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Market Abuse regulation: ESMA clarifies the provisions relating to trading venue operators' obligation to notify financial instruments

Taking into account the implementing technical standards that have been published as of today and the technical developments that are required for the setting up of a European list of financial instruments, ESMA has specified the conditions under which trading venue operators shall implement their financial instrument notification obligations under the Market Abuse Regulation (MAR). The AMF is relaying this information.

Pursuant to Article 4(1) of the Market Abuse Regulation^[1] Regulation (EU) n° 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation), which shall apply as from 3 July 2016, trading venue operators (regulated markets (RM), multilateral trading facilities (MTF), organized trading facilities (OTF)) are required to notify their competent authority of any financial instrument for which a request for admission to trading on their trading venue is made, which is admitted to trading, or which is traded for the first time. In a news release that the AMF is relaying, ESMA clarifies the conditions under which this article shall be applied.

Full implementation is postponed...

As of today, only the implementing regulation^[2] Commission Implementing Regulation (EU) 2016/378 of 11 March 2016 laying down implementing technical standards with regard to

the timing, format and template of the submission of notifications to competent authorities according to the MAR Regulation ^[2] which specifies the standards and formats of the notifications to be submitted to competent authorities was published. In this context, ESMA anticipates that trading venue operators will not be in a position to comply with Article 4(1) of MAR as from 3 July 2016 given that all the regulatory provisions that are necessary to put in place the notification measures and systems required by MAR have not been published. Moreover, the technical developments required for the setting up of the European list of financial instruments as provided by Article 4 of MAR will not be operational on the date initially foreseen.

... But a temporary obligation to notify the regulator under the MiFID 1 format

Operators of RM and some operators of MTF are already required to comply with Article 11 of Regulation n°1287/2006^[3] implementing the markets in financial instruments directive (MiFID 1) and thus to notify the reference data of the financial instruments that can be traded on their platform. In the current context and with a view to ensuring an harmonised implementation of Article 4(1) of MAR, ESMA recommends that this provision still be applied.

ESMA intends to inform trading venue operators about the expected time schedule and the modalities for the launch of the European list of financial instruments before the end of the year.

En savoir plus

- News release of ESMA « Reference data submission under Article 4(1) of
- Regulation No 596/2014 on market abuse (MAR) » dated 25 May 2016

[1] Regulation (EU) n° 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation).

[2] Commission Implementing Regulation (EU) 2016/378 of 11 March 2016 laying down implementing technical standards with regard to the timing, format and template of the submission of notifications to competent authorities according to the MAR Regulation.

[3] Commission Regulation (EC) n° 1287/2006 of 10 August 2006 implementing Directive 2006/39/EC.

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