Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1158. 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 2017 No. 1158 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) 2017/1158 of 29 June 2017 laying down implementing technical standards with regards to the procedures and forms for competent authorities exchanging information with the European Securities Market Authority as referred to in Article 33 of Regulation (EU) No 596/2014 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1158

of 29 June 2017

laying down implementing technical standards with regards to the procedures and forms for competent authorities exchanging information with the European Securities Market Authority as referred to in Article 33 of Regulation (EU) No 596/2014 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) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC[(1)], and in particular Article 33(5) thereof,

Whereas:

(1) It is appropriate to set out common procedures and forms for competent authorities to submit information to the European Securities and Markets Authority (ESMA) with regard to investigations, sanctions and measures referred to in Article 33 of Regulation (EU) No 596/2014.

(2) In order to facilitate the communication between competent authorities and ESMA and avoid unnecessary delays or failed submissions, each competent authority should designate a contact point specifically for the purpose of submitting the information required.

(3) To ensure that all required information concerning sanctions and measures imposed by competent authorities is correctly identified and registered by ESMA, competent authorities should provide detailed and harmonised information using specific forms to that purpose.

(4) Information about investigations to be provided to ESMA should be consistent and comparable in order to reflect the actual investigatory activity carried out under the Market Abuse Regulation on a given year. Therefore, the information should only include the investigations on which the relevant authorities have worked on during the reference period.

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(5) This Regulation is based on the draft implementing technical standards submitted by ESMA to the Commission.

(6) 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 would only be the national competent authorities of the Member States and not market participants.

(7) ESMA has requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(2)],

HAS ADOPTED THIS REGULATION:

Article 1

Definition

For the purposes of this Regulation, 'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.

Article 2

Contact points

1 Each competent authority shall designate a single contact point for sending the information referred to in Article 3 and for communications on any issue relating to submission of that information.

2 Competent authorities shall notify the European Securities and Markets Authority (ESMA) of the contact points designated in accordance with paragraph 1.

3 ESMA shall designate a contact point for receiving the information set out in Articles 3 and 4 and for communications on any issue relating to the reception of that information.

4 ESMA shall publish the contact point referred to in paragraph 2 on its website.

Article 3

Annual submission of aggregated information

1 Competent authorities shall provide ESMA with the information referred to in paragraphs 1 and 2 of Article 33 of Regulation (EU) No 596/2014, by filling in, as appropriate, the form set out in Annex I to this Regulation.

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2 The information referred to in paragraph 1 shall be provided to ESMA no later than 31 of March of each year and shall relate to all investigations undertaken and all sanctions and measures imposed during the previous calendar year.

3 Competent authorities shall provide ESMA with the information referred to in paragraph 1 by secure electronic means of transmission.

4 For the purposes of paragraph 1, ESMA shall specify and identify the secure electronic means to be used. Those means shall ensure that the completeness, integrity and confidentiality of the information is maintained during its transmission.

Article 4

Reporting procedures and forms

1 Competent authorities shall report to ESMA the sanctions and measures referred to in Article 33(3) of Regulation (EU) No 596/2014 using the interfaces provided by the information technology system, and the related database, set up by ESMA to manage the receipt, storage and publication of information on those sanctions and measures.

2 The sanctions and measures referred to in paragraph 1 shall be submitted to ESMA in a report file in the format set out in Annex II.

Article 5

Invalidation and updating of reports

1 Where a competent authority wishes to invalidate an existing report file it has previously submitted to ESMA in accordance with Article 4, it shall cancel the existing report file and send a new report file.

2 Where a competent authority wishes to update an existing report file it has previously submitted to ESMA in accordance with Article 4, it shall resubmit the report file with the updated information.

Article 6

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, 29 June 2017.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1158. 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 2017 No. 1158 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*

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ANNEX I

Form for annual submission of aggregated and anonymous information regarding all sanctions and measures imposed and investigations undertaken

Aggregated and anonymous information regarding measures and sanctions imposed and investigations undertaken in accordance with Articles 30, 31 and 32 of Regulation (EU) No 596/2014 in [year]

FROM:

Member State:

Competent authority:

Address:

(Contact details of the designated contact point)

Name:

Telephone:

Email:

TO:

ESMA

(Contact details of the designated contact point)

Name:

Telephone:

Email:

Dear [*insert appropriate name*]

In accordance with Article 33(1) and (2) of Regulation (EU) No 596/2014, I wish to provide you with the following aggregated information regarding:

— all administrative sanctions and measures imposed by [*name of the competent authority*], in section 1;

— all criminal sanctions imposed by judicial authorities in [*name of the Member State*], in section 2, if applicable;

— all administrative investigations undertaken [*name of the competent authority*], in section 3;

— all criminal investigations undertaken by judicial authorities in [*name of the Member State*], in section 4, if applicable.

Yours sincerely,

[*signature*]