

Thursday 9 June 2016

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## **Non-objection to a delegated act: regulatory technical standards for the appropriate arrangements, systems and procedures for disclosing market participants conducting market soundings**

**European Parliament decision to raise no objections to the Commission delegated regulation of 17 May 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures for disclosing market participants conducting market soundings (C(2016)02859 — 2016/2735(DEA))**

(2018/C 086/41)

*The European Parliament,*

- having regard to the Commission delegated regulation (C(2016)02859),
  - having regard to the Commission's letter of 18 May 2016 asking Parliament to declare that it will raise no objections to the delegated regulation,
  - having regard to the letter from the Committee on Economic and Monetary Affairs to the Chair of the Conference of Committee Chairs of 31 May 2016,
  - having regard to Article 290 of 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 <sup>(1)</sup> ('the Market Abuse Regulation'), and in particular the third subparagraph of Article 11(9) thereof,
  - having regard to the recommendation for a decision by the Committee on Economic and Monetary Affairs,
  - having regard to Rule 105(6) of its Rules of Procedure,
  - having regard to the fact that no objections have been raised within the period laid down in the third and fourth indents of Rule 105(6) of its Rules of Procedure, which expired on 8 June 2016,
- A. whereas Article 39(2) of the Market Abuse Regulation provides that a number of its provisions, including Article 11(1) to (8), are to apply from 3 July 2016 and, in line with that, Article 7(1) of the delegated regulation also provides that it is to apply from the same date;
- B. whereas Article 11(9) of the Market Abuse Regulation empowers ESMA to develop draft regulatory technical standards (RTS) to determine appropriate arrangements, procedures and record-keeping requirements for persons to comply with the requirements laid down in paragraphs 4, 5, 6 and 8 of that Article; whereas Article 11(9) of the Market Abuse Regulation empowers the Commission to adopt those RTS in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(2)</sup> ('the ESMA Regulation');
- C. whereas the Commission adopted the delegated regulation on 17 May 2016 in order to satisfy the latter empowerment; whereas the delegated regulation contains important details on the procedures to be followed by market participants when carrying out market soundings;

<sup>(1)</sup> OJ L 173, 12.6.2014, p. 1.

<sup>(2)</sup> 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 (OJ L 331, 15.12.2010, p. 84).

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- D. whereas the delegated regulation may only enter into force at the end of the scrutiny period of the Parliament and the Council if no objection has been expressed either by the Parliament or the Council, or if, before the expiry of that period, both the Parliament and the Council have informed the Commission that they will not object;
- E. whereas the scrutiny period provided for under Article 13(1) of the ESMA Regulation is three months from the date of notification of the RTS, unless the RTS adopted by the Commission are the same as the draft RTS adopted by ESMA, in which case the scrutiny period would be one month;
- F. whereas some changes have been introduced into the draft RTS adopted by ESMA, such as the addition of two new recitals as well as a number of changes to Article 3 and Article 6(3) and to the provision on entry into force and application; whereas, in light of these changes, the delegated regulation cannot be considered to be the same as the draft RTS adopted by ESMA, within the meaning of the second subparagraph of Article 13(1) of the ESMA Regulation; whereas, therefore, the three-month period for objection applies, as provided for under the first subparagraph of Article 13(1) of the ESMA Regulation, meaning that such period would expire on 17 August 2016;
- G. whereas the smooth and timely implementation of the market abuse framework by 3 July 2016 requires that the market participants and competent authorities make the necessary arrangements and put the appropriate systems in place as soon as possible, and in any event by 3 July 2016, and this should be done in accordance with the delegated regulation;
- H. whereas the delegated regulation should therefore enter into force by 3 July 2016 at the latest, before the expiry of the scrutiny period on 17 August 2016;
- I. whereas the provisions of the delegated regulation in substance are consistent with the objectives of Parliament as expressed in the Market Abuse Regulation and during the subsequent informal dialogue as part of the preparatory work for the adoption of the delegated regulation, and in particular with the Parliament's intention to provide competent authorities with a full set of records of all information revealed in the course of a market sounding;
1. Declares that it has no objections to the delegated regulation;
  2. Instructs its President to forward this decision to the Council and the Commission.
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