

Article 20

Measures on the application of the Regulation (EU) 2016/1011

1. The responsible competent authority for carrying out, under Regulation (EU) 2016/1011 (EEL 171/29.6.2016), the duties of benchmark administrators of the Regulation and of supervised entities is the Hellenic Capital Market Commission.

2. The Hellenic Capital Market Commission is responsible for the exchange of information with the European Commission, ESMA (European Securities and Markets Authority), other European authorities and other Member States' competent authorities.

Article 21

Powers of the Hellenic Capital Market Commission

in accordance with Article 41 of Regulation (EU) 2016/1011

1. In order to fulfil its duties under the Regulation (EU) 2016/1011, the Hellenic Capital Market Commission shall have the following supervisory and investigatory powers:

a) access to any document and other data in any form, and to receive or take a copy thereof,

b) require or demand information from any person involved in the provision of, and contribution to, a benchmark, including any service provider to which functions, services or activities in the provision of a benchmark have been outsourced as provided for in Article 10 of Regulation (EU) 2016/1011, as well as their principals, and if necessary, summon and question any such person with a view to obtaining information,

c) request, in relation to commodity benchmarks, information from contributors on related spot markets according, where applicable, to standardised formats and reports on transactions, and direct access to traders' systems,

d) carry out on-site inspections or investigations, at sites other than the private residences of natural persons,

e) enter premises of legal persons, without prejudice to Regulation (EU) 596/2014, in order to seize documents and other data in any form, where a reasonable suspicion exists that documents and other data related to the subject-matter of the inspection or investigation may be relevant to prove a breach of the Regulation (EU) 2016/1011. Where prior authorisation is needed from the judicial authority, such power shall only be used after having obtained that prior authorisation,

f) require to receive existing recordings of telephone conversations, electronic communications or other data traffic records held by supervised entities,

g) request the freezing or sequestration of assets or both,

h) require temporary cessation of any practice that the Hellenic Capital Market Commission considers contrary to Regulation (EU) 2016/1011,

i) impose a temporary prohibition on the exercise of professional activity,

j) take all necessary measures to ensure that the public is correctly informed about the provision of a benchmark, including by requiring the relevant administrator or a person that has published or disseminated the benchmark or both to publish a corrective statement about past contributions to or figures of the benchmark.

2. The Hellenic Capital Market Commission shall exercise its functions and powers referred to in the previous paragraph, and the powers to impose sanctions referred to in Article 22, in any of the following ways:

a) directly,

b) in collaboration with other authorities or with market undertakings,

c) under their responsibility by delegation to such authorities or to market undertakings,

d) by application to the competent judicial authorities.

4. An administrator or any other supervised entity making information available to a competent authority in accordance with paragraph 1 shall not be considered to be in breach of any restriction on disclosure of information posed by any contractual, legislative, regulatory or administrative provision.

Article 22

Administrative sanctions and other administrative measures in accordance with Article 42 of Regulation (EU) 2016/1011

1. The Hellenic Capital Market Commission has the power to impose appropriate administrative sanctions and other administrative measures in relation to at least the following infringements:

a) any infringement of Article 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 23, 24, 25, 26, 27, 28, 29 or 34 of Regulation (EU) 2016/1011, where they apply and

b) any failure to cooperate or comply in an investigation or with an inspection or request covered by Article 21. Those administrative sanctions and other administrative measures shall be effective, proportionate and dissuasive.

2. In the event of an infringement referred to in paragraph 1, the Hellenic Capital Market Commission imposes the following administrative sanctions and other administrative measures:

a) an order requiring the administrator or supervised entity responsible for the infringement to cease the conduct and to desist from repeating that conduct,

b) the disgorgement of the profits gained or losses avoided because of the infringement where those can be determined, which amounts are payable to the Greek State and established in accordance with the Public Revenue Collection Code, as applicable,

c) a public warning which indicates the administrator or supervised entity responsible and the nature of the infringement,

d) withdrawal or suspension of the authorisation or the registration of an administrator,

e) a temporary ban prohibiting any administrator or supervised contributor or natural person, who is held responsible for such infringement, from exercising management functions,

f) the imposition of maximum administrative pecuniary sanctions of at least three times the amount of the profits gained or losses avoided because of the infringement where those can be determined,

g) in respect of a natural person, maximum administrative pecuniary sanctions of at least:

(i) for infringements of Articles 4, 5, 6, 7, 8, 9 and 10, of Article 11(1) points (a),(b), (c) and (e), of Article 11(2) and (3), and Articles 12, 13, 14, 15, 16, 21,23, 24, 25, 26, 27, 28, 29 and 34 of Regulation (EU) 2016/1011, five hundred thousand (500,000) Euros or

(ii) for infringements of point (d) of Article 11(1) or of Article 11(4) of Regulation (EU) 2016/1011, the amount of one hundred thousand (100,000) Euros,

h) in respect of a legal person, maximum administrative pecuniary sanctions of at least:

(i) for infringements of Articles 4, 5, 6, 7, 8, 9 and 10, of Article 11(1) points (a), (b), (c) and (e), of Article 11(2) and (3), and Articles 12, 13, 14, 15, 16, 21, 23, 24, 25, 26, 27, 28, 29 and 34 of Regulation (EU) 2016/1011, either one million (1,000,000) Euros or 10 % of its total annual turnover according to the last available accounts approved by the management body, whichever is the higher,

(ii) for infringements of Article 11(1) point (d) or of Article 11(4) of Regulation (EU) 2016/1011, either the amount of two hundred and fifty thousand (250,000) Euros or 2 % of its total annual turnover according to the last available accounts approved by the management body, whichever is the higher.

For the purposes of point (h) sub-points (i) and (ii), where the legal person is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts in accordance with the codified Greek law 2190/1920, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income of credit institution or of insurance company according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking or if the person is an association, 10 % of the aggregate turnovers of its members.

Article 23

Exercise of supervisory powers and imposition of sanctions in accordance with Article 43 of Regulation (EU) 2016/1011

1. When determining the type and level of administrative sanctions and other administrative measures, the Hellenic Capital Market Commission shall take into account all relevant circumstances, including where appropriate:

- a) the gravity and duration of the infringement,
- b) the criticality of the benchmark to financial stability and the real economy,
- c) the degree of responsibility of the responsible person,
- d) the financial strength of the responsible person, as indicated, in particular, by the total annual turnover of the responsible legal person or the annual income of the responsible natural person,
- e) the level of the profits gained or losses avoided by the responsible person, insofar as they can be determined,
- f) the level of cooperation of the responsible person with the Hellenic Capital Market Commission and other competent authorities, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person,
- g) previous infringements by the person concerned,
- h) measures taken, after the infringement, by a responsible person to prevent the repetition of the infringement.

Article 24

Publication of decisions

in accordance with Article 45 of Regulation (EU) 2016/1011

1. Subject to paragraph 2, the Hellenic Capital Market Commission shall publish any decision imposing an administrative sanction or other administrative measure in relation to infringements of Regulation (EU) 2016/1011 on its official website immediately after the person subject to that decision has been informed of that decision. Such publication shall include at least information on the type and nature of the infringement and the identity of the persons subject to the decision.

The abovementioned does not apply to decisions imposing measures that are of an investigatory nature.

2. Where the Hellenic Capital Market Commission considers that the publication of the identity of the legal person or of the personal data of a natural person, would be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of

such data, or where such publication would jeopardise the stability of financial markets or an on-going investigation, the Hellenic Capital Market Commission shall do any of the following:

- a) defer publication of the decision until such time as the reasons for that deferral cease to exist,
- b) publish the decision on an anonymous basis, if such anonymous publication ensures an effective protection of the personal data concerned,
- c) not publish the decision at all if HCMC is of the opinion that publication in accordance with point (a) or (b) will be insufficient to ensure:
 - i) that the stability of financial markets is not jeopardised or
 - ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

Where the Hellenic Capital Market Commission decides to publish a decision on an anonymous basis as referred to in point (b), it may postpone the publication of the relevant data for a reasonable period of time where it is foreseeable that the reasons for anonymous publication shall cease to exist during that period.

3. Where the decision is subject to an appeal before a judicial, administrative or other authority, the Hellenic Capital Market Commission shall also publish, immediately, on its official website such information and any subsequent information on the outcome of such appeal. In addition, any decision annulling a previous decision to impose a sanction or a measure shall also be published.

4. The Hellenic Capital Market Commission shall ensure that any decision that is published in accordance with this Article shall remain accessible on its official website for a period of at least five (5) years after its publication. Personal data contained in the publication shall only be kept on the official website of the Hellenic Capital Market Commission for the period which is necessary in accordance with the applicable data protection rules.