

## **Chapter 6**

# **Commission Delegated Regulation (EU) 2016/960**

## Article 3 Standard set of information for the communications to persons receiving the market sounding

(1) Disclosing market participants shall have in place procedures to exchange a standard set of information with the persons receiving the market sounding during market soundings, in a pre-determined sequence.

(2) The standard set of information referred to in paragraph 1 shall be determined by the disclosing market participant for each market sounding, prior to conducting that market sounding. The disclosing market participant shall use that standard set of information with all the persons receiving that market sounding.

(3) Where disclosing market participants consider that the market sounding will involve the disclosure of inside information, the standard set of information referred to in paragraph 1 shall include and be limited to the following, in the stated order:

(a) a statement clarifying that the communication takes place for the purposes of a market sounding;

(b) where the market sounding is conducted by recorded telephone lines, or audio or video recording is being used, a statement indicating that the conversation is recorded and the consent of the person receiving the market sounding to be recorded;

(c) a request for and a confirmation from the contacted person that the disclosing market participant is communicating with the person entrusted by the potential investor to receive the market sounding and the reply to that request;

(d) a statement clarifying that, if the contacted person agrees to receive the market sounding, that person will receive information that the disclosing market participant considers to be inside information and a reference to the obligation laid down in Article 11(7) of Regulation (EU) No 596/2014;

(e) where possible, an estimation of when the information will cease to be inside information, the factors that may alter that estimation and, in any case, information about the manner in which the person receiving the market sounding will be informed of any change in such an estimation;

(f) a statement informing the person receiving the market sounding about the obligations laid down in Article 11(5) subparagraph 1 points (b), (c) and (d) of Regulation (EU) No 596/2014;

(g) a request for the consent of the person receiving the market sounding to receive inside information, as referred to in Article 11(5) subparagraph 1 point (a) of Regulation (EU) No 596/2014 and the reply to that request;

(h) where the consent required under point (g) is given, the information being disclosed for the purposes of the market sounding, identifying the information considered by the disclosing market participant to be inside information.

(4) Where the disclosing market participant considers that the market sounding will not involve the disclosure of inside information, the standard set of information referred to in paragraph 1 shall include and be limited to the following, in the stated order:

(a) a statement clarifying that the communication takes place for the purposes of a market sounding;

(b) where the market sounding is conducted by recorded telephone lines or audio or video recording is being used, a statement indicating that the conversation is recorded and the consent of the person receiving the market sounding to be recorded;

(c) a request for and a confirmation from the contacted person that the disclosing market participant is communicating with the person entrusted by the potential investor to receive the market sounding and the reply to that request;

(d) a statement clarifying that, if the contacted person agrees to receive the market sounding, that person will receive information that the disclosing market participant considers not to be inside information and a reference to the obligation laid down in Article 11(7) of Regulation (EU) No 596/2014;

(e) a request for the consent of the person receiving the market sounding to proceed with the market sounding and the reply to that request;

(f) where the consent required under point (e) is given, the information being disclosed for the purposes of the market sounding.

(5) The disclosing market participant shall ensure that the same level of information is communicated to each person receiving the market sounding in relation to the same market sounding.