

Law on market abuse

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By a Law dated 23 December 2016, the Luxembourg legislator adopted Bill of law 7022 (a) implementing (i) Directive 2014/57/EU on criminal sanctions for market abuse as well as (ii) the Commission Implementing Directive 2015/2392/EU with regard to reporting to competent authorities of actual or potential infringements in relation to the market abuse regulation; (b) supplementing specific provisions of Regulation 596/2014/EU on administrative measures and sanctions and (c) amending the Law of 11 January 2008 on transparency requirements for issuers ("**Law**").

When implementing these provisions, the Luxembourg legislator did not go beyond what was required pursuant to the provisions of said directives.

Chapter 2 of the Law relates to the administrative sanctions and the powers conferred on the *Commission de Surveillance du Secteur Financier* ("**CSSF**") in that context. Chapter 3 relates to the criminal law sanctions and implements the relevant provisions of Directive 2014/57/EU.

To a large extent, Chapter 2 confirms the powers already provided under the Law of 9 May 2006 (repealed) given to the CSSF as competent administrative authority and provides for further precisions or extensions of the CSSF's investigative powers.

With the implementation of Article 32 of the Market Abuse Regulation 596/2014 ("**MAR**") in the Law, a specific regime for "whistleblowers" is put in place. The CSSF is hereby required to put into place procedures which allow the efficient notification to the CSSF of effective or potential violations of MAR. Employers are further required to implement appropriate internal procedures which allow their employees to notify any such violations of MAR.

In order to avoid any violation of the *ne bis in idem* principle, the Law maintains the mechanisms already introduced under the Law of 9 May 2006 (repealed), laying down a consultation procedure between the CSSF and the State prosecutor.

The Law was published in the Luxembourg official gazette on 27 December 2016.

In this context it should also be noted that ESMA provided a non-exhaustive and indicative list setting out examples where the legitimate interests of an issuer could justify the delay of disclosure of inside information. The guidelines have been applicable since 20 December 2016.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter

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