

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

25th November 2022, Brussels

1. EU financial market technical infrastructure is robust, stable, and resilient. It demonstrated successfully throughout the numerous crises of the last couple of years that investors can rely on the European financial ecosystem to trade without disruption during periods of exceptionally high volatility and activity.
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, the requirements set out in MiFID II / MiFIR and specifically in Articles 47 and 48 of MiFID in respect of trading venues.
3. While trading venue outages are rare, they require an appropriate response. With the objective of a framework that builds on the broad consensus in place and supports market participants, FESE endorses the adoption of principles underpinning communication and outage procedures in exchange-traded derivatives (ETDs) markets. This initiative is designed to setting expectations for markets participants in the underlying procedures that are to be followed in the event of a market outage. As a general remark, it should be noted that derivative contracts (except for commodity markets) are in the most cases halted in the event the underlying assets are halted.
4. FESE Members 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. This standard protocol in fact reflects what is already to date established practice in a wide range of exchanges.
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 Article 15 of 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. The principles are designed high-level to leave the necessary discretion for exchanges to be able to swiftly adapt to the specific circumstances at hand. Overly prescriptive rules will not be able to deliver the flexibility needed in outage situations.

8. An industry-driven approach to the development of principles for 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. In short, the adoption of principles underpinning outage standard protocols would set expectations for the entire market and its participants, and create awareness and transparency in these exceptional, yet incredibly rare, circumstances.

10. 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 ETDs Markets

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The members of FESE hereby commit to:

1. Publishing as close to real-time a market notice whenever an outage occurs, including to regulators.
2. Updating their market status on a regular basis (even if the issues are not yet ascertained).
3. Providing a notice before re-opening the market following a significant outage.
4. Ensuring a pre-opening phase prior to the resumption of trading.
5. Offering an order book or product-specific purge to every trading participant especially in cases where the integrity of orders has been compromised to a large degree.
6. Considering trades for which an acknowledgment has been sent as valid (unless conducted under improper conditions).
7. Where applicable, in the event of opening or closing auction being affected, the time for running the opening or closing auction can be postponed until a certain point to be defined by the trading venue.
8. Where applicable, in case the opening or closing auction of the underlying instrument cannot take place for the trading session, the relevant daily settlement price is calculated according to the methodology defined by the trading venue for each derivative contract.
9. Publish clear rules for the determination of settlement prices depending on the contract underlying assets and whether there might be deviations from the usual settlement price procedure in case of an outage.
10. Run a post-mortem analysis to explain the technical issue, timeline of the incident, a description of what was done to resolve the incident, and any next steps or follow-up required via appropriate communication channels.