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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The State Aid (EU Exit) Regulations 2019**

**PART 3**

**Procedure**

**CHAPTER 5**

**Market information**

**Request for market information**

**30.**—(1) This regulation applies if the CMA opens an investigation under regulation 8(1)(c), 15(5)(c) or 19(6).

(2) The CMA may request a person (other than the aid grantor) to send market information to the CMA within a set period if—

- (a) any information provided by the aid grantor is not sufficient to enable the CMA to take a decision under regulation 11, 17 or 21 (as appropriate); and
- (b) the CMA reasonably requires the market information for the purpose of taking a decision under regulation 11, 17 or 21 (as appropriate).

(3) A request under paragraph (2) must be sent to the person concerned and specify—

- (a) the market information that is requested;
- (b) the legal basis for requesting the information; and
- (c) the possible consequences of providing incorrect or misleading information in response to the request.

(4) If the person is, or will be, a beneficiary of the aid, the CMA must give the aid grantor reasonable notice before making a request under paragraph (2).

(5) If the CMA makes a request under paragraph (2), the CMA must—

- (a) send a copy of the request to the aid grantor at the same time as sending it to the person; and
- (b) notify the aid grantor why the information has been requested.

**Market information order**

**31.**—(1) If a person does not comply with a request for market information under regulation 30, the CMA may make a market information order requiring the person to send the market information within a set period.

(2) A market information order must be sent to the person concerned and specify—

- (a) the market information that must be provided;
- (b) the form and manner in which the information must be provided;
- (c) the date by which the information must be provided;

- (d) the legal basis for requiring the information; and
- (e) the possible consequences of not complying with the order.
- (3) However, a person is not required to provide information that—
  - (a) the person could not be compelled to provide in evidence in civil proceedings before the court; or
  - (b) is not at the disposal of the person.
- (4) If the CMA makes a market information order, the CMA must—
  - (a) send a copy of the order to the aid grantor at the same time as sending it to the person; and
  - (b) notify the aid grantor why the order has been made.

### **Enforcement of market information requests and orders**

**32.**—(1) The CMA may impose a penalty on a person in accordance with Schedule 5 if the CMA considers that the person has, without reasonable excuse—

- (a) provided incorrect or misleading information in response to a request for market information made under regulation 30(2);
- (b) provided incorrect, incomplete or misleading information in response to a market information order made under regulation 31; or
- (c) otherwise failed to comply with a requirement of a market information order made under regulation 31.

(2) The CMA must have regard to the statement of policy on penalties published under Schedule 5 in deciding whether and, if so, how to proceed under paragraph (1).

(3) If a person fails to comply with a request for market information or a market information order, the CMA may take a decision under regulation 11, 17 or 21 (as appropriate) on the basis of the information available to the CMA.

(4) The CMA must not impose a penalty under paragraph (1) if more than 4 weeks have passed since the date on which the CMA published its decision for the investigation concerned.

(5) However, paragraph (4) does not apply in relation to any variation or substitution of the penalty which is permitted by Schedule 5.

(6) Schedule 5, which relates to administrative penalties, has effect.