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ANNEXES 1 to 2

ANNEXES

to the Commission Delegated Regulation (EU) …/...

supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards an exemption for certain third countries public bodies and central banks, the indicators of market manipulation, the disclosure thresholds, the competent authority for notifications of delays, the permission for trading during closed periods and types of notifiable managers' transactions

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Annex I

Public bodies and central banks of third countries

1. Australia:
   - Reserve Bank of Australia;
   - Australian Office of Financial Management;
2. Brazil:
   - Central Bank of Brazil;
   - National Treasury of Brazil;
3. Canada:
   - Bank of Canada;
   - Department of Finance Canada;
4. China:
   - People's Bank of China;
5. Hong Kong SAR:
   - Hong Kong Monetary Authority;
   - Financial Services and the Treasury Bureau of Hong Kong;
6. India:
   - Reserve Bank of India;
7. Japan:
   - Bank of Japan;
   - Ministry of Finance of Japan;
8. Mexico:
   - Bank of Mexico;
   - Ministry of Finance and Public Credit of Mexico;
9. Singapore:
   - Monetary Authority of Singapore;
10. South Korea:
    - Bank of Korea;

– Ministry of Strategy and Finance of Korea;

11. Switzerland:

– Swiss National Bank;

– Federal Finance Administration of Switzerland;

12. Turkey:

– Central Bank of the Republic of Turkey;

– Undersecretariat of Treasury of the Republic of Turkey;

13. The United States:

– Federal Reserve System;

– U.S. Department of the Treasury

Annex II:
Indicators of manipulative behaviour

SECTION 1

INDICATORS OF MANIPULATIVE BEHAVIOUR RELATING TO FALSE OR MISLEADING SIGNALS AND TO PRICE SECURING (SECTION A OF ANNEX I TO REGULATION (EU) NO 596/2014)

1. Practices specifying Indicator A(a) of Annex I to Regulation (EU) No 596/2014:

(a) Buying of positions, also by colluding parties, of a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances, on the secondary market, after the allocation in the primary market in order to post the price to an artificial level and generate interest from other investors – usually known, for example in the equity context, as colluding in the after-market of an Initial Public Offer (IPO) where colluding parties are involved. This practice may also be illustrated by the following additional indicators of market manipulation:

(i) unusual concentration of transactions and/or orders to trade, whether generally, or by only one person using one or different accounts, or by a limited number of persons;

(ii) transactions or orders to trade with no other apparent justification than to increase the price of or to increase the volume of trading, namely near to a reference point during the trading day, for instance at the opening or near the close;

(b) Transactions or orders to trade carried out in such a way that obstacles are created to the financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances, with prices falling below, or rising above a certain level, mainly in order to avoid negative consequences deriving from changes in the price of the financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances – usually known as "creation of a floor, or a ceiling in the price pattern". This practice may also be illustrated by the following additional indicators of market manipulation:

(i) transactions or orders to trade which have the effect, or are likely to have the effect, of increasing or decreasing or maintaining the price during the days preceding the issue, optional redemption or expiry of a related derivative or convertible;

(ii) transactions or orders to trade which have the effect of, or are likely to have the effect of increasing or decreasing the weighted average price of the day or of a period during the trading session;

(iii) transactions or orders to trade which have the effect of, or are likely to have the effect of, maintaining the price of an underlying financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, below or above a strike price or other element used to determine the pay-out (e.g. barrier) of a related derivative at expiration date;

(iv) transactions on any trading venue which have the effect of, or are likely to have the effect of, modifying the price of the underlying financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, so that it surpasses or does not reach the strike price or other element used to determine the pay-out (e.g. barrier) of a related derivative at expiration date;

(v) transactions which have the effect of, or are likely to have the effect of, modifying the settlement price of a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, when this price is used as a reference or determinant namely in the calculation of margin requirements.

(c) Entering small orders to trade in order to ascertain the level of hidden orders and particularly to assess what is resting on a dark platform – usually known as "ping orders";

(d) Executing orders to trade, or a series of orders to trade, in order to uncover orders of other participants, and then entering an order to trade to take advantage of the information obtained – usually known as “phishing”.

2. Practices specifying Indicator A(b) of Annex I of Regulation (EU) No 596/2014:

(a) The practice set out in Point 1(a) of this Section, usually known, for example in the equity context, as colluding in the after-market of an Initial Public Offer where colluding parties are involved;

(b) Taking advantage of the significant influence of a dominant position over the supply of, or demand for, or delivery mechanisms for a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances, in order to materially distort, or likely to distort, the prices at which other parties have to deliver, take delivery or defer delivery in order to satisfy their obligations – usually known as "abusive squeeze";

(c) Undertaking trading or entering orders to trade in one trading venue or outside a trading venue (including entering indications of interest) with a view to improperly influencing the price of the same financial instrument in another trading venue or outside a trading venue, related spot commodity contract, or an auctioned product based on emission allowances – usually known as "inter-trading venues manipulation" (trading on one trading venue or outside a trading venue to improperly position the price of a financial instrument in another trading venue or outside a trading venue). This practice may also be illustrated by the following additional indicators of market manipulation:

(i) execution of a transaction, changing the bid-offer prices, when the spread between the bid and offer prices is a factor in the determination of the price of any other transaction whether or not on the same trading venue;

(ii) the indicators set out in Point 1(b)(i), (b)(iii), (b)(iv) and (b)(v) of this Section;

(d) Undertaking trading or entering orders to trade in one trading venue or outside a trading venue (including entering indications of interest) with a view to improperly influencing the price of a related financial instrument in another or in the same trading venue or outside a trading venue, related spot commodity contract, or a related auctioned product based on emission allowances – usually known as "cross-product manipulation" (trading on a financial instrument to improperly position the price of a related financial instrument in another or in the same trading venue or outside a trading venue). This practice may also be illustrated by the additional indicators of market manipulation referred to in Point 1(b)(i), (b)(iii), (b)(iv) and (b)(v), and Point 2(c)(i) of this Section.

3. Practices specifying Indicator A(c) of Annex I of Regulation (EU) No 596/2014:

(a) Entering into arrangements for the sale or purchase of a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances, where there is no change in beneficial interests or market risk or where beneficial interest or market risk is transferred between parties who are acting in concert or collusion – usually known as "wash trades". This practice may also be illustrated by the following additional indicators of market manipulation:

(i) unusual repetition of a transaction among a small number of parties over a certain period of time;

(ii) transactions or orders to trade which modify, or are likely to modify, the valuation of a position while not decreasing/increasing the size of the position;

(iii) the indicator set out in Point 1(a)(i) of this Section.

(b) Entering into orders to trade or engaging in a transaction or series of transactions which are shown on a public display facility to give the impression of activity or price movement in a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances – usually known as "painting the tape". This practice may also be illustrated by the indicators set out in Point 1(a)(i) and Point 3(a)(i) of this Section.

(c) Transactions carried out as a result of the entering of buy and sell orders to trade at or nearly at the same time, with very similar quantity and similar price, by the same party or different but colluding parties – usually known as "improper matched orders". This practice may also be illustrated by the following additional indicators of market manipulation:

(i) transactions or orders to trade which have the effect of, or are likely to have the effect of setting a market price when the liquidity or the depth of the order book is not sufficient to fix a price within the session;

(ii) the indicators set out in Points 1(a)(i), 3(a)(i) and 3(a)(ii) of this Section.

(d) Transaction or series of transactions designed to conceal the ownership of a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances via the breach of disclosure requirements through the holding of the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances in the name of a colluding party or parties. The disclosures are misleading in respect of the true underlying holding of the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances – usually known as "concealing ownership". This practice may also be illustrated by the indicator described in Point 3(a)(i) of this Section.

4. Practices specifying Indicator A(d) of Annex I of Regulation (EU) No 596/2014:

(a) The practice set out in Point 3(b) of this Section, usually known as “painting the tape”;

(b) The practice set out in Point 3(c) of this Section, usually known as “improper matched orders”;

(c) Taking of a long position in a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances and then undertaking further buying activity and/or disseminating misleading positive information about the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances with a view to increasing the price of the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, by the attraction of other buyers. When the price is at an artificial high level, the long position held is sold out – usually known as “pump and dump”;

(d) Taking of a short position in a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances and then undertaking further selling activity and/or disseminating misleading negative information about the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances with a view to decreasing the price of the financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, by the attraction of other sellers. When the price has fallen, the position held is closed – usually known as “trash and cash”;

(e) Entering large number of orders to trade and/or cancellations and/or updates to orders to trade so as to create uncertainty for other participants, slowing down their process and/or to camouflage their own strategy – usually known as “quote stuffing”;

(f) Entering orders to trade or a series of orders to trade, or executing transactions or series of transactions, likely to start or exacerbate a trend and to encourage other participants to accelerate or extend the trend in order to create an opportunity to close out or open a position at a favourable price – usually known as momentum ignition. This practice may also be illustrated by the high ratio of cancelled orders (e.g. order to trade ratio) which may be combined with a ratio on volume (e.g. number of financial instruments per order).

5. Practices specifying Indicator A(e) of Annex I of Regulation (EU) No 596/2014:

(a) The practice set out in Point 1(b) of this Section, usually known as "creation of a floor, or a ceiling in the price pattern";

(b) The practice set out in Point 2(c) of this Section, usually known as “inter-trading venues manipulation” (trading on one trading venue or outside a trading venue to improperly position the price of a financial instrument in another trading venue or outside a trading venue);

(c) The practice set out in Point 2(d) of this Section, usually known as “cross-product manipulation” (trading on a financial instrument to improperly position the price of a related financial instrument in another or in the same trading venue or outside a trading venue);

(d) Buying or selling of a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances, deliberately, at the reference time of the trading session (e.g. opening, closing, settlement) in an effort to increase, to decrease or to maintain the reference price (e.g. opening price, closing price, settlement price) at a specific level – usually known as "marking the close". This practice may also be illustrated by the following additional indicators of market manipulation:

(i) entering orders representing significant volumes in the central order book of the trading system a few minutes before the price determination phase of the auction and cancelling these orders a few seconds before the order book is frozen for computing the auction price so that the theoretical opening price might look higher/lower than it otherwise would do;

(ii) the indicators set out in Point 1(b)(i), (b)(iii), (b)(iv) and (b)(v) of this Section;

(iii) transactions carried out or submission of orders to trade, namely near to a reference point during the trading day, which, because of their size in relation to the market, shall clearly have a significant impact on the supply of or demand for or the price or value;

(iv) transactions or orders to trade with no other apparent justification than to increase/decrease the price or to increase the volume of trading, namely near to a reference point during the trading day - e.g. at the opening or near the close;

(e) Submitting multiple or large orders to trade often away from the touch on one side of the order book in order to execute a trade on the other side of the order book. Once the trade has taken place, the orders with no intention to be executed shall be removed - usually known as layering and spoofing. This practice may also be illustrated by the indicator set out in Point 4(f)(i);

(f) The practice set out in Point 4(e) of this Section, usually known as “quote stuffing”;

(g) The practice set out in Point 4(f) of this Section, usually known as “momentum ignition”.

6. Practices specifying Indicator A(f) of Annex I of Regulation (EU) No 596/2014:

(a) Entering of orders which are withdrawn before execution, thus having the effect, or which are likely to have the effect, of giving a misleading impression that there is demand for or supply of a financial instrument, a related spot commodity contract, or an auctioned product based on emission allowances at that price – usually known as "placing orders with no intention of executing them". This practice may also be illustrated by the following additional indicators of market manipulation:

(i) orders to trade inserted with such a price that they increase the bid or decrease the offer, and have the effect, or are likely to have the effect, of increasing or decreasing the price of a related financial instrument;

(ii) the indicator set out in Point 4(f)(i) of this Section.

(b) The practice set out in Point 1(b) of this Section, usually known as "creation of a floor, or a ceiling, in the price pattern";

(c) Moving the bid-offer spread to and/or maintaining it at artificial levels, by abusing of market power, usually known as excessive bid-offer spreads. This practice may also be illustrated by the following additional indicators of market manipulation:

(i) transactions or orders to trade which have the effect of, or are likely to have the effect of bypassing the trading safeguards of the market (e.g. price limits, volume limits, bid/offer spread parameters, etc.);

(ii) the indicator set out in Point 2(c)(i) of this Section.

(d) Entering orders to trade which increase the bid (or decrease the offer) for a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, in order to increase (or decrease) its price – usually known as "advancing the bid". This practice may also be illustrated by the indicator set out in Point 6(a)(i) of this Section;

(e) The practice set out in Point 2(c) of this Section, usually known as "inter-trading venues manipulation" (trading on one trading venue or outside a trading venue to improperly position the price of a financial instrument in another trading venue or outside a trading venue);

(f) The practice set out in Point 2(d) of this Section, usually known as "cross-product manipulation" (trading on a financial instrument to improperly position the price of a related financial instrument in another or in the same trading venue or outside a trading venue);

(g) The practice set out in Point 5(e) of this Section, usually known as “layering” and “spoofing”;

(h) The practice set out in Point 4(e) of this Section, usually known as “quote stuffing”;

(i) The practice set out in Point 4(f) of this Section, usually known as “momentum ignition”;

(j) Posting orders to trade, to attract other market participants employing traditional trading techniques (“slow traders”), that are then rapidly revised onto less generous terms, hoping to execute profitably against the incoming flow of “slow traders’” orders to trade, usually known as “smoking”.

7. Practices specifying Indicator A(g) of Annex I of Regulation (EU) No 596/2014:

(a) The practice set out in Point 5(d) of this Section, usually known as “marking the close”;

(b) The practice set out in Point 1(a) of this Section, usually known, for example in the equity context, as "colluding in the after-market of an Initial Public Offer where colluding parties are involved";

(c) The practice set out in Point 1(b) of this Section, usually known as “creation of a floor, or a ceiling” in the price pattern;

(d) The practice set out in Point 2(c) of this Section, usually known as "inter-trading venues manipulation" (trading on one trading venue or outside a trading venue to improperly position the price of a financial instrument in another trading venue or outside a trading venue);

(e) The practice set out in Point 2(d) of this Section, usually known as "cross-product manipulation" (trading on a financial instrument to improperly position the price of a related financial instrument in another or in the same trading venue or outside a trading venue);

(f) Entering into arrangements in order to distort costs associated with a commodity contract, such as insurance or freight, with the effect of fixing the settlement price of a financial instrument or a related spot commodity contract at an abnormal or artificial price.

8. The practice set out in Point 2(c) of this Section and also referred to in Points 5(c), 6(e) and 7(d) of this Section is relevant in the context of the scope of Regulation (EU) No 596/2014 concerning cross-venue manipulation.

9. The practice set out in Point 2(d) of this Section and also referred to in Points 5(c), 6(f) and 7(e) of this Section is relevant the context of the scope of Regulation (EU) No 596/2014 concerning cross-venue manipulation, taking into account that the price or value of a financial instrument may depend on or may have an effect on the price or value of another financial instrument or spot commodity contract.

SECTION 2

INDICATORS OF MANIPULATIVE BEHAVIOUR RELATING TO THE EMPLOYMENT OF A FICTITIOUS DEVICE OR ANY OTHER FORM OF DECEPTION OR CONTRIVANCE (SECTION B OF ANNEX I OF REGULATION (EU) NO 596/2014)

1. Practices specifying Indicator B(a) of Annex I of Regulation (EU) No 596/2014:

(a) Dissemination of false or misleading market information through the media, including the internet, or by any other means, which results or is likely to result in the moving of the price of a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances, in a direction favourable to the position held or to a transaction planned by the person or persons interested in the dissemination of the information;

(b) Opening a position in a financial instrument, related spot commodity contract, or an auctioned product based on emission allowances and closing such position immediately after having publicly disclosed and having put emphasis on the long holding period of the investment – usually known as "opening a position and closing it immediately after its public disclosure";

(c) The practice set out in Point 4(c) of Section 1, usually known as “pump and dump”. This practice may also be illustrated by the following additional indicators of market manipulation:

(i) dissemination of news through the media related to the increasing (or decreasing) of a qualified holding before or shortly after an unusual movement of the price of a financial instrument;

(ii) the indicator set out in Point 5(d)(i) of Section 1;

(d) The practice set out in Point 4(d) of Section 1, usually known as “trash and cash”. This practice may also be illustrated by the indicators set out in Point 5(d)(i) of Section 1 and Point 1(c)(i) of this Section;

(e) The practice set out in Point 3(d) of Section 1, usually known as "concealing ownership";

(f) Movement or storage of physical commodities, which might create a misleading impression as to the supply of, or demand for, or price or value of, a commodity or the deliverable into a financial instrument or a related spot commodity contract;

(g) Movement of an empty cargo ship, which might create a false or misleading impression as to the supply of, or the demand for, or the price or value of a commodity or the deliverable into a financial instrument or a related spot commodity contract.

2. Practices specifying Indicator B(b) of Annex I of Regulation (EU) No 596/2014:

(a) The practice set out in Point 1(a) of this Section. This practice may also be illustrated by entering orders to trade or transactions before or shortly after the market participant or persons publicly known as linked to that market participant produce or disseminate contrary research or investment recommendations that are made publicly available.

(b) The practice set out in Point 4(c) of Section 1, usually known as "pump and dump". This practice may also be illustrated by the indicator set out in Point 2(a)(i) of this Section.

(c) The practice set out in Point 3(d) of Section 1, usually known as "trash and cash". This practice may also be illustrated by the indicator set out in Point 2(a)(i) of this Section.