline – Delay of Level 1 agreed in quick fix<sup>1)</sup>; implementing measures to enter into force in due course



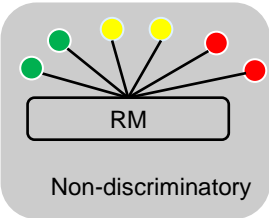
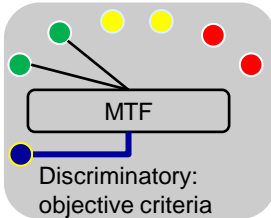
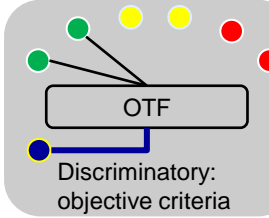
- ① **Postponement of application of MiFID II/MiFIR to 3 January 2018 agreed;** postponement of transposition into national law deferred to 3 July 2017; transposition documents to be consulted: German 2<sup>nd</sup> FinanzG and UK FCA handbook, etc.
- ② **Delegated Acts:** Publication in April/May 2016; afterwards, objection period for EU Parliament (EP) and Council before entry into force
- ③ **RTS:** ESMA submitted to the EU Com draft regulatory technical standards in September 2015; adoption by EU Com delayed (started in May 2016); final approval by EP and Council outstanding; objection period before entry into force
- ④ **ITS:** ESMA submitted to the EU Com draft ITS in September 2015; adoption by EU Com delayed (expected for June 2016); final approval by EP and Council outstanding; objection period before entry into force

■ ESMA  
 ■ EU Commission  
 ■ EU Council, EU Parliament  
 ■ Endorsement & objection period

P = Publication in official journal  
 F = Entry into force  
 T = Transposition into national law  
 A = Application within member states

<sup>1)</sup> Quick fix to Level 1 was published on July 1, 2016 in EU Official Public Journal:  
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R1033>

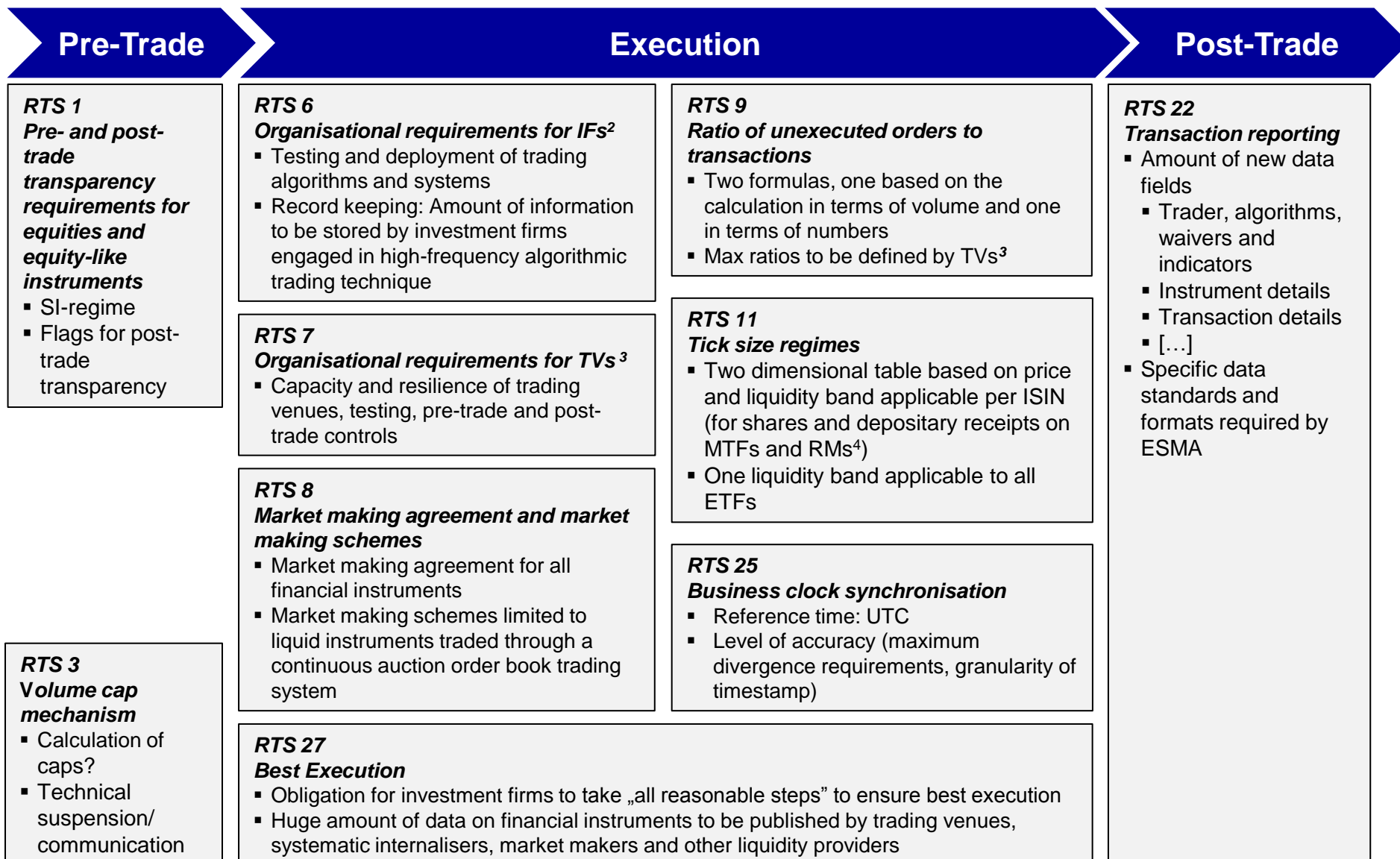
# What will the new landscape look like?

	Regulated Market <sup>1</sup>	MTF <sup>1,2</sup>	Systematic Internaliser	OTC	OTF
<b>Financial Instruments</b>	Equity and non-equity				Non-Equity
<b>Pre-Trade Transparency</b>	Applicable		Equities: Upon request for illiquid instruments <sup>3</sup> ; Non-equities: Publication of quotes for liquid and illiquid bonds in case of request or if SI agrees to place quote <sup>4</sup>	Not applicable	Applicable
<b>Waiver regime</b>	Applicable; volume caps RPW + NTW		Not applicable		Applicable
<b>Execution of orders</b>	$x \rightarrow \text{RM; MTF} \rightarrow f(x)$ Non-discretionary		$x \rightarrow \text{SI; OTC, OTF} \rightarrow \begin{cases} f(x) \\ g(x) \\ h(x) \end{cases}$ Discretionary		
<b>Access to platform</b>	 Non-discriminatory	 Discriminatory: objective criteria	Non-discriminatory, but distinguishing between categories of clients	Not applicable	 Discriminatory: objective criteria
<b>Execution Mechanisms</b>	Multilateral		Bilateral <sup>5</sup>	Bilateral	Multilateral <sup>6</sup>
<b>Trading obligation</b>	Applicable to investment firms: Trading on RM, MTF or SI's <sup>7</sup>				Not applicable <sup>8</sup>
<b>Platform interaction</b>	Interaction with SI and OTF allowed		Operation of OTF and SI not allowed in same legal entity	Not applicable	Operation of OTF and SI not allowed in same legal entity

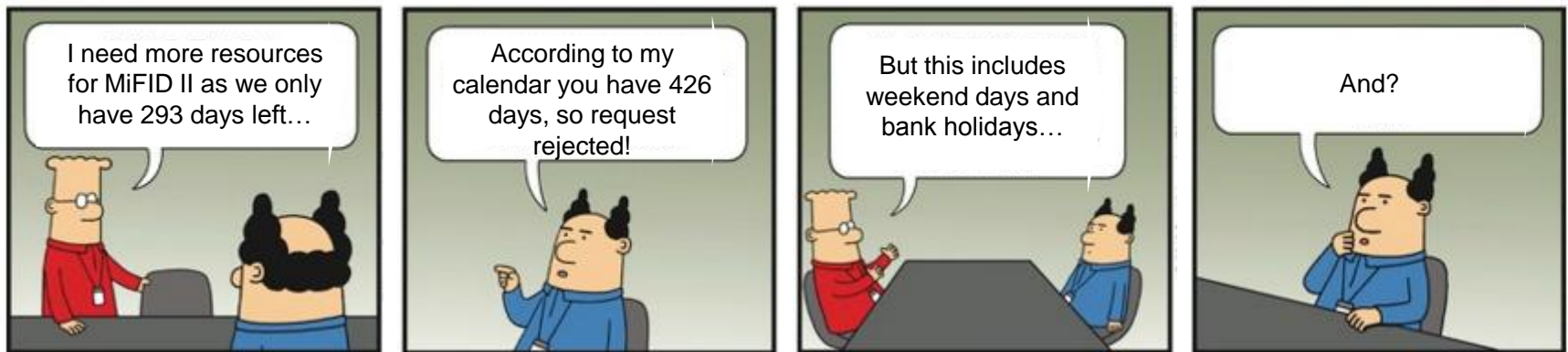
<sup>1</sup> CCPs can request access to trading venues <sup>2</sup> Authorisation as a MTF for investment firms operating an internal matching system executing client orders in shares, DRs, ETFs, certificates and other similar financial instruments <sup>3</sup> Exemption when for deals in sizes above SMS <sup>4</sup> Exemptions for volumes above SMS <sup>5</sup> Clarification needed if *matched principal trading* is allowed or not <sup>6</sup> *Matched principal trading* is partially permitted with respect to illiquid sovereign debt instruments <sup>7</sup> Applicable only to shares and derivatives <sup>8</sup> OTC: Non-systematic, ad-hoc, irregular and infrequent, no contribution to price discovery

# What implementation challenges do we face and what clarification from regulators is needed?

<sup>1</sup>This only represents a selection of items to be implemented  
<sup>2</sup>Investment firms <sup>3</sup>Trading venues <sup>4</sup>Regulated Markets



## Last comments...



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... thank you for your attention!

Any questions?

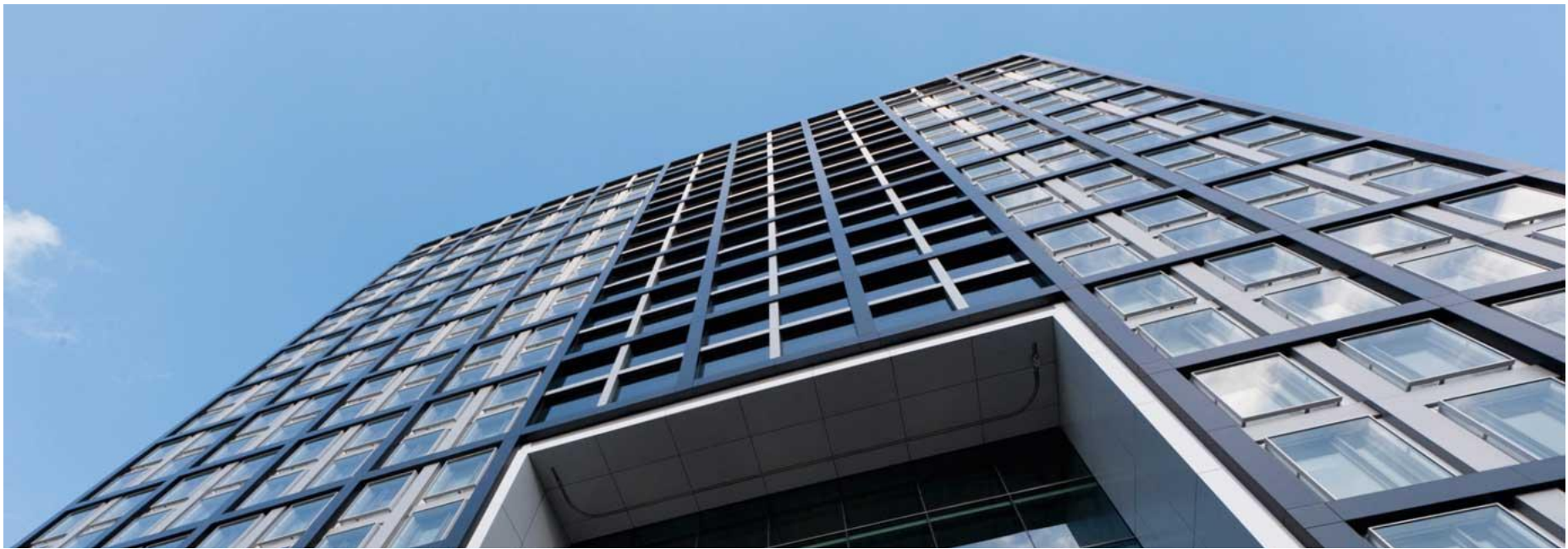




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# Appendix



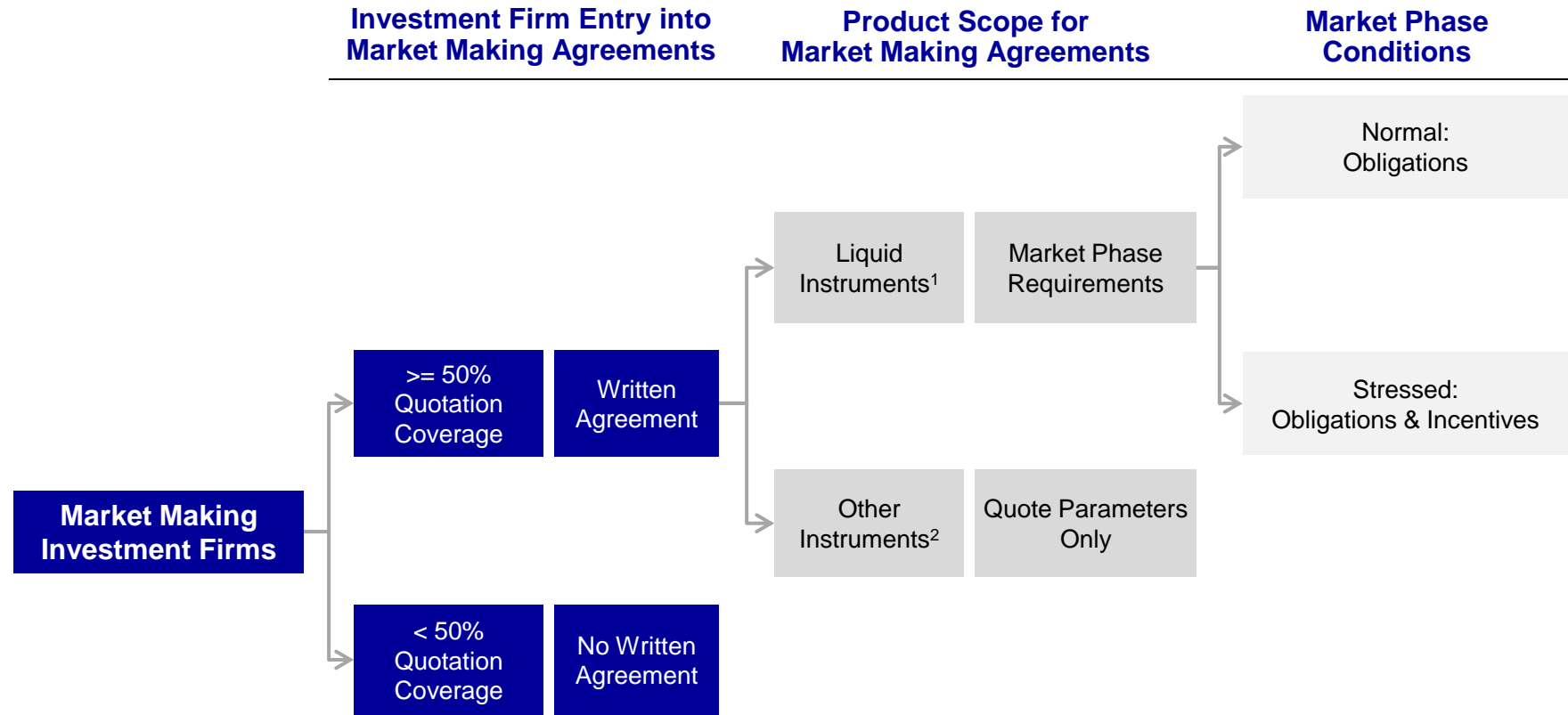
## When application date of January 2018 was granted, the task to the EU Commission was to ensure Level 2 adoption beginning Q4 2016

Level	Legislation	Status	Next Steps
1	Regulation/ Directive	<ul style="list-style-type: none"> <li>On July 1st, 2016, the Level 1 'quick fix' results were published in the EU official journal (OJ)</li> <li>Delay of application date set to January 2018</li> <li>New definitions on 'package transactions' included with a new task to ESMA to determine liquidity draft RTS thereupon</li> </ul>	<ul style="list-style-type: none"> <li>EU Commission (EU COM) has to adopt Level 2 legislation beginning Q4 2016</li> <li>ESMA has to finalize draft RTS on package transactions till 28 February 2017</li> </ul>
2	Delegated* Acts	<ul style="list-style-type: none"> <li>Delegated acts have been adopted as delegated regulation by EU COM in Q2 2016</li> </ul>	<ul style="list-style-type: none"> <li>Passed EU Council and Parliament scrutiny, publication in OJ expected in due time course</li> </ul>
	RTS <sup>1)</sup>	<ul style="list-style-type: none"> <li>Most RTS adopted by EU COM; currently under scrutiny by EU Parliament and EU Council</li> <li>Few RTS still pending adoption by EU COM, to be sent to EU Council and EU Parliament soon</li> <li>New ESMA RTS on package transactions to be consulted shortly</li> <li>EU COM published other RTS that have not been consulted beforehand</li> </ul>	<ul style="list-style-type: none"> <li>Expected to pass scrutiny of EU Parliament and EU Council soon, with publication in OJ</li> <li>RTS expected to be adopted beginning Q4 2016</li> <li>Consultation expected early Q4 2016</li> <li>Currently process unclear; no comment period expected</li> </ul>
	ITS <sup>1)</sup>	<ul style="list-style-type: none"> <li>One ITS already published in OJ, on MTF and OTF requirements</li> <li>ESMA delivered further ITS to EU Commission with no further update yet</li> </ul>	<ul style="list-style-type: none"> <li>Currently process unclear; no comment period expected</li> </ul>

<sup>1)</sup> OJ (Official Journal) RTS (Regulatory Technical Standards), ITS (Implementing Technical Standards), Delegated Acts (DAs)



# Market Making



<sup>1</sup> Liquid ETF, Equity & Equity Index Derivatives  
<sup>2</sup> Examples: Fixed Income, FX, Volatility, Dividends

# OTRs

## Prevailing OTR regime

$$OTR = \frac{\text{monthly Ordered Volume}}{(\text{monthly Executed Volume} * \text{Volume Factor}) + \text{Floor}}$$

## MiFID II OTR regime

$$OTR_{vol} = \frac{\text{daily Ordered Volume}}{\text{daily Executed Volume}} - 1$$

$$OTR_{no} = \frac{\text{daily Number of Orders}}{\text{daily Number of Transactions}} - 1$$

### Changed requirements

- Volume counted without volume factor and floor
- Max ratios in the responsibility of the venue
- Monthly assessment changed to daily

Violation =  
if **one** of both max ratios is exceeded

### New requirements

- Number counted without volume factor and floor
- Max ratios able to account for individual venue's system capacity



## Tick Sizes

Price Ranges	Liquidity Bands					
	0 ≤ Average daily number of transactions < 10	10 ≤ Average daily number of transactions < 80	80 ≤ Average daily number of transactions < 600	600 ≤ Average daily number of transactions < 2000	2000 ≤ Average daily number of transactions < 9000	9000 ≤ Average daily number of transactions
0 ≤ price < 0.1	0.0005	0.0002	0.0001	0.0001	0.0001	0.0001
0.1 ≤ price < 0.2	0.001	0.0005	0.0002	0.0001	0.0001	0.0001
0.2 ≤ price < 0.5	0.002	0.001	0.0005	0.0002	0.0001	0.0001
0.5 ≤ price < 1	0.005	0.002	0.001	0.0005	0.0002	0.0001
1 ≤ price < 2	0.01	0.005	0.002	0.001	0.0005	0.0002
2 ≤ price < 5	0.02	0.01	0.005	0.002	0.001	0.0005
5 ≤ price < 10	0.05	0.02	0.01	0.005	0.002	0.001
10 ≤ price < 20	0.1	0.05	0.02	0.01	0.005	0.002
20 ≤ price < 50	0.2	0.1	0.05	0.02	0.01	0.005
50 ≤ price < 100	0.5	0.2	0.1	0.05	0.02	0.01
100 ≤ price < 200	1	0.5	0.2	0.1	0.05	0.02
200 ≤ price < 500	2	1	0.5	0.2	0.1	0.05
500 ≤ price < 1.000	5	2	1	0.5	0.2	0.1
1.000 ≤ price < 2.000	10	5	2	1	0.5	0.2
2.000 ≤ price < 5.000	20	10	5	2	1	0.5
5.000 ≤ price < 10.000	50	20	10	5	2	1
10.000 ≤ price < 20.000	100	50	20	10	5	2
20.000 ≤ price < 50.000	200	100	50	20	10	5
50.000 ≤ price	500	200	100	50	20	10

### Definitions:

'most relevant market in terms of liquidity' means the most relevant market in terms of liquidity as defined in Article 4(1)(a) of Regulation (EU) No 600/2014 and specified in Article 4 of Commission Delegated Regulation (EU) No. [xxxx/xxxx] [Draft RTS 1 on transparency requirements for equity and equity-like financial instruments];

Average daily number of transactions shall be calculated by dividing for the relevant time period and the relevant trading venue, the total number of transactions in that instrument by the number of trading days (RTS 11, Art. 3 (6)).

 Liquidity band applicable to ETFs  
 Liquidity band for periodic auction trading system (a trading system that matches orders on the basis of a periodic auction and of a trading algorithm operated without human intervention (RTS 11, Art. 3(2))