



STATUTORY INSTRUMENTS.

S.I. No. 299 of 2012



EUROPEAN UNION (MARKETS IN FINANCIAL INSTRUMENTS)
(AMENDMENT) REGULATIONS 2012

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I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Article 6 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Markets in Financial Instruments) (Amendment) Regulations 2012.

2. The European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007) are amended—

(a) in Regulation 3(1), by inserting after the definition of “eligible counterparties” (inserted by Regulation 4 of the European Communities (Markets in Financial Instruments) (Amendment) Regulations 2007 (S.I. No. 663 of 2007)) the following:

“ ‘European Securities and Markets Authority’, or ‘ESMA’, means the body established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010²;”,

(b) by substituting for Regulation 9 the following:

“Bank to establish and maintain register of investment firms, etc.

9. The Bank shall—

(a) establish and maintain a register of all authorised investment firms for which the Bank is the competent authority,

(b) ensure that the register is publicly accessible and contains information on the investment services for which the investment firms are authorised under these Regulations, and

(c) notify ESMA of all authorised investment firms.”,

(c) in Regulation 21, by inserting after paragraph (2) the following:

“(3) Every authorisation withdrawn by the Bank under this Regulation shall be notified to ESMA.”,

¹ OJ No. L331, 15.12.2010, p.120

² OJ No. L331, 15.12.2010, p.84

- (d) in Regulation 42(1) and (2), by inserting “and ESMA” after “European Commission”,
- (e) in Regulation 53, by inserting after paragraph (2) the following:
- “(3) Every authorisation to operate a regulated market withdrawn by the Bank shall be notified to ESMA.”,
- (f) in Regulation 65(4)(b), by inserting “and ESMA” after “Member States”,
- (g) in Regulation 71(c), by substituting “ESMA” for “the EU Commission”,
- (h) in Regulation 99(2)(b), by inserting “and ESMA” after “European Commission”,
- (i) in Regulation 112(1)(c), by substituting for clause (ii) the following:
- “(ii) the information required under Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005³,”,
- (j) in Regulation 115(b), by inserting “and notify ESMA of” after “participants”,
- (k) in Regulation 132(2), by inserting “and with ESMA” after “Member States”,
- (l) in Regulation 133—
- (i) in paragraph (1), by inserting “and ESMA” after “other Member State”,
- (ii) in paragraph (3)(b), by inserting “and ESMA” after “competent authority”,
- (m) by inserting the following after Regulation 135:

“Binding mediation

135A. The Bank may refer to ESMA a situation where a request by the Bank to the competent authority of another Member State—

- (a) to carry out a supervisory activity, an on-the-spot verification, or an investigation, as provided for in Article 57,

³ OJ No. L309, 25.11.2005, p.15

(b) to exchange information as provided for in Article 58,

of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004⁴ has not been acted upon within a reasonable time.”,

(n) in Regulation 136(2), by inserting “and ESMA” after “competent authority”,

(o) in Regulation 139—

(i) in paragraph (4), by inserting “and ESMA” after “European Commission”,

(ii) by inserting after paragraph (4) the following:

“(5) In addition to its powers under this Regulation the Bank may refer the matter to ESMA.”,

(p) in Regulation 140—

(i) in paragraph (5), by inserting “and ESMA” after “European Commission”,

(ii) by inserting after paragraph (5) the following:

“(6) In addition to its powers under this Regulation the Bank may refer the matter to ESMA.”,

(q) in Regulation 141—

(i) in paragraph (4), by inserting “and ESMA” after “European Commission”,

(ii) by inserting after paragraph (4) the following:

“(5) In addition to its powers under this Regulation the Bank may refer the matter to ESMA.”,

(r) by inserting after Regulation 141 the following:

“Co-operation and exchange of information with ESMA

141A. (1) The Bank shall cooperate with ESMA for the purposes of these Regulations.

(2) The Bank shall, without delay, provide ESMA with all information necessary to carry out its duties.”,

(s) in Regulation 143(2) and (3), by inserting “and ESMA” after “The Bank”,

⁴ OJ No. L390, 31.12.2004, p.38

(t) by inserting after Regulation 191 the following:

“Reporting to ESMA by Bank of its decisions

191A. (1) The Bank shall provide ESMA annually with aggregated information about all administrative measures taken by it under these Regulations, or administrative sanctions imposed by it under Part IIIC of the Central Bank Act 1942.

(2) Where the Bank has published information in respect of administrative measures taken by it under these Regulations, or administrative sanctions imposed by it under Part IIIC of the Central Bank Act 1942, it shall, contemporaneously, report that fact to ESMA.”.



GIVEN under my Official Seal,
24 July 2012.

MICHAEL NOONAN ,
Minister for Finance.

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Le ceannach díreach ón
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