

Chapter 11

Commission Implementing Regulation (EU) 2016/959

Preamble

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, and in particular the third subparagraph of Article 11(10) thereof,

01/01/2021

Whereas:

(1) Disclosing market participants are to keep records of the communications of information taking place for the purposes of the market soundings between themselves and all persons receiving the market soundings. Such records should assist disclosing market participants in providing evidence of proper conduct to the competent authorities, in particular where the nature of the information changes after the market sounding or where the competent authority needs to review the process of categorisation of the information. To that end, all such records should be kept in an electronic format.

(2) To ensure that the information communicated is consistently recorded also where market soundings take place during unrecorded meetings or telephone conversations, a uniform template should be drawn up for the written minutes or notes to be taken by the disclosing market participant of those meetings and conversations.

(3) To ensure that the information communicated is consistently recorded, disclosing market participants should keep records of the written communications to inform the persons who received the market soundings when the information disclosed in the course of the market sounding has ceased to be inside information.

(4) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority to the Commission.

(5) The European Securities and Markets Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Secur-

ities Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.

(6) In order to ensure the smooth functioning of the financial markets, it is necessary that this Regulation enters into force as a matter of urgency and that the provisions laid down in this Regulation apply from the same date as those laid down in Regulation (EU) No 596/2014,

HAS ADOPTED THIS REGULATION: