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*Plenary sitting*

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**A8-0437/2018**

6.12.2018

**\*\*\*I**

## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets  
(COM(2018)0331 – C8-0212/2018 – 2018/0165(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Anne Sander

***Symbols for procedures***

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets  
(COM(2018)0331 – C8-0212/2018 – 2018/0165(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0331),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0212/2018),
  - having regard to the opinion of the European Economic and Social Committee of 19 September 2018<sup>1</sup>,
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0437/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 440, 6.12.2018, p. 79.

## Amendment 1

### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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2018/0165 (COD)

Proposal for a

### REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

Whereas:

- (1) The Capital Markets Union initiative aims at reducing dependence on bank lending, at diversifying market-based sources of financing for all smaller and medium-sized enterprises ('SMEs') and at promoting the issuance of ***bonds*** and shares by SMEs on public markets. Companies established in the Union that seek to raise capital on trading venues are facing high one-off and ongoing disclosure and compliance costs which can deter them from seeking an admission to trading on Union trading venues in the first place. In addition, shares issued by SMEs on Union trading venues tend to suffer from lower levels of liquidity and higher volatility, which increases the cost of

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ***■***.

<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C 440, 6.12.2018, p. 79.

<sup>3</sup> Position of the European Parliament of ... (OJ ...) and decision of the Council of ...

capital, making this source of funding too onerous. A *horizontal Union policy for SMEs is therefore essential. Such policy needs to be inclusive, coherent and effective, and must take into account the various subgroups of SMEs and their different needs. To that end, additional regulations are required to ensure that SMEs can be matched up with arrangements such as business angels, seed capital, risk capital, etc. Loan diversification on the part of SMEs represents a guarantee for the economic health of the Union.*

- (1a) *Small and medium-sized enterprises’ or ‘SMEs’ means companies, which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding EUR 43 000 000 and an annual net turnover not exceeding EUR 50 000 000.*
- (2) Directive 2014/65/EU of the European Parliament and of the Council<sup>1</sup> has created a new type of trading venues, the SME growth markets, a subgroup of Multilateral Trading Facilities (‘MTFs’), in order to facilitate access to capital for SMEs *to enable them to grow* and to facilitate the further development of specialist markets that aim to cater for the needs of SME issuers *that have genuine growth potential*. Directive 2014/65/EU also anticipated that “*attention should be focused on how future regulation should further foster and promote the use of that market so as to make it attractive for investors, and provide a lessening of administrative burdens and further incentives for SMEs to access capital markets through SME growth markets*”. *In its opinion on the Commission proposal for this Regulation the European Economic and Social Committee stated that: ‘the low level of communication and bureaucratic approaches are significant barriers and much more effort must be put into overcoming these obstacles. Communication should always target the bottom of the chain by involving SME associations, social partners, chambers of commerce, and so on.’*
- (3) It has however been noted that issuers admitted to trading on an SME growth market benefit from relatively few regulatory alleviations compared to issuers admitted to trading on MTFs or regulated markets. Most of the obligations set out in Regulation (EU) No 596/2014 European Parliament and of the Council<sup>2</sup> apply in the same manner to all issuers, irrespective of their size or the trading venue where their financial instruments are admitted to trading. That low level of differentiation between SME growth markets and MTF issuers acts as a disincentive for MTFs to seek a registration as an SME growth market, which is illustrated by the low uptake of the SME growth market status to date. It is therefore necessary to introduce additional *proportionate* alleviations to adequately foster the use of SME growth markets.

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<sup>1</sup> 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 (OJ L 173, 12.6.2014, p. 349).

<sup>2</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

- (4) The attractiveness of SME growth markets should be reinforced by further reducing the compliance costs and administrative burdens faced by SME growth market issuers. To maintain the highest standards of compliance on regulated markets, the alleviations provided for in this Regulation should be limited to companies listed on SME growth markets, irrespective of the fact that not all SMEs are listed on SME growth markets and not all companies listed on SME growth markets are SMEs. Pursuant to Directive 2014/65/EU, up to 50% of non-SMEs can be admitted to trading on SME growth markets to maintain the profitability of the SME growth markets' business model through, inter alia, liquidity in non-SMEs securities. In view of the risks involved in applying different sets of rules to issuers listed on the same category of venue, namely SME growth markets, the changes set out in this Regulation should not be limited to SME issuers only. For the sake of consistency for issuers and clarity for investors, the alleviation of compliance costs and administrative burdens should apply to all issuers on SME growth markets, irrespective of their market capitalisation. Applying the same set of rules to issuers also ensures that companies are not penalised because they are growing and are no longer SMEs. *There is a need for a sharper focus on SMEs – the subjects of this Regulation – and their needs. Cutting red tape is a vital part of that process, but other steps also need to be taken. Efforts need to be made to improve the information that is directly available to SMEs about the financing options open to them. The data show that a lack of information for SMEs is one of the main problems when it comes to their ability to access sources of funding other than banks.*
- (4a) *It is relevant to acknowledge the inclusion in Regulation (EU) 2017/1129 of the European Parliament and of the Council<sup>1</sup> of the EU Growth Prospectus, which applies to SMEs that issue capital on the markets. The EU Growth Prospectus is a condensed form of the full prospectus to be published when securities are offered to the public or are admitted to trading on a regulated market, which includes essential information and documentation. The EU Growth Prospectus is shorter and therefore cheaper to produce, reducing costs for SMEs. SMEs should be able to choose to use the EU Growth Prospectus. Moreover, in offers of securities up to EUR 20 million any issuer should also be able to choose to use the EU Growth Prospectus unless they intend to apply for admission to trading on a regulated market. That covers issuers whose public offers might be admitted to trading on an SME growth market, as well as issuers that make public offers that will not be traded on an exchange. Alternatively, issuers should be able to choose to draw up a full prospectus under Regulation (EU) 2017/1129.*
- (4b) *The success of an SME growth market should not be measured simply by the number of companies listed, but rather by the rate of growth achieved by the listed companies. Regulatory alleviation should be for the benefit of those smaller companies that have real growth potential.*
- (5) According to Article 11 of Regulation (EU) No 596/2014, a market sounding comprises the communication of information, prior to the announcement of a

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<sup>1</sup> *Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC Text with EEA relevance.*



transaction, in order to gauge the interest of potential investors in a possible transaction and the conditions relating to it such as its potential size or pricing, to one or more potential investors. During the negotiation phase of a private placement of bonds, ■ issuers enter into discussions with a limited set of potential qualified investors (as defined in Regulation (EU) 2017/1129 of the European Parliament and of the Council<sup>1</sup>) and negotiate all the contractual terms and conditions of the transaction with those qualified investors. The communication of information in that negotiation phase of a private placement of bonds aims at structuring and completing the entire transaction, and not at gauging the interest of potential investors as regards a pre-defined transaction. Imposing market sounding on private placements of bonds can *sometimes* be burdensome and act as a disincentive to enter into discussions for such transactions for both issuers and investors. In order to increase the attraction of private placement of bonds ■, those transactions should be excluded from the scope of the market sounding regime, provided that an adequate non-disclosure agreement is in place.

- (6) Some liquidity in an issuer's shares can be achieved through liquidity mechanisms such as market-making arrangements or liquidity contracts. A market-making arrangement involves a contract between the market operator and a third party who commits to maintaining the liquidity in certain shares and benefits from rebates on trading fees in return. A liquidity contract involves a contract between an issuer and a third party who commits to providing liquidity in the shares of the issuer, and on its behalf. To ensure that market integrity is fully preserved, liquidity contracts should be available for all SME growth markets issuers across the Union, subject to a number of conditions. Not all competent authorities have, pursuant to Article 13 of Regulation (EU) No 596/2014, established accepted market practices in relation to liquidity contracts pursuant to Article 13 of Regulation (EU) No 596/2014, which means that not all SME growth market issuers have currently access to liquidity schemes across the Union. That absence of liquidity schemes can be an impediment to the effective development of SME growth markets. It is therefore necessary to create a Union framework that will enable SME growth market issuers to enter into a liquidity contract with a liquidity provider in another Member State in the absence of an accepted market practice established at national level. *It is, however, essential that* the Union framework on liquidity contracts for SME growth markets should ■ not replace, but rather complement, existing or future accepted *national* market practices. *It is essential that* competent authorities should keep the possibility to establish accepted market practices on liquidity contracts to tailor their conditions to local specificities or to extend such agreements to illiquid securities other than *trading venues* shares.
- (7) In order to ensure a uniform application of the Union framework for liquidity contracts referred to in recital 6, Regulation (EU) No 596/2014 should be amended to empower the Commission to adopt implementing technical standards developed by the European Securities and Markets Authority, setting out a template to be used for the purposes of such contracts. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 of the

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<sup>1</sup> Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

Treaty and in accordance with Article 15 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.<sup>1</sup>

- (7a) *The use of SME growth markets should be actively promoted. Many SMEs are still not aware of their existence as a new category trading venue. To resolve that situation, the Commission, in close cooperation with the competent national authorities and organisations representing SMEs should carry out awareness-raising campaigns to inform the SMEs about the possibilities offered by SMEs growth markets.*
- (8) According to Article 17(4) of Regulation (EU) No 596/2014, issuers can decide to delay the public disclosure of inside information if their legitimate interests are likely to be prejudiced. Issuers are however required to notify the competent authority thereof and to provide an explanation of the rationale supporting the decision. The obligation for SME growth market issuers to document in writing the reasons why they have decided to delay the disclosure can be burdensome. It is considered that a lighter requirement for SME growth markets issuers consisting in an obligation to only explain the reasons for the delay upon request by the competent authority would have no significant impact on the ability of the competent authority to monitor the disclosure of inside information, while significantly reducing the administrative burden for SME growth markets issuers, provided that competent authorities are still notified of the decision to delay and are in a position to open an investigation if they have doubt as regards that decision.
- (9) The current less stringent requirements for SME growth markets issuers to produce, in accordance with Article 18(6) of Regulation (EU) No 596/2014, an insider list only upon the request of the competent authority, is of limited practical effect, because those issuers are still subject to ongoing monitoring of the persons who qualify as insiders in the context of ongoing projects. The existing alleviation should therefore be replaced by the possibility for SME growth markets issuers to maintain only a list of permanent insiders, which should include persons *and direct family of persons* who have regular access to inside information due to their function or position within the issuer. *That list should be kept up to date on an annual basis and be communicated to the competent authority. The competent authority should ensure that such administrative simplification does not give rise to illegal practices that are detrimental to SMEs. Insider lists are an important investigation tool for the competent authorities.*
- (9a) *Insider lists are an important tool for regulators when investigating potential market abuse. They preserve the integrity of the markets. It is essential to clarify that the obligation to establish insider lists rests with both issuers and persons acting on their behalf or on their account. The responsibilities of persons acting on behalf or on account of the issuer with regard to the establishment of insider lists should be clarified in order to avoid divergent interpretations and practices across the Union.*

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<sup>1</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*The relevant provisions of Regulation (EU) No 596/2014 should be amended accordingly.*

- (9b) *Reflecting less stringent requirements elsewhere, punitive sanctions applied should reflect the economic realities of smaller companies.*
- (10) Pursuant to Article 19(3) of Regulation (EU) No 596/2014, issuers have to make public transactions carried out by persons discharging managerial responsibilities ('PDMRs') and persons closely associated with them ('PCAs') within three days after the transaction. The same deadline applies to PDMRs and PCAs as regards their duty to report their transactions to the issuer. Where SME growth market issuers are notified late by PDMRs and PCAs of their transactions, it is technically challenging for those SME growth market issuers to comply with the three-day deadline, which may give rise to liability issues. SME growth markets issuers should therefore be allowed to disclose transactions within two days after those transactions have been notified by the PDMRs or the PCAs.
- (11) SME growth markets should not be perceived as a final step in the scaling up of issuers and should enable successful companies to grow and move one day to regulated markets to benefit from greater liquidity and a larger investors' pool. To facilitate the transition from an SME growth market to a regulated market, growing companies should be able to use the simplified disclosure regime for the admission on a regulated market, as set out in Article 14 of Regulation (EU) 2017/1129 of the European Parliament and of the Council, provided that those companies are already admitted to trading on an SME growth market for at least three years. That period should enable issuers to have a sufficient track record and to provide the market with information on their financial performance and reporting requirements under the rules of Directive 2014/65/EU.
- (12) According to Regulation (EC) No 1606/2002 of the European Parliament and of the Council<sup>1</sup>, SME growth market issuers are not obliged to publish their financial statements in International Financial Reporting Standards. However, to avoid departing from regulated market standards, SME growth markets issuers that would want to use the simplified disclosure regime for a transfer to a regulated market should prepare their most recent financial statements, including comparative information for the previous year in accordance with that Regulation.
- (12a) *A cross-cutting approach is needed to improve the financing of, and investment in, SMEs in the Union. That cross-cutting approach should focus on both facets of financing - enterprises and investors. Currently, institutional investors face rules, prudential requirements or potentially overly conservative ratios that prevent them from investing in SMEs. In that respect, the Commission should examine, from among the various sectoral regulations governing pension funds, insurance and reinsurance undertakings, asset managers and investment firms, how to facilitate investment in SMEs listed on growth markets and, more broadly, investment in all SMEs in the Union.*

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<sup>1</sup> Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

- (13) Regulations (EU) No 596/2014 and (EU) No 2017/1129 should therefore be amended accordingly.
- (14) The amendments set out in this Regulation should apply 6 months after the entry into force of this Regulation to provide sufficient time for incumbent SME growth market operators to adapt their rulebooks,

*HAVE ADOPTED THIS REGULATION:*

*Article 1*

*Amendments to Regulation (EU) No 596/2014*

Regulation (EU) No 596/2014 is amended as follows:

1. in Article 11, the following paragraph 1a is inserted :

“ 1.a Where an offer of securities is addressed solely to qualified investors as defined in Article 2(e) of Regulation (EU) 2017/1129 of the European Parliament and of the Council\*, communication of information to those qualified investors for the purposes of negotiating the contractual terms and conditions of their participation in an issuance of bonds by an issuer that has financial instruments admitted to trading on **a trading venue** shall not constitute a market sounding and shall not constitute unlawful disclosure of inside information. That issuer shall ensure that the qualified investors receiving the information are aware of, and acknowledge in writing, the legal and regulatory duties entailed and are aware of the sanctions applicable to insider dealing and unlawful disclosure of inside information.

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\* Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).”;

2. in Article 13, the following paragraphs 12 and 13 are inserted:

“12. ***Without undermining Member States’ ability to use accepted market practices, or to develop such practices,*** an issuer whose financial instruments are admitted to trading on an SME growth market shall be authorised to enter into ***an EU*** liquidity contract for its shares where all of the following conditions are met:

- (a) the terms and conditions of the liquidity contract comply with the criteria set out in Article 13(2) of this Regulation and in Commission Delegated Regulation (EU) 2016/908\*\*;
- (b) the liquidity contract is established in accordance with the template as referred to in the paragraph 13;

- (c) the liquidity provider is duly authorised by the competent authority in accordance with Directive 2014/65/EU and is registered as a market member by the market operator or the investment firm operating the SME growth market;
- (d) the market operator or the investment firm operating the SME growth market acknowledges in writing to the issuer that it has received a copy of the liquidity contract and agrees to that contract's terms and conditions.

The issuer referred to in the first subparagraph of this paragraph shall be able to demonstrate at any time that the conditions under which the contract was established are met on an ongoing basis. That issuer and the investment firm operating the SME growth market shall provide the relevant competent authorities with a copy of the liquidity contract<sup>■</sup>.

13. In order to ensure uniform conditions of application of paragraph 12, *the Commission shall, in close cooperation with ESMA, and on the basis of its technical advice, be empowered to adopt delegated acts in accordance with Article 35 in order to supplement this Regulation by specifying standards for a contractual template to be used for the purposes of entering into an EU liquidity contract to ensure compliance with the conditions set out in Article 13.* <sup>■</sup>

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<sup>\*\*</sup> Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance (OJ L 153, 10.6.2016, p. 3). ”;

3. *paragraph 4 of Article 17 is amended as follows:*

*(a) the third subparagraph is replaced by the following:*

“Where an issuer or emission allowance market participant has delayed the disclosure of inside information under this paragraph, it shall *always notify* the competent authority specified under paragraph 3 *of the delay in writing*, immediately after the information is disclosed to the public. *In the notification, the issuer or emission allowance market participant shall provide a written explanation of how the conditions set out in this paragraph were met.* Alternatively, Member States may provide that the registration of such explanations is to be submitted only at the request the competent authority specified in paragraph 3.

*(b) the following subparagraph is added:*

“*By way of derogation from the third subparagraph, where the issuer has its securities admitted to* <sup>■</sup> *an SME growth market,* <sup>■</sup> *the written explanation shall be provided by the issuer to the competent authority only upon request.*”;

4. in Article 18, *paragraphs 1 to 6 of are* replaced by the following:

- “1. Issuers **and** any person acting on their behalf or on their account, shall **each**:
- (a) draw up a list of all persons who have access to inside information and who are working for them under a contract of employment, or otherwise performing tasks through which they have access to inside information, such as advisers, accountants or credit rating agencies (insider list);
  - (b) promptly update the insider list in accordance with paragraph 4; and
  - (c) provide the insider list to the competent authority as soon as possible upon its request.
2. Issuers **and** any person acting on their behalf or on their account, shall take all reasonable steps to ensure that any person on the insider list acknowledges in writing the legal and regulatory duties entailed and is aware of the sanctions applicable to insider dealing and unlawful disclosure of inside information. Where another person **is requested by the issuer to draw up and update its** insider list, the issuer remains fully responsible for complying with this Article. The issuer shall always retain a right of access to the insider list **that the other person is drawing up**.
3. The insider **lists** shall include at least:
- (a) the identity of any person having access to inside information;
  - (b) the reason for including that person in the insider list;
  - (c) the date and time at which that person obtained access to inside information; and
  - (d) the date on which the insider list was drawn up.
4. Issuers **and** any person acting on their behalf or on their account shall **each** update **their** insider **lists** promptly, including the date of the update, in the following circumstances:
- (a) where there is a change in the reason for including a person already on the insider list;
  - (b) where there is a new person who has access to inside information and needs, therefore, to be added to the insider list; and
  - (c) where a person ceases to have access to inside information.
- Each update shall specify the date and time when the change triggering the update occurred.
5. Issuers **and** any person acting on their behalf or on their account shall **each** retain **their** insider list for a period of at least five years after it is drawn up or updated.
6. Issuers whose financial instruments are admitted to trading on an SME growth market **and any person acting on their behalf or on their account** shall be **authorised to include in their lists of insiders only those persons who, due to**

*the nature of their function or position have access at all times to all inside information within their respective entities.*

*The insider lists shall be provided to the competent authority upon its request. In the absence of such a request, the lists shall be provided at a minimum frequency to be determined by the competent authority.”*

5. in the first subparagraph of Article 19(3), the following sentence is added:

“Issuers whose financial instruments are admitted to trading on a SME growth market shall have two business days after receipt of a notification as referred to in paragraph 1 to make public the information contained in that notification.”.

**5a. Article 35 is amended as follows:**

***(a) paragraph 2 is replaced by the following:***

*“2. The power to adopt delegated acts referred to in Article 6(5) and (6), Article 12(5), **Article 13(13)** the third subparagraph of Article 17(2), Article 17(3), and Article 19(13) and (14) shall be conferred on the Commission for **a period of five years from ... [date of entry into force of the amending act]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**”*

***(b) paragraph 3 is replaced by the following:***

*“3. The delegation of power referred to in Article 6(5) and (6), Article 12(5), **Article 13(13)**, the third subparagraph of Article 17(2), Article 17(3), and Article 19(13) and (14), may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.”*

***(c) the following paragraph is inserted:***

***“3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.”***

***(d) paragraph 5 is replaced by the following:***

*“5. A delegated act adopted pursuant to referred to Article 6(5) and (6), Article 12(5), **Article 13(13)**, the third subparagraph of Article 17(2), Article 17(3), or Article 19(13) or (14), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the*

expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.”

## *Article 2*

### *Amendments to Regulation (EU) No 2017/1129*

#### **-1. Article 1 is amended as follows:**

##### **(a) point (f) is replaced by the following:**

“(f) securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), **■** describing the transaction and its impact on the issuer **and ensuring greater transparency to enable an investor to make an informed assessment in accordance with the first subparagraph of Article 6(1);**”

##### **(b) The following paragraph is inserted:**

**“6a. The exemptions set out in point (f) of paragraph 4 and point (e) of the first subparagraph of paragraph 5 shall apply only where the equity securities of the contracting entity have already been admitted to trading on a regulated market before the takeover.**

**The exemptions set out in point (g) of paragraph 4 and point (f) of the first subparagraph of paragraph 5 shall apply only in the event of any of the following:**

**(a) the equity securities of the offeror have already been admitted to trading on a regulated market prior to the transaction;**

**(b) the equity securities subject to the company split have already been admitted to trading on a regulated market prior to the transaction;**

**(c) the merger is not considered to be a reverse acquisition transaction within the meaning of paragraph B19 of IFRS 3, Business Combinations, as approved by the European Union.”**

#### **1. Article 14 of Regulation (EU) 2017/1129 is amended as follows:**

##### **(a) the first subparagraph of paragraph 1 is amended as follows:**

##### **(i) point (b) is replaced by the following:**

“(b) issuers whose equity securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue non-equity securities **or securities giving access to equity;**”



- (ii) **■** the following point **■** is added:

“(d) issuers that have been admitted to trading on an SME Growth Market for at least *two* years and who seek admission of existing or new securities to trading on a regulated market.”;

**■**

- (b) *paragraph 3 is amended as follows:*

- (i) *point (e) of the second subparagraph of paragraph 3 is replaced by the following:*

“(e) for equity securities *or securities giving access to equity*, the working capital statement, the statement of capitalisation and indebtedness, a disclosure of relevant conflicts of interest and related-party transactions, major shareholders and, where applicable, pro forma financial information.”

- (ii) *the following subparagraph is added:*

“*The Commission shall, by 21 January 2021, review the delegated act or delegated acts provided for in this paragraph, including in particular those setting out the schedules specifying the reduced information on equity securities pursuant to point (e) of the second subparagraph of this paragraph.*”

- 2a. *In the first subparagraph of Article 15(1), the following point is inserted:*

“(ca) issuers, other than SMEs, offering shares to the public at the same time as seeking the admission of those shares to an SME growth market, provided they have no shares already admitted to trading on an SME growth market and the product of the following two components is less than EUR 200 000 000:

(i) *the price of the final offer or the maximum price in the case referred to in point (b)(i) of Article 17(1);*

(ii) *the total number of shares outstanding immediately after the share offer to the public, calculated either on the amount of shares offered to the public or on the maximum amount of shares offered to the public, in the case referred to in point (b)(i) of Article 17(1).*”

- 2b. *In Annex V, point II is replaced by the following:*

“II. **■** Statement of capitalisation and indebtedness (only for equity securities issued by companies with market capitalisation above EUR 200 000 000) *and working capital statement (only for equity securities)*.”

The purpose is to provide information on the issuer’s capitalisation and indebtedness and information as to whether the working capital is sufficient *to meet* the issuer’s

present requirements or, if not, how the issuer proposes to provide the additional working capital needed.”

## **Article 2a**

### ***Amendments to Regulation (EU) 600/2014 and Directive 2014/65/EU***

- 1. The Commission shall, by 31 December 2020 at the latest, draw up a report in cooperation with ESMA on the impact that the requirements of Regulation (EU) 600/2014 of the European Parliament and of the Council<sup>1</sup> and Directive 2014/65/EU have on SMEs’ financing, their access to financial markets and the success of SME growth markets. For the purpose of the report, ESMA shall collect data on IPOs and delistings on SME growth markets, other MTFs and regulated markets, as well as monitor transfer of companies between different trading venues. ESMA shall also look at whether or not the ownership of SMEs’ shares and bonds on the secondary market constitutes an obstacle for SMEs accessing public markets. The report shall be submitted to the European Parliament and the Council together with a legislative proposal, if appropriate.***
- 2. The Commission shall, by 31 December 2019, set up an expert stakeholder group to monitor the success of SME growth markets. The section on SME growth Markets in the report referred to in paragraph 1 shall be prepared in cooperation with the expert stakeholder group.***

## **Article 2b**

### ***Amendments to Delegated Directive (EU) 2017/593***

***The Commission shall, by 31 December 2019, assess the effects of the provisions of Article 13 of Delegated Directive (EU) 2017/593<sup>2</sup> on the research coverage of SMEs in the Union.***

***Article 13 of Delegated Directive (EU) 2017/593 sets out requirements applying to the provision of research by third parties to investment firms providing portfolio management or other investment or ancillary services to clients, and in particular the conditions to be met for such research not to be regarded as inducements prohibited under Article 24(7) and (8) of Directive 2014/65/EU.***

## **Article 2c**

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<sup>1</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>2</sup> Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500).

## *Amendments to Directive 2009/138/EC*

1. *The Commission shall, by 31 December 2020 at the latest, draw up a report on the impact of own fund requirements, investment ratios and any other measures that could have a restrictive impact on insurance and reinsurance companies that fall under Directive 2009/138/EC of the European Parliament and of the Council<sup>1</sup> in financing listed and unlisted SMEs, and shall submit that report to the European Parliament and the Council together with a legislative proposal, where appropriate.*
2. *For the purposes of paragraph 1, the European supervisory authority (the European Insurance and Occupational Pensions Authority, EIOPA) shall report to the Commission on the following;*
  - (a) *an analysis of the evolution of investing by insurance and reinsurance companies in listed and unlisted SMEs;*
  - (b) *an analysis of the regulatory and administrative barriers that limit or prevent financing and investing in listed and unlisted SMEs, such as prudential requirements and ratios, or any other provisions;*
  - (c) *the consistency of the own funds requirements set out in Directive 2009/138/EC linked to SME exposures and the conclusions of the analyses referred to in points (a) and (b).*

### *Article 2d*

## *Amendments to Directive (EU) 2016/2341*

1. *The Commission shall, by 31 December 2020 at the latest, draw up a report on the impact of own fund requirements, investment ratios and any other measures which could have a restrictive impact on institutions for occupational retirement provision (IORP 2) that fall under Directive 2016/2341 of the European Parliament and of the Council<sup>2</sup> in financing listed and non-listed SMEs, and shall submit that report to the European Parliament and the Council together with a legislative proposal, where appropriate.*
2. *For the purpose of paragraph 1, EIOPA shall report to the Commission on the following:*
  - (a) *an analysis of the evolution of investing by occupational pension institutions in listed and unlisted SMEs;*
  - (b) *an analysis of the regulatory and administrative barriers that limit or prevent financing and investing in listed and unlisted SMEs, such as prudential requirements and ratios, or any other provisions;*
  - (c) *the consistency of the own funds requirements set out in Directive*

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<sup>1</sup> *Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (OJ L 335, 17.12.2009, p. 1).*

<sup>2</sup> *Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (OJ L 354, 23.12.2016, p. 37).*

*2009/138/EC linked to SME exposures and the conclusions of the analyses referred to in points (a) and (b).*

#### *Article 2e*

#### *Revision clause of the frameworks governing the activities of investment firms and asset managers*

- 1. The Commission shall, by 31 December 2020 at the latest, draw up a report on the impact of own fund requirements, investment ratios and any other measures which fall under Directive 2014/91/EU of the European Parliament and of the Council<sup>1</sup> (UCITS), Directive 2011/61/ EU of the European Parliament and of the Council<sup>2</sup> (AIFMD), IFD and IFR [PO: please insert reference] which could have a restrictive impact for asset managers and investment firms in financing listed and non-listed SMEs, and shall submit that report to the European Parliament and the Council, together with a legislative proposal, where appropriate.*
- 2. For the purpose of paragraph 1, ESMA and EBA shall report to the Commission on the following:*
  - (a) an analysis of the evolution of investing by these financial institutions in listed and unlisted SMEs;*
  - (b) an analysis of the regulatory and administrative barriers that limit or prevent financing and investing in listed and unlisted SMEs, such as prudential requirements and ratios, or any other provisions;*
  - (c) an analysis of the actual risk faced and caused by investments in listed SMEs in the EU over a period of at least 10 years, or 5 years when including a downturn, which represents a complete economic cycle considering the cyclicity of major economic factors;*
  - (d) the consistency of the own funds requirements set out in those framework linked to SME exposures and the conclusions of the analyses referred to in points (a), (b) and (c).*

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\*\*\* Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1). ”.

#### *Article 3*

#### *Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in

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<sup>1</sup> Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions (OJ L 257, 28.8.2014, p. 186).

<sup>2</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

the Official Journal of the European Union.

It shall apply from 6 months after entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Promotion of the use of SME growth markets		
<b>References</b>	COM(2018)0331 – C8-0212/2018 – 2018/0165(COD)		
<b>Date submitted to Parliament</b>	24.5.2018		
<b>Committee responsible</b> Date announced in plenary	ECON 11.6.2018		
<b>Committees asked for opinions</b> Date announced in plenary	ENVI 11.6.2018	IMCO 11.6.2018	JURI 11.6.2018
<b>Not delivering opinions</b> Date of decision	ENVI 21.6.2018	IMCO 19.6.2018	JURI 9.7.2018
<b>Rapporteurs</b> Date appointed	Anne Sander 31.5.2018		
<b>Discussed in committee</b>	24.9.2018	19.11.2018	
<b>Date adopted</b>	3.12.2018		
<b>Result of final vote</b>	+: –: 0:	33 0 5	
<b>Members present for the final vote</b>	Pervenche Berès, Esther de Lange, Markus Ferber, Jonás Fernández, Roberto Gualtieri, Brian Hayes, Petr Ježek, Wolf Klinz, Georgios Kyrtosos, Philippe Lamberts, Werner Langen, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Alex Mayer, Bernard Monot, Luděk Niedermayer, Ralph Packet, Sirpa Pietikäinen, Anne Sander, Martin Schirdewan, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Paul Tang, Marco Valli, Miguel Viegas, Jakob von Weizsäcker		
<b>Substitutes present for the final vote</b>	Mady Delvaux, Syed Kamall, Alain Lamassoure, Luigi Morgano, Michel Reimon, Lieve Wierinck		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Barbara Lochbihler, Jarosław Wałęsa		
<b>Date tabled</b>	7.12.2018		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

<b>33</b>	<b>+</b>
ALDE	Petr Ježek, Wolf Klinz, Lieve Wierinck
ECR	Syed Kamall, Bernd Lucke, Ralph Packet
PPE	Markus Ferber, Brian Hayes, Georgios Kyrtos, Alain Lamassoure, Werner Langen, Ivana Maletić, Gabriel Mato, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Jarosław Wałęsa, Esther de Lange
S&D	Pervenche Berès, Mady Delvaux, Jonás Fernández, Roberto Gualtieri, Olle Ludvigsson, Alex Mayer, Luigi Morgano, Pedro Silva Pereira, Peter Simon, Paul Tang, Jakob von Weizsäcker
VERTS/ALE	Philippe Lamberts, Barbara Lochbihler, Michel Reimon, Molly Scott Cato

<b>0</b>	<b>-</b>

<b>5</b>	<b>0</b>
EFDD	Bernard Monot, Marco Valli
GUE/NGL	Marisa Matias, Martin Schirdewan, Miguel Viegas

### Key to symbols:

+ : in favour

- : against

0 : abstention