Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/365. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2019 No. 365 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2019/365 of 13 December 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)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/365

of 13 December 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)

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[(1)], 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.

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(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[(2)].

(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 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.

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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 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/365. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2019 No. 365 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

ANNEX I

Form for submission of aggregated and granular information regarding all administrative sanctions and other administrative measures imposed

Aggregated and granular information regarding all administrative sanctions and other administrative measures imposed by [*name of the competent authority*] in [*year*] under Article … of …

FROM:

Member State:

Competent authority:

Address:

(Contact details of the designated contact person)

Name:

Telephone:

Email:

TO:

ESMA

(Contact details of the designated contact person)

Name:

Telephone:

Email:

Reporting period:

Dear [*insert appropriate name*]

In accordance with Article 25(1) of Regulation (EU) 2015/2365, we wish to provide ESMA with aggregated and granular information regarding all administrative sanctions and other administrative measures imposed by [*name of the competent authority*] in [year].

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/365. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2019 No. 365 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

The aggregated information is set out in the following table:

Provisions of Regulation (EU) 2015/2365 in respect of which administrative sanctions/measures have been imposed	**Number of sanctions/measures imposed in the reporting period**	**Pecuniary amount of financial sanctions imposed in the reporting period**
[number of the Article, paragraph, subparagraph]	[number of sanctions/measures]	[pecuniary amount of financial sanctions ([1])]
Total sanctions/measures ([2])	**[total number of sanctions/measures]**	**[total pecuniary amount of financial sanctions]**

The granular information in respect of each of the measures and sanctions included in the table above is provided as follows.

First, we have already reported the following measures and sanctions imposed in [*year*] to ESMA in accordance with Article 25(3) of Regulation (EU) 2015/2365:

[List of each measure and sanction reported in the relevant period]

Secondly, copies of the decision/(s) for the following measures and sanctions imposed in [INSERT YEAR] are provided in separate email attachment/(s) accompanying this form:

[List of each measure and sanction for which a decision is being provided]

Thirdly, summaries of the following measures and sanctions are provided below:

[*List in numerical order (1., 2., 3., et seq.) of each measure and sanction for which a summary is then provided below.*]

1. [Reference to the first measure/sanction listed above]

[Summary of measure/sanction]

2. [Reference to the second measure/sanction listed above]

[Summary of measure/sanction]

[For the third and each subsequent summary being provided, continue in numerical order by using the format above.]

Yours sincerely,

[*signature*]

([1]) Please insert a value in Euro or in national currency. Where the relevant sanction refers not only to breaches of the relevant Article of Regulation (EU) 2015/2365, but also to other provisions, add the mention 'AGGREGATED FIGURE' to each value.

([2]) As sanctions/measures imposed may be based on more than one legislative provision, the sum of the different rows (number of sanctions or measures/pecuniary amount of financial sanctions) may not correspond to the total number of sanctions/measures or to the total value of fines imposed.