

## **DECISION OF THE BOARD OF SUPERVISORS**

### **on delegation to the Chair of the European Securities and Markets Authority the adoption of changes to technical instructions on IT and data matters**

**The Board of Supervisors of the European Securities and Markets Authority ('ESMA'),**

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

**Having regard** to 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC<sup>1</sup> ("ESMA" and "Regulation"), and in particular Article 41(1), Article 43(2) and Article 44(1) thereof,

**Having regard** to Article 9 of Regulation (EU) 648/2012 (EMIR), Articles 5, 22, 25, 26, 27 of Regulation (EU) 600/2014 (MiFIR), Article 17(2) and 58 of Directive 2014/65/EU (MiFID), Article 4 of Regulation (EU) No 596/2014 (MAR), Article 4 of Regulation (EU) 2015/2365 (SFTR), Article 24 of Directive 2011/61/EU (AIFMD), Article 21 of Regulation (EU) 2017/1129 (Prospectus Regulation – PR), reporting requirements under Article 37 of Regulation (EU) 2017/1131 (MMFR), Article 4 of Directive 2004/109/EC (Transparency Directive), Articles 7, 17 and 27 of Regulation (EU) 2017/2402 (Securitisation Regulation), Articles 7, 9 of Regulation (EU) No 909/2014 (CSDR), Articles 30, 36 of Regulation (EU) 2016/1011 (Benchmarks Regulation) as well as relevant delegated acts related to these regulations specifying data reporting requirements,

#### **Whereas:**

- (1) The ESMA Board of Supervisors, through the adoption of their Terms of Reference<sup>2</sup>, has requested the respective ESMA groups, in particular the Data Standing Committee (DSC), the Secondary Markets Standing Committee (SMSC), the Investment Management Standing Committee (IMSC), the Corporate Reporting Standing

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<sup>1</sup> OJ L 331, 15.12.2010, p. 84.

<sup>2</sup> The Terms of Reference of the respective ESMA groups are as follows: DSC – ESMA70-145-938, ITMG – ESMA65-11-243, SMSC – ESMA70-154-555, IMSC – ESMA34-47-210, CRSC – ESMA32-65-42, CFSC – ESMA31-69-78, MISC – ESMA70-144-58, CDTF – ESMA70-154-576.

Committee (CRSC), the Corporate Finance Standing Committee (CFSC), the Market Integrity Standing Committee (MISC), the Commodity Derivatives Task Force (CDTF), the IT Management and Governance Technical Committee (ITMG), to contribute to the consistent implementation of common methods and arrangements for regulatory and market data reporting and to develop further guidance to facilitate the correct application of electronic reporting requirements.

- (2) The implementation of requirements defined in the above-mentioned Legislative Acts, Regulatory Technical Standards and Implementing Technical Standards is facilitated by additional technical specifications related to data and to the reporting process, providing technical explanation on how reporting entities are recommended to organise their reporting systems and / or prepare their submissions in order to consistently fulfil the requirements set out by the regulations. These additional technical instructions on IT and data matters include the definition of validation rules applied by the systems, reporting interfaces and technical reporting templates (schemas).
- (3) Given these technical instructions do not set out new or modify existing requirements specified in the above mentioned Regulations and relevant Regulatory and Implementing Technical Standards, are of a technical and detailed nature and may require more frequent updates than the regulatory and implementing technical standards, the adoption of changes to these documents by the ESMA Board of Supervisors may create a significant administrative burden, given the overall high number of documents to be updated regularly. Therefore, it is desirable that the power to adopt non-controversial changes or updates to technical instructions on IT and data matters is delegated to the Chair of ESMA.
- (4) The delegation should be exercised in accordance with the conditions set out in this Decision.

#### **Has adopted this Decision:**

#### **Article 1 – Delegation of powers**

- (1) The Board of Supervisors of ESMA (**'Board of Supervisors'**) delegates to the Chair of ESMA (**'Chair'**) the task to adopt non-controversial changes to technical instructions on IT and data matters issued in the context of Article 9 of Regulation (EU) 648/2012, Articles 5, 22, 25, 26, 27 of Regulation (EU) 600/2014, Article 17(2) and 58 of Directive 2014/65/EU, Article 4 of Regulation (EU) 2015/2365, Article 4 of Regulation 596/2014, Article 24 of Directive 2011/61/EU, Article 37 of Regulation 2017/1131, Article 21 of Regulation (EU) 2017/1129, Article 4 of Directive 2004/109/EC, Articles 7, 17 and 27 of Regulation 2017/2402, Article 7 and 9 of Regulation (EU) No 909/2014, as well as Articles 30 and 36 of Regulation (EU) 2016/1011 and the relevant delegated acts related to these provisions.
- (2) The Board of Supervisors retains the powers to adopt new technical instructions on IT and data matters, when they are published for the first time following the entry into force of the applicable regulations, as well as controversial changes to technical instructions on IT and data matters.

- (3) For the purpose of this Decision, non-controversial changes to technical instructions on IT and data matters shall mean changes to technical instructions on IT and data matters in respect of which neither members of the respective ESMA group, in charge of the data reporting matters under the respective regulation<sup>3</sup>, nor ESMA staff raise objections.

## **Article 2 – Conditions for the delegation**

- (1) The powers delegated under Article 1 are conferred on the Chair of ESMA for an indeterminate period.
- (2) The Chair shall update, at least annually, the Board of Supervisors about the adoption of changes to the technical instructions on IT and data matters.
- (3) The Board of Supervisors at any time may request information in respect of any changes to the technical instructions issued under this Decision.
- (4) The Board of Supervisors can amend or revoke at any time the delegation of powers established under this Decision. The Decision of revocation shall put an end to the delegation of powers specified in this Decision.

## **Article 3 – Exercise of the delegation**

The Chair shall exercise the powers delegated under this Decision in accordance with the following conditions:

- a. He/she may only issue changes to a technical instruction if it is non-controversial and it has been consulted with the respective ESMA group;
- b. The change to the technical instruction is consistent with the applicable legal framework, does not introduce new requirements or does not change the existing requirements as set out in the underlying Regulation and the relevant Regulatory or Implementing Technical Standards;
- c. The change to the technical instruction is necessary to provide technical explanation or guidance to enable reporting entities to implement data reporting systems so that they consistently fulfil the requirements defined by the applicable regulations.

## **Article 4 – Entry into force**

- (1) This Decision enters into force on the day following the date of its signature.
- (2) It shall be published on ESMA's website.

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<sup>3</sup> The responsibilities of the respective ESMA groups in relation to the regulatory requirements within the scope of this delegation are defined in their Terms of Reference: DSC – ESMA70-145-938, ITMG – ESMA65-11-243, SMSC – ESMA70-154-555, IMSC – ESMA34-47-210, CRSC – ESMA32-65-42, CFSC – ESMA31-69-78, MISC – ESMA70-144-58, CDTF – ESMA70-154-576.



Done at Paris on 2 October 2019

[SIGNED]

Steven Maijor  
Chair  
For the Board of Supervisors