



## **PROCEDURE FOR MANAGING THE REGISTER OF PARTIES WITH ACCESS TO INSIDER INFORMATION**

(Approved by a resolution of the Board of Directors on December 12, 2016)

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## 1. Foreword

Pursuant to Article 8 of Regulation (EU) No. 596/2014 on market abuse, Parmalat S.p.A. (“Parmalat” or the “Company”) is required to establish, maintain and update a register of the parties who have access to Insider Information.

The establishment and management of this Register represent an important safeguard for protecting the integrity of the market and a tool designed to help the relevant Authority in the investigation of insider trading activity.

## 2 Definitions

**Register Manager** shall be understood to mean the Corporate Affairs Department, which is responsible for maintaining and updating the Register and was designated for this task by Parmalat’s Chief Executive Officer.

**Insider Information** shall be understood to mean Insider Information as defined in the Company’s Procedure for Managing and Disclosing Insider Information.

**Register Procedure** shall be understood to mean this procedure.

**Register** shall be understood to mean the register maintained by the Company pursuant to Article 3 below and the Market Abuse Regulation (MAR).

## 3. Register

- 3.1 The Company established and maintains up to date, on electronic medium, the Register, making sure that it can guarantee at any time the accuracy and confidentiality of the information contained in the Register and access to and retrieval of previous versions of the Register.
- 3.2 Listing in the Register is required for anyone with access to Insider Information with whom there is a professional collaboration relationship, be that an employment contract or otherwise, and who, in the performance of specific tasks, has access to Insider Information, such as, for example, consultants, accountants or credit rating agencies (list of parties with access to Insider Information).
- 3.3 The Register is divided into separate sections (the “Sections”), one for each instance of Insider Information, drawn up in accordance with the form annexed to this Procedure as Annex 1A. A new Section of the Register is added whenever a new instance of Insider Information is identified. Each Section of the Register contains the data regarding the parties with access to the type of Insider Information covered by this specific Section.

3.4 In addition, the Register contains a supplementary section, drawn up in accordance with the form annexed to this Procedure as Annex 1B, which can be used only to list the parties who have permanent access to all Insider Information (the “Permanent Section”). The data for the parties listed in the Permanent Section are not listed in the other Sections of the Register.

As a rule, the following parties are included in the Permanent Section:

- a) the Chairman of the Board of Directors;
- b) Parmalat’s Chief Executive Officer;
- c) Parmalat’s Chief Financial Officer;
- d) Parmalat’s General Counsel;
- e) The Human Resource Manager.

The Chief Executive Officer, with the support of the Chief Financial Officer and the General Counsel, is responsible for identifying any other parties with permanent access to all Insider Information.

3.5 All data entered in the Register are retained for a period of at least five years from the date they were processed or updated.

#### **4. Duties of the Register Manager**

4.1 The Register Manager is responsible for maintaining the Register, specifically performing the following duties:

- a) at the request of the parties refer to in Article 5 below, promptly listing in the Register the parties with access to Insider Information;
- b) promptly updating the Register, showing the date of the update, whenever there is a change regarding the reason for listing parties already listed in the Register; or there is a new party with access to Insider Information who must be listed in the Register; or, lastly, a Party listed in the Register no longer has access to insider information;

Each updated to the Register must show the date and the time when the change that required the update to place;

- c) promptly informing the parties who have access to Insider Information that they are being listed in the Register, by means as special communication drafted in accordance with the form annexed to this Procedure as Annex 2, which shall be delivered by hand or by email, ensuring that said parties acknowledge in writing their obligations pursuant to laws and regulations in connection with their listing in the Register and are cognizant of the penalties applicable in the event of abuse of Insider Information and unlawful communication of said information;
- d) promptly informing the Parties listed in the Register of subsequent updates and/or deletions, by means as special communication drafted in accordance with the form annexed to this Procedure as Annex 3, which shall be delivered with the same modalities as those specified in letter c) above;
- e) protecting the confidentiality of the information contained in the Register and allowing the parties listed in Article 6 below to have access to the Register;
- f) appointing and dismissing a technical officer responsible for managing the computerized handling of the Register (the “Technical Officer”);
- g) preserving for a period of at least five years all communications made for the purpose of recording entries in the Register and related updates;
- h) when so requested, delivering the Register to the Consob in the manner indicated by the Consob, promptly informing the Chief Executive Officer.

4.2 In discharging the assigned duties, the Register Manager may use the support of one or more persons identified in writing within the Corporate Affairs Department.

## **5. Designation of the parties to be listed in the Register**

5.1 The Chief Financial Officer and the General Counsel are responsible for promptly informing the Register Manager of the need to establish a separate section of the Insider Register for an instance of Insider Information, communicating the data concerning the Insider Information for which a new section of the Register was established and the names of the Addressees who are being listed in the abovementioned section of the Register.

5.2 The parties listed in the Register pursuant to the preceding paragraph, shall, in turn and to the best of their knowledge, communicate to the Register Manager the following information: the names of additional parties within their company’s organization and/or function, and at Parmalat or its subsidiaries, and the names of third parties who have a collaborative relationship with Parmalat or its subsidiaries (e.g., the independent auditors and/or legal, tax and other advisors, etc.) and who may have access to Insider Information and, consequently, must be listed in the Register,

or no longer have access to Insider Information and, as a result, should be deleted from the Register.

The Register Manager, in concert with the Chief Financial Officer and the General Counsel, shall verify whether the abovementioned parties should indeed be listed in or deleted from the Register.

## **6. Access to the Register**

6.1 Without prejudice to the powers of the relevant Authorities, in order to safeguard the correct implementation of this Procedure, the following parties shall have access to the Register in addition to the Register Manager:

- a) the Chief Executive Officer and the General Manager and parties designated by them;
- b) the Chief Financial Officer and the General Counsel;
- c) the Technical Officer and any other parties who may be designated by the Register Manager.

## **7. Parties listed in the Register – Obligations and prohibitions**

The parties listed in the Register shall comply with the confidentiality obligations and the prohibitions set forth in the statutes applicable at any given time regarding the communication and use of Insider Information.

Annex 4 to this Procedure details the behaviors that are prohibited and the penalties currently applicable in the case of violations of the relevant laws.

## **8. Violations of the Register Procedure and penalties**

8.1 Without prejudice to the penalties set forth in current regulations, in the event of violations of the provisions of this Register Procedure and its Annexes, Parmalat and its subsidiaries may take against the responsible parties the actions allowed under the provisions of labor contracts (in the case of employees) and pursuant to the laws in effect at the time.

8.2 If, because of a failure to comply with the provisions of this Register Procedure and its Annexes and/or with the provisions of the regulations in effect at any given time, the Company should be charged with a violation of the regulations governing market abuse or other legislative provisions in effect at any given time or if penalties should be levied against Parmalat or Parmalat or its subsidiaries should suffer damages, Parmalat reserves

the right to take action against the responsible parties seeking to be held free and harmless to the maximum extent allowed or be reimbursed for all costs, expenses and/or charges incurred and/or be compensated for any damage it may have suffered.

**9. Concluding provisions**

- 9.1 Except in the instances described below, the Board of Directors shall have jurisdiction with regard to amendments to this Register Procedure.
- 9.2 The Chief Executive Officer is authorized to make to this Procedure the adjustments necessary to comply with regulations, the applicable interpretations and/or the Company's regulations and organizational procedures.
- 9.3 Parmalat's Corporate Affairs Department shall periodically verify whether this Register Procedure is consistent with the regulations in effect, the applicable interpretations, the Company's regulations and organizational procedures and best practices in this area and shall submit any proposed amendment to the Chief Executive Officer.
- 9.4 Any issues not expressly addressed in this Register Procedure shall be governed by the regulations currently in effect applicable to the Company.

## Annex 1A

### Form for the Sections of the Register

**Section for [list the insider information specific to a contract or related to a contract]**

**Date and time (when this Section of the list was created or when the insider information was identified):** [yyyy-mm-dd, hh:mm UTC (coordinated universal time)]

**Date and time (latest update):** [yyyy-mm-dd, hh:mm UTC (coordinated universal time)]

**Date of transmission to the relevant authority:** [yyyy-mm-dd]

First name of access holder	Last name of access holder	Maiden last name of access holder (if different)	Work telephone number (direct work telephone land line and mobile line)	Company name and address	Department and reason for access to insider information	Obtained (date and time when the holder obtained access to insider information)	Ended (date and time when the holder ceased to have access to insider information)	Date of birth	National identification number (if applicable)	Private telephone numbers (home and personal cellphone)	Complete private address (street, building number, location, postal code, country)
[text]	[text]	[text]	[numbers without spaces]	[address of the issuer/participant in the emission allowance market/auction platform/auction commissioner/auction overseer of representative of access holder]	[Description of the role, department and reason for inclusion in the list]	[yyyy-mm-dd, hh:mm UTC]	[yyyy-mm-dd, hh:mm UTC]	[yyyy-mm-dd]	[number and/or text]	[numbers without spaces]	Complete private address of access holder - street and building No. - location - postal code -country]

## Annex 1B

### Form for the Permanent Section of the Register

**Date and time (when the Permanent Register was created)** [yyyy-mm-dd, hh:mm UTC (coordinated universal time)]

**Date and time (latest update):** [yyyy-mm-dd, hh:mm UTC (coordinated universal time)]

**Date of transmission to the relevant authority:** [yyyy-mm-dd]

<b>First name</b> of access holder	<b>Last name</b> of access holder	<b>Maiden last name</b> of access holder (if different)	<b>Work telephone number</b> (direct work telephone land line and mobile line)	<b>Company name and address</b>	<b>Department and reason for access to insider information</b>	<b>Listed</b> (date and time when the holder was listed in the permanent access section)	<b>Date of birth</b>	<b>National identification number</b> (if applicable)	<b>Private telephone numbers</b> (home and personal cellphone)	<b>Complete private address</b> (street, building number, location, postal code, country)
[text]	[text]	[text]	[numbers without spaces]	[address of the issuer/participant in the emission allowance market/auction platform/auction commissioner/auction overseer of representative of access holder]	[Description of the role, department and reason for inclusion in the list]	[yyyy-mm-dd, hh:mm UTC]	[yyyy-mm-dd]	[number and/or text]	[numbers without spaces]	Complete private address of access holder - street and building No. - location - postal code -country]

## Annex 2

### Form for the communication of listing in the Register

[Addressee]

[place and date]

**Re.: Listing in the Register of Parties with Access to Insider Information (the "Register")**

Dear Mr. [●] / Dear Ms. [●]:

Pursuant to the Procedure for managing the register for parties with access to insider information (the "**Register Procedure**") adopted by Parmalat S.p.A. ("**Parmalat**" or the "**Company**"), which is annexed to this communication, you are hereby advised that, effective as of [time] on [date], Parmalat:

recorded your name in the Permanent Section of the Register, in view of your capacity as \_\_\_\_\_.

[or, alternatively]

recorded your name [or, alternatively] listed you and the company [●], in the Section of the Register concerning the following Insider Information: \_\_\_\_\_.

With regard to the above, you are being asked to:

- read this communication and the Register Procedure and its annexes, with special emphasis on Annex 4 concerning obligations and penalties, and retain a copy of these documents;
- within five business days from receipt of this communication send to Parmalat to the e-mail address: [affari.societari@parmalat.net](mailto:affari.societari@parmalat.net) or by other means suitable for ensuring that Parmalat receives confirmation that you are cognizant of the statutory and regulatory obligations entailed by the listing in the Register and of the reference regulations.

\* \* \* \* \*

Lastly, please be advised that the personal data necessary for listing you in the Register and related updates will be processed and stored by Parmalat, in its capacity as the Owner of the processing, by means of computerized media, in accordance with the Privacy Discipline (i.e. EU Regulation n. 2016/679 and Legislative Decree n. 101/2018 adjusting the Italian Personal Data Protection Code regulated by Legislative Decree n. 196/2003), for the purpose of complying with obligations that exist under current laws on market abuse and the processing of Insider Information and for the period required by the abovementioned laws. These data may be accessed by employees and associates of the Owner, in charge of relevant areas, duly appointed and responsible for the data processing. In furtherance of the abovementioned aims, the abovementioned data may also be communicated to third parties designated as Data Processing Managers or independent Owners (e.g., public institutions and regulatory authorities). The communication of the personal data that are being requested is thus

mandatory; failure to provide them could expose you, [the company [●]] and/or Parmalat to possible fines pursuant to the laws currently in effect and/or the Procedure. You may exercise the rights provided under Articles 15-22 of the Privacy Discipline (among which, purely by way of example, the right to access your personal data, to request rectification or updating thereof in case they are incomplete or inaccurate) by means of a simple request to be sent to the Data Protection Officer (DPO), Avv. Francesco Carducci, at the following addresses: Via delle Nazioni Unite 4, 43044 Collecchio (PR), Italy, e-mail: [privacy@parmalat.net](mailto:privacy@parmalat.net).

A list of the appointed Data Processing Managers will be available at Parmalat offices.

\* \* \* \* \*

For any information and/or clarification regarding this communication and its implementation, please contact Corporate Affairs Department, in the person of Ms Giorgia Bocchi, through:

- *e-mail*, to the address [affari.societari@parmalat.net](mailto:affari.societari@parmalat.net), or
- the following telephone number: +39 0521 808535

Sincerely,

Parmalat S.p.A.

by: (the Register Manager)

To confirm reading this communication

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Annex 3

**Form for notification of deletion/updating of Register entry**

[Addressee]

[place and date]

**Re.: updating/deletion of entry in the Register of Parties with Access to Insider Information**

Dear Mr. [●] / Dear Ms. [●]:

In accordance with the Procedure for managing the register for parties with access to insider information (the “**Register Procedure**”) adopted by Parmalat S.p.A. (“**Parmalat**” or the “**Company**”), you are hereby advised that, effective as of [time] on [date], Parmalat

deleted your name [or, *alternatively*] your name and the name of the company [●] from the Register.

*or, alternatively,*

updated your entry [or, *alternatively*] your entry and that of the company [●] in the Register for the following reason:

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\* \* \* \* \*

For any information and/or clarification regarding this communication and its implementation, please contact Corporate Affairs Department, in the person of Ms Giorgia Bocchi, through:

- *e-mail*, to the address [affari.societari@parmalat.net](mailto:affari.societari@parmalat.net), or
- the following telephone number: +39 0521 808535.

Sincerely,

Parmalat S.p.A.

by: (the Register Manager)

## **Annex 4**

### **Regulation (EU) No 596/2014 of The European Parliament and the Council of April 16, 2014 (MAR)**

#### **Article 14**

##### ***Prohibition of abuse of insider information and unlawful disclosure of insider information***

*A person shall not:*

- a) engage in the abuse or attempted abuse of insider information;*
- b) recommend that another person engage in the abuse of insider information or induce others to engage in the abuse of insider information; or*
- c) unlawfully disclose insider information.*

#### **Article 8**

##### ***Abuse of insider information***

*1. For the purposes of this Regulation, abuse of insider information arises where a person possesses insider information and uses that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, financial instruments to which that information relates. The use of insider information by cancelling or amending an order concerning a financial instrument to which the information relates where the order was placed before the person concerned possessed the insider information, shall also be considered to be abuse of insider information. In relation to auctions of emission allowances or other auctioned products based thereon that are held pursuant to Regulation (EU) No 1031/2010, the use of insider information shall also comprise submitting, modifying or withdrawing a bid by a person for its own account or for the account of a third party.*

*2. For the purposes of this Regulation, recommending that another person engage in the abuse of insider information, or inducing another person to engage in the abuse of insider information, arises where the person possesses insider information and:*

- a) recommends, on the basis of that information, that another person acquire or dispose of financial instruments to which that information relates, or induces that person to make such an acquisition or disposal; or*
- b) recommends, on the basis of that information, that another person cancel or amend an order concerning a financial instrument to which that information relates, or induces that person to make such a cancellation or amendment.*

*3. The use of the recommendations or inducements referred to in paragraph 2 amounts to abuse of insider information within the meaning of this Article where the person using the recommendation or inducement knows or ought to know that it is based upon insider information.*

*4. This Article applies to any person who possesses insider information as a result of:*

- a) being a member of the administrative, management or supervisory bodies of the issuer or emission allowance market participant;*
- b) having a holding in the capital of the issuer or emission allowance market participant;*
- c) having access to the information through the exercise of an employment, profession or duties; or*
- d) being involved in criminal activities.*

*This Article also applies to any person who possesses insider information under circumstances other than those referred to in the first subparagraph where that person knows or ought to know that it is insider information.*

*5. Where the person is a legal person, this Article shall also apply, in accordance with national law, to the natural persons who participate in the decision to carry out the acquisition, disposal, cancellation or amendment of an order for the account of the legal person concerned.*

## **Article 9**

### **Legitimate behavior**

*1. For the purposes of Articles 8 and 14, it shall not be deemed from the mere fact that a legal person is or has been in possession of insider information that that person has used that information and has thus engaged in abuse of insider information on the basis of an acquisition or disposal, where that legal person:*

*a) has established, implemented and maintained adequate and effective internal arrangements and procedures that effectively ensure that neither the natural person who made the decision on its behalf to acquire or dispose of financial instruments to which the information relates, nor another natural person who may have had an influence on that decision, was in possession of the insider information; and*

*b) has not encouraged, made a recommendation to, induced or otherwise influenced the natural person who, on behalf of the legal person, acquired or disposed of financial instruments to which the information relates.*

*2. For the purposes of Articles 8 and 14, it shall not be deemed from the mere fact that a person is in possession of insider information that that person has used that information and has thus engaged in abuse of insider information on the basis of an acquisition or disposal where that person:*

*a) for the financial instrument to which that information relates, is a market maker or a person authorized to act as a counterparty, and the acquisition or disposal of financial instruments to which that information relates is made legitimately in the normal course of the exercise of its function as a market maker or as a counterparty for that financial instrument; or*

*b) is authorized to execute orders on behalf of third parties, and the acquisition or disposal of financial instruments to which the order relates is made to carry out such an order legitimately in the normal course of the exercise of that person's employment, profession or duties.*

*3. For the purposes of Articles 8 and 14, it shall not be deemed from the mere fact that a person is in possession of insider information that that person has used that information and has thus engaged in abuse of insider information on the basis of an acquisition or disposal where that person conducts a transaction to acquire or dispose of financial instruments and that transaction is carried out in the discharge of an obligation that has become due in good faith and not to circumvent the prohibition against abuse of insider information, and:*

*a) that obligation results from an order placed or an agreement concluded before the person concerned possessed insider information; or*

*b) that transaction is carried out to satisfy a legal or regulatory obligation that arose before the person concerned possessed insider information.*

*4. For the purposes of Article 8 and 14, it shall not be deemed from the mere fact that a person is in possession of insider information that that person has used that information and has thus engaged in abuse of insider information, where such person has obtained that insider information in the conduct of a public tender offer or merger with a company and uses that insider information solely for the purpose of proceeding with that merger or public tender offer, provided that at the point of approval of the merger or acceptance of the offer by the shareholders of that company, any insider information has been made public or has otherwise ceased to constitute insider information.*

*This paragraph shall not apply to stake-building.*

*5. For the purposes of Articles 8 and 14, the mere fact that a person uses its own knowledge that it has decided to acquire or dispose of financial instruments in the acquisition or disposal of those financial instruments shall not of itself constitute use of insider information.*

6. Notwithstanding paragraphs 1 to 5 of this Article, an infringement of the prohibition of abuse of insider information set out in Article 14 may still be deemed to have occurred if the competent authority establishes that there was an illegitimate reason for the orders to trade, transactions or behaviors concerned.

## **Article 10**

### **Unlawful disclosure of insider information**

1. For the purposes of this Regulation, unlawful disclosure of insider information arises where a person possesses insider information and discloses that information to any other person, except where the disclosure is made in the normal exercise of an employment, a profession or duties.

*This paragraph applies to any natural or legal person in the situations or circumstances referred to in Article 8, paragraph 4.*

2. For the purposes of this Regulation the onward disclosure of recommendations or inducements referred to in Article, paragraph 2, amounts to unlawful disclosure of insider information under this Article where the person disclosing the recommendation or inducement knows or ought to know that it was based on insider information.

\* \* \*

## **Legislative Decree No. 58/98 – Uniform Financial Code**

### **Chapter II**

#### **Criminal penalties**

*Pursuant to Article 39, Section 1, of Law No. 262 of December 28, 2005, the fines set forth in this Chapter shall be doubled, up to the limits imposed for each type of fine under Book I, Title II, Chapter II, of the Criminal Code.*

### **Article 184**

#### **(Abuse of insider information)**

1. *Anyone who is in possession of insider information because of serving in the capacity as member of administration, management or control bodies of an issuer, holding an equity stake in an issuer's capital or due to the exercise of work activities, a profession or a function (private or public) or an office shall be punished with imprisonment from one to six years and a fine from twenty thousand to three million euros if he/she:*

*a) buys, sells or executes transactions, directly or indirectly, for his/her own account or on behalf of third parties, involving financial instruments and using the abovementioned information;*

*b) communicates the abovementioned information to others, outside of the normal exercise of his/her job, profession, function or office;*

*c) encourages or induces others, based on the abovementioned information, to execute any of the transactions referred to in Letter a) above.*

2. *The same penalties as those set forth in Section 1 above shall be imposed on anyone who, while in possession of insider information in connection the preparation or perpetration of criminal activities, executes any of the transactions referred to in the abovementioned Section 1.*

3. *A judge may increase the fine up to triple the amount or to an amount equal to ten times the proceeds or the profit generated by the crime, whichever is greater, if, because the act is egregiously offensive or in view of the personal qualities of the defendant or the amount of the proceeds or profit generated by the crime, it appears to be inadequate, even when the maximum amount is charged.*

### **Article 186**

### **(Additional penalties)**

1. A conviction for one of the crimes subject of this Chapter shall entail the imposition of the additional penalties listed in Articles 28, 30, 32-bis and 32-ter of the Penal Code for a duration of not less than six months and not more than two years, as well as the publication of the verdict in at least two newspapers with national circulation, one of which must be a financial publication.

### **Article 187**

#### **(Seizure)**

1. A conviction for one of the crimes subject of this Chapter shall result in the seizure of the proceeds or the profit generated by the crime and the assets used to perpetrate it.
2. If a seizure cannot be carried out as required by Section 1 above, it may be imposed on a sum of money or assets of equivalent value.
3. The provisions of Article 240 of the Penal Code shall be applied for any issues not covered by Sections 1 and 2 above.

### **Chapter III**

#### **Administrative penalties**

### **Article 187-bis**

#### **(Abuse of insider information)**

1. Without prejudice to the criminal penalties imposed when a crime is committed, anyone who is in possession of insider information because of serving in the capacity as member of administration, management or control bodies of an issuer, holding an equity stake in an issuer's capital or due to the exercise of work activities, a profession or a function (private or public) or an office shall be punished with an administrative fine from twenty thousand to three million euros [the amount of the administrative fine was later quintupled by Article 39, Section 3, of Law No. 262 of December 28, 2005; as a result of this law, the amount shall be understood to have been changed as follows: twenty thousand euros into one hundred thousand euros and three million euros into fifteen million euros] if he/she:

- a) buys, sells or executes transactions, directly or indirectly, for his/her own account or on behalf of third parties, involving financial instruments and using the abovementioned information;
- b) communicates the abovementioned information to others, outside of the normal exercise of his/her job, profession, function or office;
- c) encourages or induces others, based on the abovementioned information, to execute any of the transactions referred to in Letter a) above.

2. The same penalties as those set forth in Section 1 above shall be imposed on anyone who, while in possession of insider information in connection the preparation or perpetration of criminal activities, executes any of the transactions referred to in the abovementioned Section 1.

3. For the purposes of this article, financial instruments shall be understood to include also the financial instruments referred to in Article 1, Section 2, the value of which depends on a financial instrument referred to in Article 280, Letter a).

4. The penalty applicable under Section 1 shall also apply to anyone who, while in possession of insider information and is aware or should have been aware based on normal diligence the insider nature of the information, perpetrates one of the acts described in Section 1.

5. The administrative fines listed in Sections 1, 2 and 4 may be increased up to triple the amount or to an amount equal to ten times the proceeds or the profit generated by the crime, if, because the act is egregiously offensive or in view of the personal qualities of the defendant or the amount of the proceeds or profit generated by the violation, it appears to be inadequate, even when the maximum amount is charged.

6. For the violations covered by this article an attempt is deemed equivalent to the perpetration of a violation.

#### **Article 187-quater**

##### **(Additional administrative penalties)**

1. The levying of the administrative fines provided under this chapter entails the temporary loss of the integrity qualification for corporate officers and holders of equity stakes in qualified parties, market management companies, independent auditors and financial consultants authorized to provide off-site serviced, and, for corporate officers of listed companies, the temporary loss of the ability to serve in an administrative, management or control capacity at listed company or at companies belonging to the same group with listed companies.

2. The additional administrative penalty described in Section 1 above shall have a duration of at least two months and not more than three years.

3. By the decision levying the administrative fines provided under this chapter, the Consob, taking into account the seriousness of the violation and the degree of culpability, may order qualified parties, market management companies, listed issuers and independent auditors not to utilize, in the exercise of their activity and for a period of not more than three years, the services of the perpetrator of the violation and ask the relevant professional boards to temporarily suspend professional board members from the exercise of their professional activity.

#### **Article 187-quinquies**

##### **(Liability of the entity)**

1. The entity is responsible for the payment of an amount equal to administrative fine levied for the violations subject of this chapter perpetrated in its interest or for its benefit:

a) by persons who perform representation, administration or management functions at the entity or at one of its organizational units with financial or functional autonomy or by persons who, formally or effectively, exercise management and control over the entity;

b) by persons over whom the parties listed in Letter a) above exercise management or oversight.

2. If, further to the perpetration of the violations referred to in Section 1, the amount of the proceeds or profit obtained by the entity is significant, the fine shall be increased up to ten times the amount of the proceeds or profit.

3. An entity is not liable if it can prove that the persons listed in Section 1 acted exclusively in their own interest or in the interest of third parties.

4. Articles 6, 7, 8 and 12 of Legislative Decree No. 231 of June 8, 2011, shall be applicable in connection with the violations referred to in Section 1, insofar as they are compatible. The Ministry of Justice, acting with the input of the Consob, shall issue the remarks required by Article 6 of Legislative Decree No. 231 of June 8, 2011 with regard to the violations subject of this chapter.

#### **Art. 187-sexies**

##### **(Seizure)**

1. The levying of the administrative fines provided under this chapter entails the seizure of the proceeds or the profit generated by the violation and the assets used to perpetrate it.

2. If a seizure cannot be carried out as required by Section 1 above, it may be levied on a sum of money, assets or other benefits of equivalent value.

3. The seizure of assets that do not belong to one of the parties on whom the fine is levied shall never be allowed.

\* \* \*

**Regulation (EU) No. 596/2014 of The European Parliament  
and the Council of April 16, 2014 (MAR) <sup>(1)</sup>**

**CHAPTER 5**

**Administrative measures and sanctions**

**Article 30**

***Administrative sanctions and other administrative measures***

*1. Without prejudice to any criminal sanctions and without prejudice to the supervisory powers of competent authorities under Article 23, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate administrative sanctions and other administrative measures in relation to at least the following infringements:*

*a) infringements of Articles 14 and 15, Article 16, paragraphs 1 and 2, Article 17 paragraphs 1, 2, 4, 5 and 8, Article 18, paragraphs 1 to 6, Article 19, paragraphs 1, 2, 3, 5, 6, 7 and 11, and Article 20, paragraph 1; and*

*b) failure to cooperate or to comply with an investigation, with an inspection or with a request as referred to in Article 23, paragraph 2).*

*Member States may decide not to lay down rules for administrative sanctions as referred to in the first subparagraph where the infringements referred to in point a) or point b) of that subparagraph are already subject to criminal sanctions in their national law by July 3, 2016. Where they so decide, Member States shall notify, in detail, to the Commission and to ESMA, the relevant parts of their criminal law.*

*By 3 July 2016, Member States shall notify, in detail, the rules referred to in the first and second subparagraph to the Commission and to ESMA. They shall notify the Commission and ESMA without delay of any subsequent amendments thereto.*

*2. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose at least the following administrative sanctions and to take at least the following administrative measures in the event of the infringements referred to in point (a) of the first subparagraph of paragraph 1:*

*a) an order requiring the person responsible for the infringement to cease the conduct and to desist from a repetition of that conduct;*

*b) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;*

*c) a public warning which indicates the person responsible for the infringement and the nature of the infringement;*

*d) withdrawal or suspension of the authorization of an investment firm;*

*e) a temporary ban of a person discharging administrative, management or control functions within an investment firm or any other natural person, who is held responsible for the infringement, from exercising management functions in investment firms;*

*f) in the event of repeated infringements of Article 14 or 15, a permanent ban of any person discharging administrative, management or control functions within an investment firm or any other natural person who is held responsible for the infringement, from exercising management functions in investment firms;*

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<sup>1</sup> The Market Abuse Regulation (MAR) sets forth some minimum administrative measures and sanctions for all Member States. Differently from other MAR provisions, the sanctions require, on the part of the Member States, activities to conform with the MAR provisions and coordinate them with the sanctions provided under national laws. Thus far, the Italian legislators have not yet enacted any adoption provision. In the interim, the sanctions specified in the Uniform Financial Code continue to apply.

g) a temporary ban of a person discharging administrative, management or control functions within an investment firm or another natural person who is held responsible for the infringement, from dealing on own account;

h) 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;

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

i) for infringements of Articles 14 and 15, 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;

ii) for infringements of Articles 16 and 17, EUR 1 000 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and

iii) for infringements of Articles 18, 19 and 20, EUR 500 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and

j) in respect of legal persons, maximum administrative pecuniary sanctions of at least:

i) for infringements of Articles 14 and 15, EUR 15 000 000 or 15 % of the total annual turnover of the legal person according to the last available accounts approved by the management body, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014;

ii) for infringements of Articles 16 and 17, EUR 2 500 000 or 2 % of its total annual turnover according to the last available accounts approved by the management body, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and

iii) for infringements of Articles 18, 19 and 20, EUR 1 000 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014.

References to the competent authority in this paragraph are without prejudice to the ability of the competent authority to exercise its functions in any ways referred to in Article 23, paragraph 1.

For the purposes of points (j), (i) and (ii) of the first subparagraph, where the legal person is a parent undertaking or a subsidiary undertaking which is required to prepare consolidated financial accounts pursuant to 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 directives – Council Directive 86/635/EEC for banks and Council Directive 91/674/EEC for insurance companies – according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

3. Member States may provide that competent authorities have powers in addition to those referred to in paragraph 2 and may provide for higher levels of sanctions than those established in that paragraph.

### **Article 31**

#### **Exercise of supervisory powers and imposition of sanctions**

1. Member States shall ensure that when determining the type and level of administrative sanctions, competent authorities take into account all relevant circumstances, including, where appropriate:

a) the gravity and duration of the infringement;

b) the degree of responsibility of the person responsible for the infringement;

c) the financial strength of the person responsible for the infringement, as indicated, for example, by the total turnover of a legal person or the annual income of a natural person;

d) the importance of the profits gained or losses avoided by the person responsible for the infringement, insofar as they can be determined;

e) the level of cooperation of the person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;

- f) *previous infringements by the person responsible for the infringement; and*
- g) *measures taken by the person responsible for the infringement to prevent its repetition.*

2. *In the exercise of their powers to impose administrative sanctions and other administrative measures under Article 30, competent authorities shall cooperate closely to ensure that the exercise of their supervisory and investigative powers, and the administrative sanctions that they impose, and the other administrative measures that they take, are effective and appropriate under this Regulation. They shall coordinate their actions in accordance with Article 25 in order to avoid duplication and overlaps when exercising their supervisory and investigative powers and when imposing administrative sanctions in respect of cross-border cases.*

## **Article 34**

### **Publication of decisions**

1. *Subject to the third subparagraph, competent authorities shall publish any decision imposing an administrative sanction or other administrative measure in relation to an infringement of this Regulation on their 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 person subject to the decision.*

*The first subparagraph does not apply to decisions imposing measures that are of an investigatory nature.*

*Where a competent authority considers that the publication of the identity of the legal person subject to the decision, 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 jeopardize an ongoing investigation or the stability of the financial markets, it shall do any of the following:*

- a) *defer publication of the decision until the reasons for that deferral cease to exist; or*
- b) *publish the decision on an anonymous basis in accordance with national law where such publication ensures the effective protection of the personal data concerned;*
- c) *not publish the decision in the event that the competent authority 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 jeopardized; or*
  - ii) *the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.*

*Where a competent authority takes a decision to publish a decision on an anonymous basis as referred to in point (b) of the third subparagraph, 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 will cease to exist during that period.*

2. *Where the decision is subject to an appeal before a national judicial, administrative or other authority, competent authorities shall also publish immediately on their website such information and any subsequent information on the outcome of such an appeal. Moreover, any decision annulling a decision subject to appeal shall also be published.*

3. *Competent authorities shall ensure that any decision that is published in accordance with this Article shall remain accessible on their website for a period of at least five years after its publication. Personal data contained in such publications shall be kept on the website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.*