

Chapter 8

Commission Delegated Regulation (EU) 2017/568

Preamble

THE EUROPEAN COMMISSION,
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Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, and in particular the third subparagraph of Article 51(6) thereof,

01/01/2021

Whereas:

(1) Transferable securities should only be considered freely negotiable if before admission to trading no restrictions exist which prevent the transfer of those securities in a way that would disturb creating a fair, orderly and efficient market.

(2) For the admission to trading on a regulated market of a transferable security as defined in Directive 2014/65/EU, in the case of a security within the meaning of Directive 2003/71/EC of the European Parliament and of the Council, there needs to be sufficient information publicly available so as to enable to value that financial instrument for it to be traded in a fair, orderly and efficient manner. In addition, in the case of shares an adequate number should be available for distribution to the public, and for securitised derivatives suitable settlement and delivery arrangements should be in place.

(3) Transferable securities which fulfil the requirements for admission to an official list in accordance with Directive 2001/34/EC of the European Parliament and of the Council should be considered freely negotiable and capable of being traded in a fair, orderly and efficient manner.

(4) The admission to trading on a regulated market of units issued by undertakings for collective investment in transferable securities or alternative investment funds should not allow the avoidance of the relevant provisions of Directive 2009/65/EC of the European Parliament and of the Council or of Directive 2011/61/EU of the European Parliament and of the Council. Therefore, it is necessary for an operator of a regulated market to verify that the units it admits to trading stem from a collective investment scheme that complies with the relevant sectoral legislation. In the case of exchange-traded funds, it is necessary for the operator of a regulated market to ensure that adequate redemption arrangements for investors are in place at all times.

(5) The admission to trading on a regulated market of derivative instruments referred to in points 4 to 10 of Section C of Annex I to Directive 2014/65/EU should take into account whether there is sufficient information available for the valuation of the derivative as well as the underlying, and in the case of physically settled contracts, the existence of appropriate settlement and delivery procedures.

(6) Directive 2003/87/EC of the European Parliament and of the Council imposes certain conditions for emission allowances in order to ensure that they are freely negotiable and traded in a fair, orderly and efficient manner. Any emission allowance within the meaning of point 11 of Section C of Annex I to Directive 2014/65/EU recognised for compliance with the requirements of Directive 2003/87/EC should therefore be eligible for admission to trading on a regulated market and no further requirements should be imposed in this Regulation

(7) Arrangements by regulated markets in relation to verifying the compliance of issuers with obligations under Union law and in relation to facilitating access to information which has been made public under Union law should cover the obligations laid down in Regulation (EU) No 596/2014 of the European Parliament and of the Council, Directive 2003/71/EC and Directive 2004/109/EC of the European Parliament and of the Council as those legislative acts contain the core and most important obligations for issuers after the initial admission to trading on a regulated market.

(8) Regulated markets should establish procedures for verifying the compliance of issuers of transferable securities with obligations under Union law which should be accessible for issuers and the public. The policy should ensure that compliance checks are efficient and issuers should be made aware of their obligations by the regulated market.

(9) Regulated markets should facilitate access to information published under the conditions established by Union law available to members and participants via arrangements that provide for easy, fair and non-discriminatory access for all members and participants. The relevant Union law for these purposes includes Directive 2003/71/EC, Directive 2004/109/EC, Regulation (EU) No 596/2014 as well as Regulation (EU) No 600/2014 of the European Parliament and of the Council. The access arrangements should ensure that members and participants have access on equal terms to the relevant information that may have an influence on the valuation of a financial instrument.

(10) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the related national provisions transposing Directive 2014/65/EU apply from the same date.

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

(12) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION: