



Brussels, 13.12.2018  
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**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of 13.12.2018**

**laying down implementing technical standards with regard to the procedures and forms for exchange of information on sanctions, measures and investigations in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council**

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012<sup>1</sup>, and in particular Article 25(4) thereof,

Whereas:

- (1) To ensure that the European Securities and Markets Authority (ESMA) receives complete and accurate information regarding administrative and criminal measures imposed and criminal investigations undertaken in relation to infringements of Regulation (EU) 2015/2365, common procedures and forms for submitting that information should be set out.
- (2) In order to avoid potential double entries and conflicts of competence between multiple reporting authorities within a Member State, a single contact point within each Member State should be designated for the exchange of information with ESMA.
- (3) With a view to including meaningful information in the annual reports on sanctions, measures and investigations to be published by ESMA, the information reported by competent authorities should clearly indicate which provisions of Regulation (EU) 2015/2365 have been infringed by means of specific forms.
- (4) The competent authority should provide ESMA with a copy of the decision imposing the administrative sanction or measure and a clear summary of the essential elements of that decision. However, in order to limit the reporting burden, when a particular administrative sanction or measure has already been reported to ESMA under Article 25(3) of Regulation (EU) 2015/2365, the competent authority should only be required to make a clear reference to that sanction or measure.
- (5) This Regulation is based on the draft implementing technical standards submitted by ESMA to the European Commission, pursuant to the procedure in Article 15 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)<sup>2</sup>.
- (6) In accordance with Article 15 of Regulation (EU) No 1095/2010, ESMA did not conduct open public consultations on the draft implementing technical standards on

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<sup>1</sup> OJ L 337, 23.12.2015, p. 1

<sup>2</sup> OJ L 331, 15.12.2010, p. 84.

which this Regulation is based, nor did it analyse potential related costs and benefits of introducing the standard forms and procedures for the relevant competent authorities, as this would have been disproportionate in relation to their scope and impact, taking into account that the addressees of the implementing technical standards are the national competent authorities of the Member States and not market participants.

- (7) ESMA requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### ***Contact points***

1. The European Securities and Markets Authority (ESMA) shall designate a single contact point for receiving the information referred to in paragraphs 1 and 2 of Article 25 of Regulation (EU) 2015/2365 and for all communications on any issue relating to the reception of such information. Details of the contact point shall be made available on ESMA's website.
2. The competent authorities of each Member State shall designate a single contact point for that Member State for all communications relating to the provision of the information referred to in paragraphs 1 and 2 of Article 25 of Regulation (EU) 2015/2365. Competent authorities shall notify ESMA of those contact points.

#### *Article 2*

##### ***Annual submission of aggregated information***

1. The contact points designated by competent authorities for each Member State pursuant to Article 1(2) shall provide ESMA with the information referred to in Article 25(1) of Regulation (EU) 2015/2365 using the form in Annex I to this Regulation. Copies of decisions imposing administrative sanctions and other administrative measures and summaries of such decisions shall be provided, unless the sanction or measure has already been reported to ESMA under Article 25(3) of Regulation (EU) 2015/2365. Copies of decisions shall be submitted in email attachments accompanying the form.
2. The contact points designated by competent authorities for each Member State pursuant to Article 1(2) shall provide ESMA with the information referred to in Article 25(2) of Regulation (EU) 2015/2365 using the form in Annex II to this Regulation.
3. The forms referred to in paragraphs 1 and 2 shall cover a reporting period of one calendar year and shall, together with any attachments, be electronically completed and submitted by email to ESMA's contact point no later than 31 March the following year.

The first submission of the forms referred to in paragraphs 1 and 2 shall be made in 2018 for the calendar years 2016 and 2017.

*Article 3*

***Entry into force and application***

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13.12.2018

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*