

## Annex F

**COMMISSION DELEGATED REGULATION (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers**

~~(Text with EEA relevance)~~

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Article -2

**Application**

This Regulation applies to persons.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) or (3) applies;
- (2) Subject to (3), where a term is defined in the Data Reporting Services Regulations 2017, that definition shall apply for the purposes of this Regulation.
- (3) Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (4) 'Information system' means a device or group of inter-connected or related devices, one or more of which, pursuant to a programme, automatically processes computer data, as well as computer data stored, processed, retrieved or transmitted by that device or group of devices for the purpose of its or their operation, use, protection and maintenance.

'Computer data', for these purposes, means a representation of facts, information or concepts in a form suitable for processing in an information system, including a programme suitable for causing an information system to perform a function.

## CHAPTER I

## AUTHORISATION

(Article 61(2) of Directive 2014/65/EU)

## Article 1

**Information to the competent authorities authority**

1. An applicant seeking authorisation to provide data reporting services shall submit to the competent authority the information set out in Articles 2, 3 and 4 and the information regarding all the organisational requirements set out in Chapters II and III.
2. A data reporting services provider shall promptly inform the competent authority ~~of its home Member State~~ of any material change to the information provided at the time of the authorisation and thereafter.

## Article 2

**Information on the organisation**

1. An applicant seeking authorisation to provide data reporting services shall include in its application for authorisation a programme of operations referred to in ~~Article 61(2) of Directive 2014/65/EU~~ regulation 7 of the Data Reporting Services Regulations 2017. The programme of operations shall include the following information:
  - (a) information on the organisational structure of the applicant, including an organisational chart and a description of the human, technical and legal resources allocated to its business activities;
  - (b) information on the compliance policies and procedures of the data reporting services provider, including:
    - (i) the name of the person or persons responsible for the approval and maintenance of those policies;
    - (ii) the arrangements to monitor and enforce the compliance policies and procedures;
    - (iii) the measures to be undertaken in the event of a breach which may result in a failure to meet the conditions for initial authorisation;
    - (iv) a description of the procedure for reporting to the competent authority any breach which may result in a failure to meet the conditions for initial authorisation;
  - (c) a list of all outsourced functions and resources allocated to the control of the outsourced functions;
2. A data reporting services provider offering services other than data reporting services shall describe those services in the organisational chart.

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## Article 4

**Information on the members of the management body**

1. An applicant seeking authorisation to provide data reporting services shall include in its application for authorisation the following information in respect of each member of the management body:
  - (a) name, date and place of birth, personal national identification number or an equivalent thereof, address and contact details;
  - (b) the position for which the person is or will be appointed;
  - (c) a curriculum vitae evidencing sufficient experience and knowledge to adequately perform the responsibilities;
  - (d) criminal records, notably through an official certificate, or, where such a document is not available ~~in the relevant Member State~~, a self-declaration of good repute and the authorisation to the competent authority to inquire whether the member has been convicted of any criminal offence in connection with the provision of financial or data services or in relation to acts of fraud or embezzlement;
  - (e) a self-declaration of good repute and the authorisation to the competent authority to inquire whether the member:
    - (i) has been subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority or government body or is the subject of any such proceedings which are not concluded;
    - (ii) has been subject to an adverse judicial finding in civil proceedings before a court in connection with the provision of financial or data services, or for misconduct or fraud in the management of a business;
    - (iii) has been part of the management body of an undertaking which was subject to an adverse decision or penalty by a regulatory authority or whose registration or authorisation was withdrawn by a regulatory authority;
    - (iv) has been refused the right to carry on activities which require registration or authorisation by a regulatory authority;
    - (v) has been part of the management body of an undertaking which has gone into insolvency or liquidation while the person held such position or within a year after which the person ceased to hold such position;
    - (vi) has been otherwise fined, suspended, disqualified, or been subject to any other sanction in relation to fraud, embezzlement or in connection with the provision of financial or data services, by a professional body;

- (vii) has been disqualified from acting as a director, disqualified from acting in any managerial capacity, dismissed from employment or other appointment in an undertaking as a consequence of misconduct or malpractice;
- (f) An indication of the minimum time that is to be devoted to the performance of the person's functions within the data reporting services provider;
- (g) a declaration of any potential conflicts of interest that may exist or arise in performing the duties and how those conflicts are managed.

## Article 6

### **Organisational requirements regarding outsourcing**

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6. Where a data reporting services provider outsources any critical function, it shall provide the competent authority ~~of its home Member State~~ with:
  - (a) the identification of the third party service provider;
  - (b) the organisational measures and policies with respect to outsourcing and the risks posed by it as specified in paragraph 4;
  - (c) internal or external reports on the outsourced activities.

For the purpose of the first sub paragraph 6, a function shall be regarded as critical if a defect or failure in its performance would materially impair the continuing compliance of the data reporting services provider with the conditions and obligations of its authorisation or its other obligations under ~~Directive 2014/65/EU~~ the Data Reporting Services Regulations 2017.

## Article 7

### **Business continuity and back-up facilities**

1. A data reporting services provider shall use systems and facilities that are appropriate and robust enough to ensure continuity and regularity in the performance of the services provided referred to in ~~Directive 2014/65/EU~~ the Data Reporting Services Regulations 2017.

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5. A data reporting services provider shall publish on its website and promptly inform the competent authority ~~of its home Member State~~ and its clients of any service interruptions or connection disruptions as well as the time estimated to resume a regular service.

6. ~~In the case of ARMs, the notifications referred to in paragraph 5 shall also be made to any competent authority to whom the ARM submits transaction reports.~~

## Article 8

### Testing and capacity

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3. A data reporting services provider shall promptly notify the competent authority ~~of its home Member State~~ of any planned significant changes to the IT system prior to their implementation.
4. ~~In the case of ARMs, the notifications referred to in paragraph 3 shall also be made to any competent authority to whom the ARM submits transaction reports.~~

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## Article 9

### Security

1. A data reporting services provider shall set up and maintain procedures and arrangements for physical and electronic security designed to:
- protect its IT systems from misuse or unauthorised access;
  - minimise the risks of attacks against the information systems ~~as defined in Article 2(a) of Directive 2013/40/EU of the European Parliament and of the Council;~~
  - prevent unauthorised disclosure of confidential information;
  - ensure the security and integrity of the data.
2. Where an investment firm ('reporting firm') uses a third party ('submitting firm') to submit information to an ARM on its behalf, an ARM shall have procedures and arrangements in place to ensure that the submitting firm does not have access to any other information about or submitted by the reporting firm to the ARM which may have been sent by the reporting firm directly to the ARM or via another submitting firm.
3. A data reporting services provider shall set up and maintain measures and arrangements to promptly identify and manage the risks identified in paragraph 1.
4. In respect of breaches in the physical and electronic security measures referred to in paragraphs 1, 2 and 3, a data reporting services provider shall promptly notify:
- the competent authority ~~of its home Member State~~ and provide an incident report, indicating the nature of the incident, the measures adopted to cope with the incident and the initiatives taken to prevent similar incidents;

- (b) its clients that have been affected by the security breach.
5. ~~In the case of ARMs, the notification referred to in paragraph 4(a) shall also be made to any other competent authorities to whom the ARM submits transaction reports.~~

#### Article 10

### Management of incomplete or potentially erroneous information by APAs and CTPs

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#### Article 11

### Management of incomplete or potentially erroneous information by ARMs

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4. An ARM shall perform periodic reconciliations at the request of the competent authority ~~of its home Member State or the competent authority to whom the ARM submits transaction reports~~ between the information that the ARM receives from its client or generates on the client's behalf for transaction reporting purposes and data samples of the information provided by the competent authority.

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8. An ARM shall promptly notify the client of the details of the error or omission and provide an updated transaction report to the client. An ARM shall also promptly notify the competent authority ~~of its home Member State and the competent authority to whom the ARM reported the transaction report~~ about the error or omission.

#### Article 12

### Connectivity of ARMs

1. An ARM shall have in place policies, arrangements and technical capabilities to comply with the technical specification for the submission of transaction reports required by the competent authority ~~of its home Member State and by other competent authorities to whom the ARM sends transaction reports.~~

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## CHAPTER III

### PUBLICATION ARRANGEMENTS

(Article 64(1) and (2) and Article 65(1) of Directive 2014/65/EU)

#### Article 14

##### **Machine readability**

1. APAs and CTPs shall publish the information which has to be made public in accordance with ~~Articles 64(1) and 65(1) of Directive 2014/65/EU~~ regulations 14(1) and 15(1) of the Data Reporting Services Regulations 2017 in a machine readable way.
- ~~2. CTPs shall publish the information which has to be made in accordance with Article 65(2) of Directive 2014/65/EU in a machine readable way.~~
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#### Article 20

##### **Details to be published by the CTP**

A CTP shall make public:

- (a) for transactions executed in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments, the details of a transaction specified in Table 2 of Annex I to Delegated Regulation (EU) 2017/587 and use the appropriate flags listed in Table 3 of Annex I to Delegated Regulation (EU) 2017/587;
- ~~(b) for transactions executed in respect of bonds, structured finance products, emission allowances and derivatives the details of a transaction specified in Table 1 of Annex II to Delegated Regulation (EU) 2017/583 and use the appropriate flags listed in Table 2 of Annex II to Delegated Regulation (EU) 2017/583.~~

#### Article 21

##### **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 the date that appears first in the second subparagraph of Article 93(1) of Directive 2014/65/EU. ~~However, Articles 14(2) and 20(b) shall apply from the first day of the ninth month following the date of application of Directive 2014/65/EU.~~

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

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