



Council of the
European Union

048700/EU XXVI. GP
Eingelangt am 20/12/18

Brussels, 20 December 2018
(OR. en)

15826/18
ADD 1

EF 352
ECOFIN 1248
DELECT 192

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 13 December 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2018) 8333 final

Subject: ANNEX to the COMMISSION DELEGATED REGULATION (EU) No .../...
supplementing Regulation (EU) 2015/2365 of the European Parliament and
of the Council with regard to fees charged by the European Securities and
Markets Authority to trade repositories

Delegations will find attached document C(2018) 8333 final.

Encl.: C(2018) 8333 final



Brussels, 13.12.2018
C(2018) 8333 final

ANNEX

ANNEX

to the

COMMISSION DELEGATED REGULATION (EU) No .../...

supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories

ANNEX

FIRST YEAR INTERIM FEES

Part 1

Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the following year

1. The trade repository's interim supervisory fee shall be the lower of the following:
 - (a) the trade repository's registration fee due in accordance with Article 5 of the present Regulation;
 - (b) the trade repository's registration fee due in accordance with Article 5 of the present Regulation multiplied by the ratio between the working days from its date of registration until the end of the year and 150 working days.

This calculation shall be made as follows:

*TR interim supervisory fee = Min (Registration fee, Registration fee * Coefficient)*

$$\text{Coefficient} = \frac{\text{Supervisory working days in year 1}}{150}$$

2. The interim supervisory fee shall be paid in full 60 days after the entry into force of this Regulation or 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365, whichever is the later.

Part 2

Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the first six months of the same year

1. The trade repository's interim supervisory fee shall be the total annual supervisory fee determined pursuant to Article 6(2)(a) of the present Regulation divided between all trade repositories registered in that year, in proportion to the applicable turnover calculated pursuant to paragraph 2.
2. For the purposes of calculating the interim supervisory fee the applicable turnover of a trade repository shall be the sum of
 - the revenues generated from the core functions of centrally collecting and maintaining records of SFTs during the period from 1 January to 30 June of the year during which the trade repository was registered and
 - the applicable revenues from ancillary services of the trade repository in accordance with paragraphs 1 and 2 of Article 2 of the present Regulation, as applicable, during the period from 1 January to 30 June of the year during which the trade repository was registered

divided by the total revenues generated from the core functions of centrally collecting and maintaining records of SFTs and the applicable revenues from

ancillary services of all registered trade repositories in accordance with paragraphs 1 and 2 of Article 2 of the present Regulation, as applicable, during the period from 1 January to 30 June of that year.

3. The interim supervisory fee shall be paid in two instalments.

The first instalment shall be due 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365 and shall amount to the trade repository's registration fee pursuant to Article 5 of the present Regulation.

The second instalment shall be due on 31 October. The amount of the second instalment shall be the interim supervisory fee calculated according to paragraph 1 minus the amount of the first instalment.

Where the amount paid by a trade repository in the first instalment is higher than the interim supervisory fee calculated according to paragraph 1, ESMA shall reimburse the difference between the amount paid in the first instalment and the interim supervisory fee calculated according to paragraph 1 to the trade repository.

4. When the audited accounts for the year of registration become available, trade repositories shall report to ESMA any change in the applicable turnover calculated in accordance with paragraph 1, stemming from the difference between the final data for the period from 1 January to 30 June and the provisional data used for the calculation pursuant to paragraph 1.

Trade repositories will be charged the difference between the annual supervisory fee for the year of registration actually paid pursuant to paragraph 3 and the annual supervisory fee for the year of registration to be paid as a consequence of any change to the applicable turnover referred to in the first subparagraph.

5. Without prejudice to paragraphs 1 and 4, the interim supervisory fee shall not be lower than 15,000 euros.

Part 3

Interim supervisory fee for the year of a trade repository's registration where the reporting obligation starts in the last six months of the same year

1. The trade repository's interim supervisory fee shall be the total supervisory fee determined pursuant to Article 6(2)(a) of the present Regulation, divided between all trade repositories, in proportion to the ratio of the trade repository's registration fee paid to ESMA to the total of all registration fees paid by trade repositories to ESMA in that year.
2. The fee determined pursuant to paragraph 1 shall be due 30 days after the notification referred to in Article 8(1) of Regulation (EU) 2015/2365.