



Trading Venue Outages: A Framework for Industry-wide Standard Protocols in Equity Markets

Brussels, 12th January 2022

1. EU financial market infrastructure is robust, stable and resilient. The Covid-19 crisis in 2020 demonstrated that investors can rely on the European financial ecosystem to trade without disruption during periods of exceptionally high volatility and activity: on 17 March 2020, European financial market infrastructures handled approximately four times as much volume as usual.
2. The reliability of trading systems in extreme market conditions is underpinned by the continuous investments of trading venues and market participants in their infrastructure. This serves to ensure orderly trading, provide investors with the best possible service and comply with the applicable regulatory requirements, notably those set out in MiFID II / MiFIR and specifically in Articles 47 and 48 in respect of trading venues.
3. While trading venue outages are rare, they require an appropriate response. With the objective of a more harmonised framework in Europe that builds on the broad consensus in place and to support market participants, FESE supports the adoption of an industry-wide standard protocol to harmonise communication and outage procedures. This initiative is designed to ensure market participants' confidence in the underlying procedures that are to be followed in the event of a market outage.
4. FESE members, notably those that have been impacted by outages such as in the summer or autumn of 2020, have held extensive discussions with their market participants on the design of standard protocols in the case of outages. From these discussions and our assessment of other contributions from the industry, it is clear to FESE and its members that there is a broad consensus on the range of aspects that should be covered by a standard protocol for outage procedures.
5. Firstly, for the benefit of all market participants, and as pointed out by other industry associations, it would be useful to align the notification process surrounding exchange outages across exchanges to the largest possible extent. FESE believes that an industry initiative in contrast to a change of regulation is the right way forward.
6. Secondly, we support suggestions by industry representatives that the procedures for re-opening need to be clear and would again suggest this is subject to an industry agreement on a standard protocol. The market has seen the negative impact of specifying specific timelines in legislation, not least the requirement for trading venues to resume trading within or close to two hours. We agree here with other industry representatives to delete this requirement from RTS 7.

7. The annex to this document includes a set of 10 principles, building on - and reflecting the broad industry consensus - that FESE would suggest should form the basis of the standard protocol.

8. An industry-driven approach on the development of an outage standard protocol would provide a key complement to the existing regulatory framework - as also stated by ESMA in its final report on algorithmic trading - and ensure that market participants - and ultimately investors and issuers - are able to benefit from stable and secure market arrangements, even in the rare event of an outage.

9. Alongside this, we have also taken note of recent proposals from parts of the industry seeking to facilitate the ability of MTFs to act as a “back up” in the case of an outage on a primary market. While we have assessed these proposals closely, we are of the view that some of the principal elements of their design may lead to unintended consequences and welcome ESMA’s intention not to suggest such a respective requirement.

10. Firstly, the premise appears to clash with one fundamental principle, the possibility to choose where to trade. The arbitrary appointment of a single alternative trading venue in the case of an outage is an anti-competitive measure at odds with the core freedom buyers and sellers enjoy: ultimately investors are free to trade on any venue provided they have confidence in its ability to meet their needs.

11. Secondly, while switching to an alternative venue in the case of an outage is something that the most sophisticated market participants could potentially handle, it is highly unlikely to be an adequate solution for smaller market participants, notably retail brokers and smaller local institutions. This means they would technically not be capable of shifting flow from one venue to another. In fact, this would place high costs on market participants, which from a cost-benefit analysis and given the high availability of trading systems is very difficult to justify.

12. The adoption of outage standard protocols and other initiatives as highlighted above is something that could be delivered across the industry in a relatively short space of time, particularly given the broad consensus in place. In contrast, the back-up venue proposals require a fundamental redesign of the regulatory and market framework - as acknowledged by their proponents.

13. In short, the adoption of outage standard protocols would give the entire market and its participants the confidence, awareness and transparency needed in these exceptional, yet incredibly rare, circumstances. Our proposed framework for the outage standard protocols is included in Annex 1. FESE and its members look forward to an ongoing and constructive discussion with all our stakeholders, from our clients, market participants through to regulators and policymakers.

Annex: 10 Principles for an Industry-wide Standard Protocol in Equity Markets

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The members of FESE hereby commit to:

1. Publishing individual playbooks including all principles listed hereafter. Playbooks shall be reviewed and updated on a regular basis.
2. Publishing as close to real-time a market notice whenever an outage occurs.
3. Updating their market status on a regular basis (even if the issues are not yet ascertained) and at least every 30 minutes, depending on the severity of the incident.
4. Providing a minimum 30-minute notice before re-opening the market following an outage. For intensive checks of own orders, a minimum period of 30-minutes needs to be guaranteed.
5. Ensuring a pre-opening phase (minimum length of 10min) prior to the resumption of trading.
6. Offering an order book purge to every trading participant especially in cases where the integrity of orders has been compromised to a large degree.
7. Considering trades for which an acknowledgement has been sent as valid (unless conducted under improper conditions).
8. In the event of the closing auction being affected, the time for running the closing auction can be postponed until a certain point to be defined by the trading venue.
9. In case the closing auction cannot take place for the trading session, the last traded price will be considered as the official closing price.
10. Trading venues commit to run a post-mortem analysis and to explain the sequence of events and share conclusions and detailed mitigating procedures via appropriate communication channels like follow-up bilateral calls.