

Chapter 4

Commission Delegated Regulation (EU) No 919/2012

Preamble

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps, and in particular Article 23(8) thereof,

01/01/2021

Whereas:

(1) The method of calculation of the significant fall in value of financial instruments contained in Section C of Annex I to Directive 2004/39/EC of the European Parliament and Council of 21 April 2004 on markets in financial instruments should be adapted to the various ways in which that fall is reflected depending on the type of financial instrument concerned. That method can take the form of an actual fall in price of the financial instrument, of an increase in the yield of a debt instrument issued by a corporate issuer or an increase in the yield across the yield curve for debt instruments issued by sovereign issuers.

(2) This Regulation should be read in conjunction with Commission Delegated Regulation (EU) No 918/2012, which defines thresholds for the significant fall in value of illiquid shares, debt instruments issued by sovereign and corporate issuers, exchange-traded funds, money market instruments and derivatives whose sole underlying financial instrument is traded on a trading venue. This Regulation should therefore restrict itself to specifying the method of calculation of the significant fall in value of these instruments.

(3) In order to ensure consistency and legal certainty for market participants and competent authorities, the date of application of this Regulation should be the same as that of Regulation (EU) No 236/2012 and Delegated Regulation (EU) No 918/2012.

(4) Since Regulation (EU) No 236/2012 recognised that binding technical standards should be adopted before that Regulation can be usefully applied, and as it is essential to specify before 1 November 2012 the required non-essential elements to facilitate compliance by market participants with that Regulation and enforcement by competent authorities, it is necessary that this Regulation should enter into force on the day following its publication.

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

(6) 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 in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority),

HAS ADOPTED THIS REGULATION: