

ARTICLE		
CONTENT	SUBTITLE	TITLE
<div> For the purposes of this Regulation, secure electronic means are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means that ensure that completeness, integrity and confidentiality of the information are maintained during the transmission. </div>	Definition	Article 1
<ol style="list-style-type: none"> <li>Competent authorities shall designate contact points for the purposes of this Regulation.</li> <li>Competent authorities shall communicate the details of the contact points to the European Securities and Markets Authority (ESMA) within 30 days of this Regulation entering into force. They shall provide updated information to ESMA as necessary.</li> <li>ESMA shall maintain a list of the contact points designated by competent authorities pursuant to paragraph 1 and update that list as necessary for the use of the competent authorities.</li> </ol>	Contact points	Article 2
<ol style="list-style-type: none"> <li>A requesting authority shall make a request for assistance in writing by post, fax or by secure electronic means. It shall address the request to the contact point designated by the requested authority pursuant to Article 2.</li> <li> <p>When requesting assistance, a competent authority shall use the form set out in Annex I and shall:</p> <ol style="list-style-type: none"> <li>specify the details of the relevant information that the requesting authority is seeking from the requested authority;</li> <li>identify, where appropriate, issues relating to the confidentiality of the information that may be obtained.</li> </ol> </li> <li>The requesting authority may attach to the request any document or supporting material deemed necessary to support the request.</li> <li>In urgent cases, the requesting authority may make a request for assistance verbally. Unless the requested authority agrees otherwise, that oral request shall subsequently be confirmed in writing without undue delay by using the means referred to in paragraph 1.</li> </ol>	Request for assistance	Article 3
<div> Within 10 working days of receipt of a written request for assistance, a requested authority shall send an acknowledgement of receipt by post, fax or secure electronic means to the contact point designated pursuant to Article 2, unless otherwise specified in the request. This acknowledgement of receipt shall be made by using the form set out in Annex II and shall include, where possible, the indication of an estimated date of response. </div>	Acknowledgment of receipt	Article 4
<ol style="list-style-type: none"> <li>The requested authority shall reply to a request for assistance in writing by post, fax or secure electronic means. The reply shall be addressed to the contact point designated pursuant to Article 2, unless otherwise specified in the request.</li> <li> <p>The requested authority shall reply to the request for assistance using the form set out in Annex III and shall:</p> <ol style="list-style-type: none"> <li>request further clarifications in any form and as soon as possible where it has any doubt in relation to the precise information requested;</li> <li>take all reasonable steps within the scope of its powers to provide the assistance requested;</li> <li>execute requests for assistance without delay and in a manner which ensures that any necessary regulatory action proceeds expediently, taking into account the complexity of the</li> </ol> </li> </ol>	Reply to a request for assistance	Article 5

request and the necessity to involve third parties or another competent authority.		
Where the requested authority refuses to act, in full or in part, upon a request for assistance, it shall inform the requesting authority as soon as possible of its decision, verbally or in writing. The requested authority shall also provide a written reply made in accordance with paragraph 1 that indicates which of the exceptions under Article 25(2) of Regulation (EU) No 596/2014 it has relied upon for its refusal.		
<ol class="crrNumList" style="list-style-type: none"> <li>The requesting authority and the requested authority shall communicate in relation to a request for assistance and its reply by the most expedient means, taking due account of confidentiality considerations, correspondence times, the volume of material to be communicated and the ease of access to the information by the requesting authority. In particular, the requesting authority shall respond promptly to any clarifications requested by the requested authority.</li> <li>When the requested authority becomes aware of circumstances that may lead to a delay in its estimated date of response of more than 10 working days, it shall notify the requesting authority without undue delay.</li> <li>Where appropriate, the requested authority shall provide regular feedback regarding progress of the pending request, including revised estimates of the targeted date of reply to the requesting authority.</li> <li>Where the request has been qualified by the requesting authority as urgent, competent authorities shall consult each other on the frequency with which the requested authority will update the requesting authority.</li> <li>The requested authority and the requesting authority shall cooperate in order to resolve any difficulties that may arise in executing a request.</li> </ol>	Procedures for sending and processing a request for assistance	Article 6
<ol class="crrNumList" style="list-style-type: none"> <li> <p>Where the requesting authority includes within its request the taking of a statement of any person in the context of an investigation or an inspection, the requested authority and the requesting authority shall, subject to existing legal limitations or constraints and any differences in procedural requirements, assess and take into account the following:</p> <ol class="crrCharList" style="list-style-type: none"> <li>the rights of the persons from whom the statements will be taken including, where applicable, any self-incrimination issues;</li> <li>the nature of the participation of the requesting authority's staff (observer or active participant);</li> <li>the role of the staff of the requested authority and the requesting authority in the taking of the statement;</li> <li>whether the person from whom the statement is to be taken has the right to be assisted by a legal representative and, if so, the scope of the representative's assistance during the taking of the statement including in relation to any records or report of the statement;</li> <li>whether the statement is to be taken on a voluntary or compelled basis, where that distinction exists;</li> <li>whether, based on the information available at the time of the request, the person from whom the statement is to be taken is a witness or a suspect where that distinction exists;</li> <li>whether, based on the information available at the time of the request, the statement could be or is intended to be used in criminal proceedings;</li> <li>the admissibility of the statement in the requesting authority's jurisdiction;</li> <li>the recording of the statement and the applicable procedures, including whether it will be contemporaneous or summarised written minutes or an audio or audiovisual recording;</li> <li>procedures on the certification or confirmation of the statement by the</li> </ol> </li> </ol>	Procedure for requests for taking a statement from a person	Article 7

## DOCUMENT SECTION

persons providing the statement, including whether that takes place after the statement is taken; and

- the procedure for transmitting the statement by the requested authority to the requesting authority, including the format and timing.

The requested authority and the requesting authority shall ensure that arrangements are in place for their staff to proceed efficiently, including arrangements to enable their staff to agree on any additional information that may be necessary, including the following:

- planning of dates;
- the list of questions to be asked to the person from whom the statement is to be taken;
- travelling arrangements, including ensuring that the requested authority and the requesting authority are able to meet to discuss the matter prior to the taking of the statement; and
- language arrangements.

- When a request to carry out an investigation or an on-site inspection is made pursuant to Article 25(6) of Regulation (EU) No 596/2014, the requesting authority and the requested authority shall consult each other on the best way to give useful effect to the request for assistance, taking into account points (a) to (e) of the third paragraph of Article 25(6) of Regulation (EU) No 596/2014, including on the merits of conducting a joint investigation or a joint on-site inspection.
- The requested authority shall keep the requesting authority informed of the progress of the investigation or on-site inspection and will transmit its findings in good time to the requesting authority.

In deciding on whether to initiate a joint investigation or a joint on-site inspection, the requesting authority and the requested authority shall take into account at least the following:

- the contents of any requests for assistance received from the requesting authority including any suggestion on the appropriateness to carry out an investigation or an on-site inspection jointly;
- whether they are separately conducting their own inquiries into a matter with cross-border implications and whether that matter would be more suitable for joint collaboration;
- the legal and regulatory framework in each of their jurisdictions, ensuring that both authorities have a good understanding of the potential constraints and legal limitations on the conduct of any joint investigation or joint on-site inspection and on any proceedings that may follow, including any issues relating to the principle of ne bis in idem;
- the management and direction needed for the investigation or on-site inspection;
- the likely prospects that they will agree on the finding of facts;
- the allocation of resources and appointment of staff in charge of carrying out investigations or on-site inspections;
- the possibility to establish a joint action plan and the timing of work by each authority;
- the determination of actions to be taken, jointly or individually, by each authority;
- mutual sharing of information gathered and reporting on the outcomes of the individual actions taken; and
- other case specific issues.

Where the requesting authority and the requested authority decide to carry out a joint investigation or a joint on-site inspection, they shall:

- agree on procedures for its conduct and conclusion;
- engage in an ongoing dialogue to coordinate the information gathering process and the finding of facts;
- work closely and cooperate with each other on the conduct of the joint investigation or the joint on-site inspection;
- provide mutual

Procedure for requests for an investigation or on-site inspection

Article 8

<p>assistance on subsequent enforcement proceedings to the extent legally permitted, including coordinating any proceedings or other enforcement action related to the outcome (whether administrative, civil or criminal) of the joint investigation or the joint on-site inspection or, where appropriate, the prospects of a settlement;</p> <ul style="list-style-type: none"> <li>identify the specific legal provisions which govern the subject matter of the joint investigation or of the joint on-site inspection;</li> <li>where relevant, consider at least the following: <ol style="list-style-type: none"> <li>the drawing up of a joint action plan specifying, among others, the substance, nature and timing of the actions to be taken, and including milestones and the allocation of responsibilities in delivering the outcome of the work and taking into account each authority's respective priorities;</li> <li>the identification and assessment of any legal limitations or constraints and any differences in procedures with respect to investigative or enforcement action or any other proceedings, including the rights of any person subject to investigation;</li> <li>the identification and assessment of specific legal professional privileges that may have an impact on the investigation proceedings as well as the enforcement proceedings, including self-incrimination;</li> <li>the public and press strategy; and</li> <li>the intended use of information exchanged.</li> </ol> </li> </ul>		
<ol style="list-style-type: none"> <li>The requesting authority and the requested authority shall consult each other when a request for assistance in the recovery of pecuniary sanctions is made pursuant Article 25(6) of Regulation (EU) No 596/2014 on the best way to give useful effect to the request. The authorities shall take into account the actions already taken by the requesting authority in its jurisdiction and the national framework on the recovery of sanctions of the requested authority.</li> <li>The requested authority shall provide the assistance or make available any information, requested for the purposes of this Article in accordance with relevant national law. Where the requested assistance may be provided by or the information may be available to another authority or relevant body of the Member State of the requested authority, the requested authority shall offer to provide the requesting authority with the necessary information to establish direct contact between the requesting authority and the other authority or body from whom the requested information might be available, in accordance with national law.</li> </ol>	Procedures for assistance in recovery of pecuniary sanctions	Article 9
<ol style="list-style-type: none"> <li>For the purposes of transmitting unsolicited information under Article 16(4) and Article 25(5) of Regulation (EU) No 596/2014, or where a competent authority has information that it believes would assist another competent authority in carrying out its duties under Regulation (EU) No 596/2014, it shall transmit such information in writing by post, fax or secure electronic means, to the contact point of the competent authority designated pursuant to Article 2.</li> <li>Where the competent authority sending the information believes the information should be transmitted urgently, it may inform the other authority verbally, provided that a subsequent transmission is made in writing without undue delay.</li> <li>A competent authority that sends information on an unsolicited basis shall do so using the form set out in Annex IV, identifying in particular issues relating to the confidentiality of information.</li> </ol>	Unsolicited exchange of information	Article 10
<ol style="list-style-type: none"> <li>The requesting authority and the requested authority shall include an</li> </ol>		

appropriate confidentiality warning in any request for assistance, reply to a request for assistance or transmission of unsolicited information in accordance with the forms set out in the Annexes.

Where, in order to execute the request, the requested authority is required to disclose the fact that the requesting authority has made a request, the requested authority shall disclose it after having discussed the nature and extent of the disclosure required with the requesting authority and after having obtained its consent to such disclosure. Where the requesting authority does not provide its consent to the disclosure, the requested authority shall not act upon the request, and the requesting authority may withdraw or suspend its request until it is able to provide such consent to disclosure.

Information provided in accordance with Article 10 shall be used solely for the purposes of securing compliance with or enforcement of the provisions of Regulation (EU) No 596/2014, including, but not limited to, initiating, conducting or assisting in criminal, administrative, civil or disciplinary proceedings resulting from a breach of the provisions of that Regulation.

Restrictions and permissible uses of information

Article 11

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Entry into force and application

Article 12