

Chapter 6

Commission Delegated Regulation (EU) 2016/960

Article 6 Record keeping requirements

(1) Disclosing market participants shall ensure that records of the following are kept on a durable medium that ensures their accessibility and readability over the period of retention laid down in Article 11(8) of Regulation (EU) No 596/2014:

- (a) the procedures referred to in Articles 1 and 2;
- (b) the standard set of information determined for each market sounding in accordance with Article 3;
- (c) the data regarding persons receiving the market sounding referred to in Article 4;
- (d) all communications of information which have taken place between the disclosing market participant and all persons that received the market sounding for the purposes of the market sounding, including any documents provided by the disclosing market participant to the persons receiving the market sounding;
- (e) the information leading to the assessment that the information communicated during the market sounding has ceased to be inside information and the relevant notifications referred to in Article 5.

(2) For the purposes of Article 6(1)(d), the disclosing market participant shall keep:

- (a) where the communication of information has taken place by telephone on recorded lines, recordings of telephone conversations provided that the persons to whom the information is communicated have given their consent to such a recording;
- (b) where the communication of information has taken place in writing, a copy of the correspondence;
- (c) where the communication of information has taken place during video or audio recorded meetings, the recordings of those meetings provided that the persons to whom the information is communicated have given their consent to such a recording;

(d) where the communication of information has taken place during unrecorded meetings or telephone conversations, the written minutes or notes of those meetings or telephone conversations.

(3) The written minutes or notes referred to in paragraph 2(d), shall be drawn up by the disclosing market participant and duly signed by both the disclosing market participant and the person receiving the market sounding and shall include:

(a) the date and time of the meeting or telephone conversation and the identity of the participants;

(b) the details of the information related to the market sounding which were exchanged between the disclosing market participant and the person receiving the market sounding in the course of the market sounding, including information provided to the person receiving the market sounding and requested from the person receiving the market sounding in accordance with the standard set of information referred to in Article 3;

(c) any document and material provided by the disclosing market participant to the person receiving the market sounding in the course of the market sounding.

Where the disclosing market participant and the person receiving the market sounding have not agreed within 5 working days after the market sounding on the content of the written minutes or notes, the disclosing market participant shall record both a version of the written minutes or notes signed by the disclosing market participant and a version thereof signed by the person having received the market sounding.

Where the person having received the market sounding has not provided the disclosing market participant with a signed version of the written minutes or notes within 5 working days after the market sounding, the disclosing market participant shall keep a copy of the written version of the minutes or notes signed by the disclosing market participant.

(4) The records referred to in paragraphs 1, 2 and 3 shall be made available to the Financial Conduct Authority upon request.