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Commission Implementing Regulation (EU) 2017/1111 of 22 June 2017 laying down implementing technical standards with regard to procedures and forms for submitting information on sanctions and measures in accordance with Directive 2014/65/EU of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1111

of 22 June 2017

laying down implementing technical standards with regard to procedures and forms for submitting information on sanctions and measures in accordance with Directive 2014/65/EU 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 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU[(1)], and in particular Article 71(7) 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) on sanctions and measures referred to in Article 71 of Directive 2014/65/EU.

(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 communication on sanctions and measures.

(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) With a view to including meaningful information in the annual report on sanctions and measures to be published by ESMA in accordance with Article 71 of Directive 2014/65/EU, competent authorities should report the information by using specific forms clearly indicating the provisions of Directive 2014/65/EU, as transposed in their national legislation, that were infringed.

(5) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the related national provisions transposing Directive 2014/65/EU apply from the same date.

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

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(7) 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.

(8) 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

Contact points

1 Each competent authority shall designate a single contact point for sending communications on any issue relating to the submission of information in accordance with Articles 2 to 6.

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

2 ESMA shall designate a contact point for receiving the communications referred to in paragraph 1.

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

Article 2

Reporting procedure and forms

1 Competent authorities shall submit to ESMA the information referred to in the second subparagraph of Article 71(3) and Article 71(5) of Directive 2014/65/EU using the interfaces provided by the information technology system set up by ESMA to manage the receipt, storage, publication and exchange of that information.

2 The information referred to in paragraph 1 shall be submitted to ESMA in a report file in the form set out in Annex I to this Regulation.

Article 3

Invalidating 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 2, it shall cancel the existing report and send a new report file.

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

Article 4

Timeline

1 Competent authorities shall notify ESMA of an administrative sanction imposed but not published, including any appeal in relation thereto and the outcome thereof, by sending the report file within 10 working days at the latest after the decision not to publish the sanction has been taken.

2 Competent authorities shall notify ESMA of any information, including the final judgement, in relation to any criminal sanction by sending the report within 10 working days at the latest after it has received that information.

Article 5

Annual submission of aggregated information on sanctions and measures

Competent authorities shall provide ESMA with the information referred to in the first subparagraph of Article 71(4) of Directive 2014/65/EU by filling in the form set out in Annex II to this Regulation. That form shall include the information on all sanctions and measures imposed by the competent authority, as referred to in Article 71 of Directive 2014/65/EU, during the previous calendar year.

The form referred to in the first subparagraph shall be completed electronically and sent to ESMA by email by 31 March of each year at the latest.

Article 6

Annual submission of anonymised and aggregated data on criminal investigations and sanctions

Where Member States have in accordance with Article 70 of Directive 2014/65/EU laid down criminal sanctions for the infringements referred to in that Article, competent authorities shall provide ESMA with the data referred to in the second subparagraph of Article 71(4) of Directive 2014/65/EU by filling in the form set out in Annex III to this Regulation. That form shall include data on all criminal investigations undertaken and criminal sanctions imposed for infringements referred to in the second subparagraph of Article 71(4) of Directive 2014/65/EU by the competent authority during the previous calendar year.

The form referred to in the first subparagraph shall be completed electronically and sent to ESMA by email by 31 March of each year at the latest.

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Article 7

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*.

It shall apply from 3 January 2018.

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

Done at Brussels, 22 June 2017.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX I

Form for submitting information under the second subparagraph of Article 71(3) and Article 71(5) of Directive 2014/65/EU

Information under the second subparagraph of Article 71(3) and Article 71(5) of Directive 2014/65/EU:

Field	Description	Type
Sanction identifier	The identification code attributed by the competent authority for the purpose of the submission of the sanction or measure	Optional
Legal framework	The acronym of the Union legislative act under which the sanction or measure has been imposed	Mandatory
Member State	The acronym of the Member State of the competent authority submitting the sanction or measure	Mandatory
Entity identifier	The identification code used to uniquely identify an entity on which sanction or measure has been imposed	Mandatory (only for sanctions or measures imposed on investment firms)
Nature of sanction	Information on whether the sanction notified is a criminal sanction or an administrative sanction	Mandatory (only for sanctions)
Authority key	The identifier of the authority submitting the sanction or measure	Mandatory
Entity's legal framework	The acronym of the Union legislative act that applies to the entity on which the sanction or measure has been imposed	Mandatory
Entity's full name	Full name of the entity on which the sanction or measure has been imposed	Mandatory (for legal persons only)
Person's full name	Full name of the natural persons on whom the sanction or measure has been imposed	Mandatory (for natural persons only)
Sanctioning competent authority	The acronym of the competent authority that	Mandatory