

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 (recast) (Text with EEA relevance)

TITLE VI

**COMPETENT AUTHORITIES**

*CHAPTER I*

***Designation, powers and redress procedures***

*Article 70*

**Sanctions for infringements**

1 Without prejudice to the supervisory powers including investigatory powers and powers to impose remedies of competent authorities in accordance with Article 69 and the right for Member States to provide for and impose criminal sanctions, Member States shall lay down rules on and ensure that their competent authorities may impose administrative sanctions and measures applicable to all infringements of this Directive or of Regulation (EU) No 600/2014 and the national provisions adopted in the implementation of this Directive and of Regulation (EU) No 600/2014, and shall take all measures necessary to ensure that they are implemented. Such sanctions and measures shall be effective, proportionate and dissuasive and shall apply to infringements even where they are not specifically referred to in paragraphs 3, 4 and 5.

Member States may decide not to lay down rules for administrative sanctions for infringements which are subject to criminal sanctions under their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

By [F13 July 2017] Member States shall notify the laws, regulations and administrative provisions transposing this Article, including any relevant criminal law provisions, to the Commission and ESMA. Member States shall notify the Commission and ESMA without undue delay of any subsequent amendments thereto.

2 Member States shall ensure that where obligations apply to investment firms, market operators, data reporting services providers, credit institutions in relation to investment services or investment activities and ancillary services, and branches of third-country firms in the case of an infringement, sanctions and measures can be applied, subject to the conditions laid down in national law in areas not harmonised by this Directive, to the members of the investment firms' and market operators' management body, and any other natural or legal persons who, under national law, are responsible for an infringement.

3 Member States shall ensure that at least an infringement of the following provisions of this Directive or of Regulation (EU) No. 600/2014 shall be regarded as an infringement of this Directive or of Regulation (EU) No. 600/2014:

- a with regard to this Directive:
  - (i) point (b) of Article 8;

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- (ii) Article 9(1) to (6);
- (iii) Article 11(1) and (3);
- (iv) Article 16(1) to (11);
- (v) Article 17(1) to (6);
- (vi) Article 18(1) to (9) and the first sentence of Article 18(10);
- (vii) Articles 19 and 20;
- (viii) Article 21(1);
- (ix) Article 23(1), (2) and (3);
- (x) Article 24(1) to (5) and (7) to (10) and the first and second subparagraphs of Article 24(11);
- (xi) Article 25(1) to (6);
- (xii) the second sentence of Article 26(1) and Article 26(2) and (3);
- (xiii) Article 27(1) to (8);
- (xiv) Article 28(1) and (2);
- (xv) the first subparagraph of Article 29(2), the third subparagraph of Article 29(2), the first sentence of Article 29(3), the first subparagraph of Article 29(4), and Article 29(5);
- (xvi) the second subparagraph of Article 30(1), the first sentence of the second subparagraph of Article 30(3);
- (xvii) Article 31(1), the first subparagraph of Article 31(2) and Article 31(3);
- (xviii) Article 32(1), the first, second and fourth subparagraphs of Article 32(2);
- (xix) Article 33(3);
- (xx) Article 34(2), the first sentence of Article 34(4), the first sentence of Article 34(5), the first sentence of Article 34(7);
- (xxi) Article 35(2), the first subparagraph of Article 35(7), the first sentence of Article 35(10);
- (xxii) Article 36(1);
- (xxiii) the first subparagraph and the first sentence of the second subparagraph of Article 37(1), and the first subparagraph of Article 37(2);
- (xxiv) the fourth subparagraph of Article 44(1), the first sentence of Article 44(2), the first subparagraph of Article 44(3) and point (b) of Article 44(5);
- (xxv) Article 45(1) to (6) and (8);
- (xxvi) Article 46(1), points (a) and (b) of Article 46(2);
- (xxvii) Article 47;
- (xxviii) Article 48(1) to (11);

- (xxix) Article 49(1);
- (xxx) Article 50(1);
- (xxxi) Article 51(1) to (4) and the second sentence of Article 51(5);
- (xxxii) Article 52(1), the first, second and fifth subparagraphs of Article 52(2);
- (xxxiii) Article 53(1), (2) and (3) and the first sentence of the second subparagraph of Article 53(6), Article 53(7);
- (xxxiv) Article 54(1), the first subparagraph of Article 54(2) and Article 54(3);
- (xxxv) Article 57(1) and (2), Article 57(8) and the first subparagraph of Article 57(10);
- (xxxvi) Article 58(1) to (4);
- (xxxvii) Article 63(1), (3) and (4);
- (xxxviii) Article 64(1) to (5);
- (xxxix) Article 65(1) to (5);
- (xxxx) Article 66(1) to (4); and
- b with regard to Regulation (EU) No 600/2014:
  - (i) Articles 3(1) and (3);
  - (ii) the first subparagraph of Article 4(3);
  - (iii) Article 6;
  - (iv) the first sentence of third subparagraph of Article 7(1);
  - (v) Article 8(1), (3) and, (4);
  - (vi) Article 10;
  - (vii) the first sentence of third subparagraph of Article 11(1) and the third subparagraph of Article 11(3);
  - (viii) Article 12(1);
  - (ix) Article 13(1);
  - (x) Article 14(1), the first sentence of Article 14(2) and the second, third and fourth sentence of Article 14(3);
  - (xi) the first subparagraph and the first and third sentences of second subparagraph of Article 15(1), Article 15(2) and the second sentence of Article 15(4);
  - (xii) the second sentence of Article 17(1);
  - (xiii) Article 18(1) and (2), first sentence of Article 18(4), first sentence of Article 18(5), the first subparagraph of Article 18(6), Article 18(8) and (9);
  - (xiv) Article 20(1) and the first sentence of Article 20(2);
  - (xv) Article 21(1), (2) and (3);

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- (xvi) Article 22(2);
- (xvii) Article 23(1) and (2);
- (xviii) Article 25(1) and (2);
- (xix) the first subparagraph of Article 26(1), Article 26(2) to (5), the first subparagraph of Article 26(6), the first to fifth and eighth subparagraph of Article 26(7);
- (xx) Article 27(1);
- (xxi) Article 28(1) and the first subparagraph of Article 28(2);
- (xxii) Article 29(1) and (2);
- (xxiii) Article 30(1);
- (xxiv) Article 31(2) and (3);
- (xxv) Article 35(1), (2) and (3);
- (xxvi) Article 36(1), (2) and (3);
- (xxvii) Article 37(1) and (3);
- (xxviii) Articles 40, 41 and 42.

4 Providing investment services or performing investment activities without the required authorisation or approval in accordance with the following provisions of this Directive or of Regulation (EU) No 600/2014 shall also be considered to be an infringement of this Directive or of Regulation (EU) No 600/2014:

- a Article 5 or Article 6(2) or Articles 34, 35, 39, 44 or 59 of this Directive; or
- b the third sentence of Article 7(1) or Article 11(1) of Regulation (EU) No 600/2014.

5 Failure to cooperate or comply in an investigation or with an inspection or request covered by Article 69 shall also be regarded as an infringement of this Directive.

6 In the cases of infringements referred to in paragraphs 3, 4 and 5, Member States shall, in conformity with national law, provide that competent authorities have the power to take and impose at least the following administrative sanctions and measures:

- a a public statement, which indicates the natural or legal person and the nature of the infringement in accordance with Article 71;
- b an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- c in the case of an investment firm, a market operator authorised to operate an MTF or OTF, a regulated market, an APA, a CTP and an ARM, withdrawal or suspension of the authorisation of the institution in accordance with Articles 8, 43 and 65;
- d a temporary or, for repeated serious infringements a permanent ban against any member of the investment firm's management body or any other natural person, who is held responsible, to exercise management functions in investment firms;
- e a temporary ban on any investment firm being a member of or participant in regulated markets or MTFs or any client of OTFs;
- f in the case of a legal person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014, or of up to 10 % of the total annual turnover of the

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legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

- g in the case of a natural person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014;
- h maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in points (f) and (g).

7 Member States may empower competent authorities to impose types of sanction in addition to those referred to in paragraph 6 or to impose fines exceeding the amounts referred to in points (f), (g) and (h) of paragraph 6.

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#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2016/1034 of the European Parliament and of the Council of 23 June 2016 amending Directive 2014/65/EU on markets in financial instruments \(Text with EEA relevance\)](#).