Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1212. 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 2016 No. 1212 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) 2016/1212 of 25 July 2016 laying down implementing technical standards with regard to standard procedures and forms for submitting information in accordance with Directive 2009/65/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1212

of 25 July 2016

laying down implementing technical standards with regard to standard procedures and forms for submitting information in accordance with Directive 2009/65/EC 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 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)[(1)], and in particular Article 99e(3) thereof,

Whereas:

(1) It is appropriate to set out common procedures and forms for submitting information to the European Securities and Markets Authority (ESMA) by competent authorities with regard to penalties and measures they impose as referred to in Article 99e of Directive 2009/65/EC.

(2) In order to enable ESMA to correctly identify and register the information on penalties and measures imposed in accordance with Article 99 of Directive 2009/65/EC, it is appropriate to require competent authorities to provide it with detailed and harmonised information on penalties and measures notified.

(3) It is necessary to avoid potential double entries and negative conflicts of competence between multiple reporting authorities within a Member State. Designating a single contact point per Member State with ESMA is the most effective and least onerous means of pursuing such objective.

(4) With a view to including meaningful information in the annual report on penalties and measures to be published by ESMA in accordance with Article 99e(1) of Directive 2009/65/EC, competent authorities should report the information by using specific forms clearly indicating which Articles of Directive 2009/65/EC were infringed.

(5) The reporting of administrative penalties and measures disclosed to the public in accordance with Article 99e(2) of Directive 2009/65/EC should clearly identify penalties and measures by offering sufficient details. It is therefore appropriate to set out a form to be used by competent authorities for this purpose.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1212. 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 2016 No. 1212 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*

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

(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. ESMA 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 For each Member State, competent authorities shall designate a single contact point for sending the information referred to in Articles 2 and 3 and for communications on any issue relating to the submission of such information.

2 Competent authorities shall notify the European Securities and Markets Authority (ESMA) of the contact point referred to in paragraph 1.

3 ESMA shall designate a contact point for receiving the information referred to in Article 2 and for communications on any issue relating to the reception of the information referred to in Articles 2 and 3.

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

Article 2

Annual submission of aggregated information

Competent authorities shall provide ESMA with the information referred to in Article 99e(1) of Directive 2009/65/EC by filling in the form set out in Annex I to this Regulation.

That information shall refer to all the penalties and measures imposed during the previous calendar year.

The form shall be completed electronically and sent to ESMA by e-mail using the contact point referred to in Article 1(3) no later than 31 March of each year.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1212. 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 2016 No. 1212 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*

Article 3

Reporting procedures and forms

1 Competent authorities shall report to ESMA the administrative penalties and measures referred to in Article 99e(2) of Directive 2009/65/EC using the existing 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 administrative penalties and measures in accordance with Article 99e of Directive 2009/65/EC.

2 The administrative penalties and measures shall be submitted to ESMA in a report file in the format set out in Annex II.

Article 4

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 3, it shall cancel the existing report 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 3, it shall resubmit the report file with the updated information.

Article 5

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, 25 July 2016.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1212. 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 2016 No. 1212 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 annual submission of aggregated information regarding all penalties and measures imposed

Aggregated information regarding all penalties and measures imposed by

[name of the competent authority] in [*year*]

FROM:
Member State:
Competent authority:
Address:

(Contact details of the designated contact person)
Name:
Telephone:
E-mail:

TO:
ESMA

(Contact details of the designated contact person)
Name:
Telephone:
E-mail:

Dear [*insert appropriate name*]

In accordance with Article 99e(1) of Directive 2009/65/EC, I wish to provide you with aggregated information regarding all penalties and measures imposed by [*name of the competent authority*].

Penalties:

Article of Directive 2009/65/EC transposed by the national provisions which were infringed	**Number of penalties imposed in the reporting period**	**Amount of penalties imposed in the reporting period**
[number of the article, paragraph, subparagraph]	[number of penalties]	[amount of penalties (*)]
Total penalties	**[total number of penalties (†)]**	**[total amount of penalties (*) (†)]**

(*) Please insert value in Euro or in national currency. If the relevant penalties refer not only to breaches relating to the relevant article of Directive 2009/65/EC, but also to other provisions, add the mention 'AGGREGATED FIGURE' to each value.
(†) As penalties imposed may cover more than one legislative provision, the sum of the different lines (number of penalties/amount) may not correspond to the total number/amount of penalties imposed.