

ANNEX B2

Provisions for Criminal and Administrative Penalties as per Italian Legislative Decree no. 58 of 24 February 1998 (Consolidated Law on Finance)¹

TITLE I-BIS - INSIDER INFORMATION AND MARKET MANIPULATION^[899]

Chapter II - Penal sanctions^[909]

Arts 184, 185, 186, and 187)

Art. 184

(Abuse of Insider Information)

1. Imprisonment for between one and six years and a fine of between twenty thousand and three million euro shall be imposed on any person who, possessing inside information by virtue of his membership of the administrative, management or supervisory bodies of an issuer, his holding in the capital of an issuer or the exercise of his employment, profession, duties, including public duties, or position:

a) buys, sells or carries out other transactions involving, directly or indirectly, for his own account or for the account of a third party, financial instruments using such information;

b) discloses such information to others outside the normal exercise of his employment, profession, duties or position;

c) recommends or induces others, on the basis of such information, to carry out any of the transactions referred to in paragraph a).

2. The punishment referred to in paragraph 1 shall apply to any person who, possessing inside information by virtue of the preparation or execution of criminal activities, carries out any of the actions referred to in paragraph 1.

3. Courts may increase the fine up to three times or up to the larger amount of ten times the product of the crime or the profit therefrom when, in view of the particular seriousness of the offence, the personal situation of the guilty party or the magnitude of the product of the crime or the profit therefrom, the fine appears inadequate even if the maximum is applied.

3-bis. With regard to financial instrument transactions pursuant to Article 180, paragraph 1, paragraph a), point 2), the judicial sanction shall involve infliction of a fine of up to one hundred and three thousand two hundred and ninety-one euro and up to three-years' imprisonment^[910].

4. For the purposes of this article, financial instruments shall also mean financial instruments referred to in Article 1(2) whose value depends on a financial instrument referred to in Article 180(1)(a)^[911].

^[899] The previous Chapter IV – “Abuse of Insider Information and Fraud on Financial Instruments”, including the Articles from 180 to 187-bis, has been substituted with the present Title I-bis (Arts 180-187-*quaterdecies*) from Art. 9 of L. no. 62 of 18/04/2005 (2004 Community Law), subsequently amended as detailed in the following notes.

^[909] Pursuant to Art. 39, paragraph 1, of L. no. 262 of 28/12/2005, the penalties indicated in this Chapter are doubled within the limits defined for each type of penalty by Book I, Title II, Chapter II of the penal code.

^[910] Paragraph added by Art. 1, paragraph 17 of IT Leg. Dec. no. 101 of 17/07/2009.

^[911] See Ed. note to Title I-bis and to Chapter II – Penal Sanctions.

Art. 185

(Market Manipulation)

1. Imprisonment for between one and six years and a fine of between twenty thousand and three million euro shall be imposed on any person who disseminates false information or sets up sham transactions or employs other devices concretely likely to produce a significant alteration in the price of financial instruments.

2. Courts may increase the fine up to three times or up to the larger amount of ten times the product of the crime or the profit therefrom when, in view of the particular seriousness of the offence, the personal situation of the guilty party or the magnitude of the product of the crime or the profit therefrom, the fine appears inadequate even if the maximum is applied.

2-bis. With regard to financial instrument transactions pursuant to Article 180, paragraph 1, paragraph a), point 2), the judicial sanction shall involve infliction of a fine of up to one hundred and three thousand two hundred and ninety one euro and up to three-years' imprisonment^[912].

^[912] Paragraph added by Art. 1, paragraph 18 of IT Leg. Dec. no. 101 of 17/07/2009. See Ed. note to Title I-bis and to Chapter II – Penal Sanctions.

Art. 186

(Additional penalties)

1. Conviction for any of the offences referred to in this chapter shall entail the application of the accessory penalties referred to in Articles 28, 30, 32-bis and 32-ter of the Penal Code for a period of not less than six months and not more than two years, and the publication of the judgment in at least two daily newspapers having national circulation, of which one shall be a financial newspaper.^[913]

^[913] See Ed. note to Title I-bis.

¹ The criminal penalties currently applicable are those established by Article 184 and subsequent of the Consolidated Law on Finance. These provisions may be amended/supplemented on the basis of implementation, by the Italian Legislator, of Directive 2014/57/EU of Regulation (EU) of the European Parliament and of the Council of 16 April 2014 on criminal penalties for market abuse (“MAD II”) according to the existing terms of Enabling Law of 9 July 2015 no. 114.

Art. 187
(Confiscation)

1. In the event of a conviction for one of the crimes referred to in this chapter, the product of the crime or the profit therefrom and the property used to commit it shall be confiscated.
2. If it is not possible to execute the confiscation pursuant to paragraph 1, a sum of money or property of equivalent value may be confiscated.
3. For matters not provided for in paragraphs 1 and 2, Article 240 of the Penal Code shall apply.^[914]

⁽⁹¹⁴⁾ See Ed. note to Title I-bis.

(TITLE I-BIS - ABUSE OF INSIDER INFORMATION AND MARKET MANIPULATION
Chapter III - Administrative Penalties
Arts 187-bis, 187-ter, 187-quater, 187-quinquies, 187-sexies, and 187-septies)

Art. 187-bis^[915]
(Insider Trading)

1. Without prejudice to the penal sanctions applicable when the action constitutes a criminal offence, a pecuniary administrative sanction of between *twenty thousand euro* and *three million euro*^[916] shall be imposed on any person who, possessing inside information by virtue of his membership of the administrative, management or supervisory bodies of an issuer, his holding in the capital of an issuer or the exercise of his employment, profession, duties, including public duties, or position:
 - a) buys, sells or carries out other transactions, directly or indirectly, for his own account or for the account of a third party, financial instruments using such information;
 - b) discloses such information to others outside the normal exercise of his employment, profession, duties or position;
 - c) recommends or induces others, on the basis of such information, to carry out any of the transactions referred to in paragraph a).
2. The sanction referred to in paragraph 1 shall apply to any person who, possessing inside information by virtue of the preparation or execution of criminal activities, carries out any of the actions referred to in paragraph 1.
3. For the purposes of this article, financial instruments shall also mean financial instruments referred to in Article 1(2) whose value depends on a financial instrument referred to in Article 180(1)(a).
4. The sanction referred to in paragraph 1 shall also apply to any person who, possessing inside information and knowing or capable of knowing through ordinary diligence its inside nature, carries out any of the actions referred to therein.
5. Pecuniary administrative sanctions referred to in paragraphs 1, 2 and 4 shall be increased up to three times or up to the larger amount of ten times the product of the offence or the profit therefrom when, in view of the personal situation of the guilty party or the magnitude of the product the offence or the profit therefrom, they appear inadequate even if the maximum is applied.
6. For the cases referred to in this article, attempted violations shall be treated as completed violations.

⁽⁹¹⁴⁾ See Ed. note to Title I-bis.

⁽⁹¹⁶⁾ The size of the pecuniary administrative penalty was subsequently increased fivefold by Art. 39, paragraph 3 of L. no. 262 of 28/12/2005; on the basis of this last provision, the amounts must be understood as thus amended: twenty thousand euro has become one hundred thousand euro, and three million euro has become fifteen million euro.

Art. 187-ter^[917]
(Market Manipulation)

1. Without prejudice to the penal sanctions applicable when the action constitutes a criminal offence, a pecuniary administrative sanction of between *twenty thousand euro* and *five million euro*^[918] shall be imposed on any person who, through the media, including the Internet, or by any other means, disseminates information, rumours or false or misleading news that give or are likely to give false or misleading signals as to financial instruments.
2. In respect of journalists when they act in their professional capacity, the dissemination of information is to be assessed taking into account the rules of conduct governing their profession, unless they derive, directly or indirectly, an advantage or profits from the dissemination of the information in question.
3. Without prejudice to the penal sanctions applicable when the action constitutes a criminal offence, the pecuniary administrative sanction referred to in paragraph 1 shall be imposed on any person who carries out:
 - a) buy or sell transactions or places orders to buy or sell which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments;
 - b) buy or sell transactions or places orders to buy or sell which secure, by a person or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level;
 - c) buy or sell transactions or places orders to buy or sell which employ fictitious devices or any other form of deception or contrivance;
 - d) other fictitious devices likely to give false or misleading signals as to the supply of, demand for or price of financial instruments.
4. For offences referred to in paragraphs 3a) and 3b), administrative sanctions may not be imposed on persons who demonstrate that they acted for legitimate reasons and in accordance with accepted market practices on the market concerned.
5. Pecuniary administrative sanctions referred to in the preceding paragraphs shall be increased up to three times or up to the larger amount of ten times the product of the offence or the profit therefrom when, in view of the personal situation of the guilty party, the

magnitude of the product of the offence or the profit gained therefrom, or the effects produced on the market, they appear inadequate even if the maximum amount is applied.

6. The Ministry of Economy and Finance, after consulting CONSOB or acting on a proposal therefrom, shall specify, in a regulation conforming with the implementing measures of Directive 2003/6/EC adopted by the Commission using the procedure referred to in Article 17(2) of the same directive, the cases, possibly in addition to those referred to in the preceding paragraphs, relevant for purposes of applying this article.

7. CONSOB shall make known, in measures it adopts, the elements and circumstances to be taken into consideration in assessing behaviour likely to constitute market manipulation according to Directive 2003/6/EC and the implementing measures thereof^[919].

⁽⁹¹⁷⁾ See Ed. note to Title I-*bis*.

⁽⁹¹⁸⁾ The size of the pecuniary administrative penalty was subsequently increased fivefold by Art. 39, paragraph 3 of L. no. 262 of 28/12/2005; on the basis of this last provision, the amounts must be understood as thus amended: twenty thousand euro has become one hundred thousand euro, and five million euro has become twenty five million euro.

⁽⁹¹⁹⁾ See CONSOB regulation no. 16191 of 29/10/2007 (published in Ordinary Supplement no. 222 to the Official Journal (O.J.) no. 255 of 02/11/2007).

*Art. 187-quater
(Additional Administrative Penalties)*

1. Application of the pecuniary administrative sanctions referred to in this chapter shall imply temporary non-fulfilment of the integrity requirements for corporate officers and shareholders of authorised intermediaries, stock exchange companies, auditors and financial advisors authorised to make off-premises offers and, for corporate officers of listed companies, temporary disqualification from taking up administrative, management or supervisory positions in listed companies or companies belonging to the same group as listed companies.^[920]

2. Accessory administrative sanctions referred to in paragraph 1 shall have a duration of not less than two months and not more than three years.

3. In the measure imposing pecuniary administrative sanctions referred to in this chapter, CONSOB, taking into account the seriousness of the violation and the degree of fault, may order authorised intermediaries, stock exchange companies, listed issuers and auditing firms not to use the offender in the exercise of their activities for a period of not more than three years and ask the competent professional associations to suspend the registrant from practice of the profession^[921].

⁽⁹²⁰⁾ Paragraph as modified by Art. 1, paragraph 39 of L. no. 208 of 28/12/2015 that substituted the words: "financial advisors" with the words: "financial advisors authorised to make off-premises offers".

⁽⁹²¹⁾ See Ed. note to Title I-*bis*.

*Art. 187-quinquies
(Liability of the Entity)*

1. Entities shall be liable for payment of a sum equal to the amount of the administrative sanction imposed for offences referred to in this chapter committed in their interest or to their advantage:

a) by persons performing representative, administrative or management functions in the entity or one of its organisational units having financial and functional autonomy and by persons who, de facto or otherwise, manage and control the entity;

b) by persons subject to the direction or supervision of a person referred to in paragraph a).

2. If, following perpetration of offences referred to in paragraph 1, the product thereof or the profit therefrom accruing to the entity is very large, the sanction shall be increased up to ten times such product or profit.

3. Entities shall not be liable if they demonstrate that the persons specified in paragraph 1 acted exclusively in their own interest or in the interest of third parties.

4. Articles 6, 7, 8 and 12 of Legislative Decree 231 of 08 June 2001 shall apply, insofar as they are compatible, to offences referred to in paragraph 1. The Ministry of Justice, after consulting CONSOB, shall formulate the observations referred to in Article 6 of Italian Legislative Decree no. 231 of 8 June 2001, with regard to offences referred to in this title^[922].

⁽⁹²²⁾ See Ed. note to Title I-*bis*.

*Art. 187-sexies
(Confiscation)*

1. The imposition of pecuniary administrative sanctions referred to in this chapter shall always entail the confiscation of the product of the offence or the profit therefrom and the property used to commit it.

2. If it is not possible to execute the confiscation pursuant to paragraph 1, a sum of money or property of equivalent value may be confiscated.

3. In no case may property not belonging to one of the persons on whom the pecuniary administrative sanction was imposed be confiscated^[923].

⁽⁹²³⁾ See Ed. note to Title I-*bis*.

*Art. 187-septies^[924]
(Sanction Procedures)*

1. The administrative sanctions referred to in this chapter shall be imposed by CONSOB with a reasoned order, after charging interested parties within one hundred and eighty days or within three hundred and sixty days from the ascertainment where the interested party resides or has its head office abroad. Interested parties may, within thirty days of the dispute, make submissions and request a personal hearing during the investigation stage, in which they may also participate with the assistance of a lawyer^[925].
2. The proceedings shall afford all parties the opportunity to state their case and have access to the investigation file. Transcripts shall be taken of the proceedings. Investigatory and adjudicatory functions shall be separate.
3. ...omitted...^[926]
4. An appeal can be brought against the provision that applies the sanction before the court of appeal under whose jurisdiction the appellant party's headquarters or residence fall. If the appellant does not have its registered office or residence address in Italy, the court of appeal of the place where the violation occurred shall have jurisdiction. When these criteria do not apply, the court of appeal of Rome shall have jurisdiction. The appeal shall be notified, under penalty of forfeiture, to the Authority that issued the provision within thirty days of notification of the contested measure, or sixty days if the applicant resides abroad, and is filed with the clerk of the court, together with the documents, by the deadline of thirty days from notification^[927].
5. Opposition does not suspend enforcement of the provision. If serious grounds occur, the court of appeal may order suspension with unchallengeable order^[928].
6. The President of the court of appeal shall designate the Judge-Rapporteur and fix by decree the public hearing to discuss the appeal. The decree shall be notified to the parties by the clerk of the court at least sixty days before the hearing. The Authority shall file memoranda and documents within ten days before the hearing. If the appellant does not appear at the first hearing without providing any legitimate excuse, the judge shall declare, with an order subject to appeal at the Court of Cassation, that the appeal cannot go forward and charging the appellant for the expenses of the procedure^[929].
- 6-bis. At the hearing, the Court of Appeal shall have, even on its own motion, the evidence it deems necessary, as well as the personal hearing for parties who have so requested. Then the parties proceed to an oral discussion of the case. The judgment is filed with the clerk of court within sixty days. When at least one of the parties would be interested in the advance publication of the order with respect to the judgment, the order is published by filing with the clerk of the court no later than seven days from the discussion hearing^[930].
- 6-ter. With the decision, the court of appeal can dismiss the appeal, charging the appellant all the expenses of the procedure or sustain it, annulling the order entirely or in part or reducing the amount or term of the sanction^[931].
7. A copy of the judgment shall be forwarded, by the clerk of the court of appeal, to the Authority that issued the provision, also for the purposes of publication provided for in Article 195-bis^[932].
8. Article 16 of Italian Law no. 689 of 24 November 1981 does not apply to the pecuniary administrative sanctions envisaged by this chapter^[933].

⁽⁹²⁴⁾ Paragraph 8 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 defines that: "The amendments to Article 187-septies, paragraphs 4, 5, 6, 6-bis, 6-ter, 7, 8 and 9, of Italian Legislative Decree no. 58 of 24 February 1998, apply to judgments passed from the date this legislative decree came into force".

⁽⁹²⁵⁾ Paragraph first amended by Art. 1, paragraph 19 of IT Leg. Dec. no. 101 of 17/07/2009 and later substituted by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

⁽⁹²⁶⁾ Paragraph repealed by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

⁽⁹²⁷⁾ Paragraph first repealed by Art. 4 of Annex 4 of IT Leg. Dec. no. 104 of 02/07/2010 (Art. 133, paragraph 1, sub-paragraph I) of IT Leg. Dec. no. 104/2010 thus defined: "The following are deferred to the administrative judge, unless otherwise dictated by law: ... I) disputes regarding all measures, including those regarding penalties and excluding those regarding privatised employment relationships, adopted by the Bank of Italy, and by the Italian Securities and Exchange Commission [...]". Subsequently reintroduced by Constitutional Court ruling no. 162 of 20/27 June 2012 (which declared the unconstitutionality of the provisions of Italian Legislative Decree no. 104/2010 with the subsequent restoration of the provisions of Italian Legislative Decree no. 58/1998 which had been repealed). Again, subsequently, the aforementioned annex 4, Art. 4 paragraph 1, number 19) of Italian Legislative Decree no. 104 of 02/07/2010 was abolished by Art. 3, paragraph 1, Italian Legislative Decree no. 160 of 14/09/2012. The Constitutional Court, with ruling no. 94 of 9/15 April 2014 (O.J. no. 18 of 23/04/2014 – First special series), subsequently declared, amongst other aspects, the unconstitutional nature of the aforementioned annex 4, Art. 4, paragraph 1, number 19), regarding the part which repealed Arts 187-septies, paragraphs 4 to 8, and 195, paragraphs 4 to 8, of this order. This paragraph was finally substituted by Art. 5 of Italian Legislative Decree no. 72 of 12/05/2015.

⁽⁹²⁸⁾ Paragraph first repealed by Art. 4 of Annex 4 of IT Leg. Dec. no. 104 of 02/07/2010. Subsequently reintroduced by Constitutional Court ruling no. 162 of 20/27 June 2012 (which declared the unconstitutionality of the provisions of Italian Legislative Decree no. 104/2010 with the subsequent restoration of the provisions of Italian Legislative Decree no. 58/1998 which had been repealed). Again subsequently, the aforementioned annex 4, Art. 4 paragraph 1, number 19) of Italian Legislative Decree no. 104 of 02/07/2010 was abolished by Art. 3, paragraph 1, Italian Legislative Decree no. 160 of 14/09/2012. The Constitutional Court, with ruling no. 94 of 9/15 April 2014 (O.J. no. 18 of 23/04/2014 – First special series), subsequently declared, amongst other aspects, the unconstitutional nature of the aforementioned annex 4, Art. 4, paragraph 1, number 19), regarding the part which repealed arts 187-septies, paragraphs 4 to 8, and 195, paragraphs 4 to 8, of this order. This paragraph was finally amended by Art. 5 of Italian Legislative Decree no. 72 of 12/05/2015 which substituted the words: "a motivated decree" with the words: "an unchallengeable order".

⁽⁹²⁹⁾ Paragraph first repealed by Art. 4 of Annex 4 of IT Leg. Dec. no. 104 of 02/07/2010. Subsequently reintroduced by Constitutional Court ruling no. 162 of 20/27 June 2012 (which declared the unconstitutionality of the provisions of Italian Legislative Decree no. 104/2010 with the subsequent restoration of the provisions of Italian Legislative Decree no. 58/1998 which had been repealed). Again subsequently, the aforementioned annex 4, Art. 4 paragraph 1, number 19) of Italian Legislative Decree no. 104 of 02/07/2010 was abolished by Art. 3, paragraph 1, Italian Legislative Decree no. 160 of 14/09/2012. The Constitutional Court, with ruling no. 94 of 9/15 April 2014 (O.J. no. 18 of 23/04/2014 – First special series), subsequently declared, amongst other aspects, the unconstitutional nature of the aforementioned annex 4, Art. 4, paragraph 1, number 19), regarding the part which repealed arts 187-septies, paragraphs 4 to 8, and 195, paragraphs 4 to 8, of this order. This paragraph was finally substituted by Art. 5 of Italian Legislative Decree no. 72 of 12/05/2015.

⁽⁹³⁰⁾ Paragraph repealed by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

⁽⁹³¹⁾ Paragraph repealed by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

⁽⁹³²⁾ Paragraph first repealed by Art. 4 of Annex 4 of IT Leg. Dec. no. 104 of 02/07/2010. Subsequently reintroduced by Constitutional Court ruling no. 162 of 20/27 June 2012 (which declared the unconstitutionality of the provisions of Italian Legislative Decree no.

104/2010 with the subsequent restoration of the provisions of Italian Legislative Decree no. 58/1998 which had been repealed). Again, subsequently, the aforementioned annex 4, Art. 4 paragraph 1, number 19) of Italian Legislative Decree no. 104 of 02/07/2010 was abolished by Art. 3, paragraph 1, Italian Legislative Decree no. 160 of 14/09/2012. The Constitutional Court, with ruling no. 94 of 9/15 April 2014 (O.J. no. 18 of 23/04/2014 – First special series), subsequently declared, amongst other aspects, the unconstitutional nature of the aforementioned annex 4, Art. 4, paragraph 1, number 19), regarding the part which repealed Arts 187-*septies*, paragraphs 4 to 8, and 195, paragraphs 4 to 8, of this order. This paragraph was finally substituted by Art. 5 of Italian Legislative Decree no. 72 of 12/05/2015.

⁽⁹³³⁾ Paragraph first repealed by Art. 4 of Annex 4 of IT Leg. Dec. no. 104 of 02/07/2010. Subsequently reintroduced by Constitutional Court ruling no. 162 of 20/27 June 2012 (which declared the unconstitutionality of the provisions of Italian Legislative Decree no. 104/2010 with the subsequent restoration of the provisions of Italian Legislative Decree no. 58/1998 which had been repealed). Again subsequently, the aforementioned annex 4, Art. 4 paragraph 1, number 19) of Italian Legislative Decree no. 104 of 02/07/2010 was abolished by Art. 3, paragraph 1, Italian Legislative Decree no. 160 of 14/09/2012. Finally, the Constitutional Court, with ruling no. 94 of 9/15 April 2014 (O.J. no. 18 of 23/04/2014 – First special series), declared, amongst other aspects, the unconstitutional nature of the aforementioned annex 4, Art. 4, paragraph 1, number 19), regarding the part which repealed Arts. 187-*septies*, paragraphs 4 to 8, and 195, paragraphs 4 to 8, of this order.

(TITLE II - ADMINISTRATIVE SANCTIONS)^[945]

(Arts 193, 194-bis, 194-quinquies) Art. 193 ^[1001]

(Corporate disclosures and duties of auditors, statutory auditors and independent statutory auditors) ^[1002]

1. Unless the fact is an offence against companies, entities or associations held to make the disclosures contemplated by Articles 114, 114-bis, 115, 154-bis, 154-ter and 154-quater, or subject to the obligations pursuant to Article 115-bis for non-compliance with the provisions of the said articles or the relative implementation provisions, one of the following administrative sanctions are applied:

- a) a public statement indicating the legal person responsible for the breach and the nature of the same;
- b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;
- c) a financial administrative sanction of between five thousand and ten million euro or up to five per cent of turnover, when that amount is greater than ten million euro^[1003].

1.1. If the disclosures indicated in paragraph 1 are required of a natural person, unless the act is a criminal offence, in case of a breach, unless a reason for exemption exists contemplated by Article 114, paragraph 10, one of the following administrative sanctions are applied against the said person:

- a) a public statement indicating the person responsible for the breach and the nature thereof;
- b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;
- c) a financial administrative penalty of between five thousand and two million euro^[1004].

1.2. For the breaches indicated under paragraph 1, the subjects who perform administrative, direction or control functions as well as the personnel, always if their behaviour has contributed to determining the said breach on the part of the legal person, are subjected, in the cases contemplated by Article 190-bis, paragraph 1, letter a), to the administrative sanctions contemplated by paragraph 1.1^[1005].

1-bis. ...omitted...^[1006]

1-ter. ...omitted...^[1007]

1-quater. The same sanctions indicated under paragraphs 1, 1.1 and 1.2 are applied, in cases of failure to observe the enactment provisions issued by CONSOB pursuant to Article 113-ter, paragraph 5, paragraphs b) and c), to persons authorised by CONSOB to provide disclosure and archiving services in relation to regulatory information^[1008].

1-quinquies. A financial administrative penalty of between five thousand and one hundred and fifty thousand euro applies:

- a) to issuers, offerors or persons asking for admission to trading on regulated Italian markets, in the case of breach of Article 4, paragraph 1, sub-paragraph 2, or (EC) regulation no. 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies;
- b) to issuers, transferors or financial advisors selling structured instruments, in the case of breach of Article 8-ter of the regulation indicated under sub-paragraph a);
- c) to issuers or associated third parties as defined in article 3, paragraph 1, sub-paragraph i), of the regulation indicated under sub-paragraph a), in the case of breach of articles 8-quater and 8-quinquies of the aforementioned regulation^[1009].

2. Unless the fact is a criminal offence, in the case of a failure to disclose major shareholdings and shareholders' agreements, as per articles 120, paragraphs 2, 2-bis and 4, and 122, paragraphs 1, 2 and 5, respectively, and violations of the prohibitions established by articles 120, paragraph 5, 121, paragraphs 1 and 3, and 122, paragraph 4, one of the following administrative sanctions are imposed on companies, entities and associations:

- a) a public statement indicating the subject responsible for the breach and the nature thereof;
- b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;
- c) a financial administrative sanction of between ten thousand and ten million euro or up to five per cent of turnover, when the amount is greater than ten million euro^[1010].

2.1. Unless the fact is a criminal offence, if the disclosures referred to in paragraph 2 are required of a natural person, in the case of breach, one of the following measures and administrative penalties apply:

- a) a public statement indicating the person responsible for the breach and the nature thereof;
- b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;
- c) a financial administrative sanction of between ten thousand and two million euro^[1011].

2.2. For the breaches indicated in paragraph 2, the subjects who perform administrative, direction or control functions as well as the personnel, always if their behaviour has contributed to determining the said breach on the part of the legal person, are subjected, in the cases contemplated by Article 190-bis, paragraph 1, letter a), to the administrative sanctions contemplated by paragraph 2.1^[1012].

2.3. In the case of delay in making the disclosures indicated in article 120, paragraphs 2, 2-bis and 4, of no more than two months, the minimum statutory amount for the financial administrative sanctions indicated in paragraphs 2 and 2.1 is five thousand euro^[1013].

2.4. If the benefit obtained by the perpetrator of the breach as a result thereof exceeds the maximum statutory limits set in paragraphs 1, 1.1, 2 and 2.1 of this article, the financial administrative sanction is increased up to twice the amount of the benefit obtained, provided that said value can be determined^[1014].

2-bis. ...omitted...^[1015].

3. A financial administrative sanction of between ten thousand and one million, five hundred thousand euro^[1016] applies:

a) to members of the board of statutory auditors, supervisory boards and the management control committees responsible for irregularities in performing their duties under the terms of Article 149, paragraphs 1, 4-bis, first point, and 4-ter, or omit the notifications referred to in Article 149, paragraph 3^[1017];

b) ...omitted...^[1018].

3-bis. Unless the act constitutes a crime, members of the internal control bodies who fail to provide for the notices indicated in Article 148-bis, paragraph 2 within the specified time frame, shall be punished with an administrative sanction equal to twice their annual compensation for the role under which failure to issue the notice occurred. The measure imposing the sanction shall also announce disqualification from the position^[1019].

3-ter. Except for the indications of Article 194-quinquies, with regard to the financial administrative sanctions in this article, the Articles 6, 10, 11 and 16 of Law no. 689 of 24 November 1981 do not apply^[1020].

3-quater. In the case of breach of the orders defined in this article, Article 192-bis, paragraph 1-quater applies^[1021].

⁽⁹⁴⁵⁾ Paragraph 2 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 defines that the amendments to part V of Italian Legislative Decree no. 58 of 24 February 1998, apply to the breaches committed after entry into force of the provisions adopted by CONSOB and the Bank of Italy with regard to their respective remits under the terms of Article 196-bis of Italian Legislative Decree no. 58 of 24 February 1998. (In adoption of this legislation, CONSOB, with resolution no. 19521 of 24/02/2016, valid since 08/03/2016, amended its Regulation on Penalty Proceedings no. 18750 of 19 December 2013). The rules defined by part V of Italian Legislative Decree no. 58 of 24 February 1998 applicable prior to the entry into force of IT Leg. Dec. no. 72 of 12/05/2015 continue to apply to breaches which occurred before 08/03/2016. Paragraph 3 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 states that: "Regarding the administrative penalties defined by Italian Legislative Decree no. 58 of 24 February 1998, Article 39, paragraph 3 of Law no. 262 of 28 December 2005 is not applicable".

⁽¹⁰⁰¹⁾ Paragraph 2 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 defines that the amendments to part V of Italian Legislative Decree no. 58 of 24 February 1998, apply to the breaches committed after entry into force of the provisions adopted by CONSOB and the Bank of Italy with regard to their respective remits under the terms of Article 196-bis of Italian Legislative Decree no. 58 of 24 February 1998. (In adoption of this legislation, CONSOB, with resolution no. 19521 of 24/02/2016, valid since 08/03/2016, amended its Regulation on Penalty Proceedings no. 18750 of 19 December 2013). The rules defined by part V of Italian Legislative Decree no. 58 of 24 February 1998 applicable prior to the entry into force of IT Leg. Dec. no. 72 of 12/05/2015 continue to apply to breaches which occurred before 08/03/2016. Below is the text of Art. 193, applicable until the entry into force of IT Leg. Dec. no. 72/2015: Art. 193 (Corporate disclosures and duties of auditors, statutory auditors and independent statutory auditors) - 1. With regard to companies, organisations or associations held to make the disclosures contemplated by Articles 114, 114-bis, 115, 154-bis, and 154-ter, or subject to the obligations pursuant to Article 115-bis for non-compliance with the provisions of the aforementioned Articles or relative implementation provisions, a financial administrative sanction of five thousand to five hundred thousand euro applies. If the notices are required of a natural person, in the case of a breach, the sanction is applicable to this person. 1-bis. The same sanction described in paragraph 1 is applicable to parties holding positions in administrative, managerial or auditing bodies at companies and organisations that carry out the activities described in Article 114, paragraphs 8 and 11, as well as their employees, and parties indicated in Article 114, paragraph 7, in the case of failure to observe the provisions therein and implementation provisions issued by CONSOB. 1-ter. The same penalty defined by paragraph 1 applies in the case of failure to observe the provisions of Article 114, paragraphs 8 and 11, as well the implementation provisions issued by CONSOB, regarding the natural person carrying out the activities indicated in paragraph 1-bis and, in the absence of the exemption criteria described in Article 114, paragraph 10, in regard to natural persons acting as journalists. 1-quater. The same penalty indicated in paragraph 1 applies in the case of failure to observe the implementation provisions issued by CONSOB under the terms of Article 113-ter, paragraph 5, sub-paragraphs b) and c), with regard to the parties authorised by CONSOB to carry out storage and distribution of regulated information. 1-quinquies. A financial administrative sanction of between five thousand and one hundred and fifty thousand euro is applicable: a) to issuers, offerors or persons asking for admission to trading on regulated Italian markets, in the case of breach of Article 4, paragraph 1, sub-paragraph 2, of (EC) regulation no. 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies; b) to issuers, transferors or financial advisors selling structured instruments, in the case of breach of Article 8-ter of the regulation indicated under sub-paragraph a); c) to issuers or associated third parties as defined in Article 3, paragraph 1, sub-paragraph i), of the regulation indicated under sub-paragraph a), in the case of breach of Articles 8-quater and 8-quinquies of the aforementioned regulation. 2. In the case of a failure to disclose major shareholdings and shareholders' agreements, as per Articles 120, paragraphs 2, 2-bis, 3 and 4, and 122, paragraphs 1, 2 and 5, respectively, as well as in the case of violations to the prohibitions indicated under Articles 120, paragraph 5, 121, paragraphs 1 and 3, and 122, paragraph 4, a financial administrative sanction of between twenty thousand and two million five hundred thousand euro applies: Delay in making the disclosures indicated in article 120, paragraphs 2, 2-bis, 3 and 4, of no more than two months, are punished with a financial administrative sanction of between five thousand and five hundred thousand euro. 3. The sanction indicated in paragraph 2 applies a) to members of the board of statutory auditors, the supervisory board and the management auditing board responsible for irregularities in performing their duties under the terms of Article 149, paragraphs 1, 4-bis, first point, and 4-ter, or that fail to provide for the notices required by Article 149, paragraph 3898; b) ...omitted... 3-bis. Unless the act constitutes a crime, members of the internal control bodies who fail to provide for the notices indicated in Article 148-bis, paragraph 2 within the specified time frame, shall be punished with an administrative sanction equal to twice their annual compensation for the role under which failure to issue the notice occurred. The measure imposing the sanction shall also announce disqualification from the position".

⁽¹⁰⁰²⁾ Section thus substituted by Art. 40 of IT Leg. Dec. no. 39 of 27/01/2010.

⁽¹⁰⁰³⁾ Paragraph first amended by Art. 9, paragraph 1 of L. no. 62 of 18/04/2005 (2004 Community Law); then substituted by Art. 14 of L. no. 262 of 28/12/2005; amended by Art. 3 of IT Leg. Dec. no. 303 of 29/12/2006 that substituted the words: "defined by Articles

113, 114 and 115" with the words: "defined by articles 113, 114, 114-*bis* and 115 or subject to the obligations defined by article 115-*bis*" and removed the words: "The terms of Article 190, paragraph 3 apply."; amended by Art. 4 of IT Leg. Dec. no. 51 of 28/03/2007 that removed the word: "113"; amended by Art. 1 of IT Leg. Dec. no. 195 of 06/11/2007 that substituted the words "and 115" with the words: ", 115, 154-*bis* and 154-*ter*"; amended by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015 that added, finally, the following words: ", unless they are subject to exemption under article 114, paragraph 10, with regard to natural persons acting as journalists"; finally thus substituted by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1004] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1005] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1006] Paragraph first added by Art. 9, paragraph 1 of L. no. 62 of 18/04/2005 (2004 Community Law) and then repealed by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

^[1007] Paragraph first added by Art. 9, paragraph 1 of L. no. 62 of 18/04/2005 (2004 Community Law) and then repealed by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

^[1008] Paragraph first added by Art. 1, of IT Leg. Dec. no. 195 of 06/11/2007 and then amended by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 that substituted the words: "The same sanction indicated under paragraph 1 is applied" with the words: "The same sanctions indicated under paragraphs 1, 1.1 and 1.2 are applied".

^[1009] Paragraph first added by Art. 1 of IT Leg. Dec. no. 176 of 05/10/2010 and then substituted by Art. 1 of IT Leg. Dec. no. 66 of 07/05/2015.

^[1010] Paragraph first substituted by Art. 1 of IT Leg. Dec. no. 195 of 06/11/2007, then by Art. 7 of Law no. 33 of 09/04/2009 converting IT Leg. Dec. no. 5 of 10/02/2009, by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015 and finally by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1011] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1012] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1013] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1014] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1015] Paragraph first added by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015 and later abolished by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

^[1016] Sub-section first amended by Art. 5 of IT Leg. Dec. no. 72 of 12.5.2015 which, after the words: "in paragraph 2" added the words: ", first point," and then by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 which substituted the words: "The sanction indicated in paragraph 2, first point, is applicable" with the words: "A financial administrative sanction of between ten thousand and one million five hundred thousand euro applies".

^[1017] Sub-paragraph thus substituted by Art. 2 of L. no. 262 of 28/12/2005.

^[1018] Sub-paragraph repealed by Art. 40 of IT Leg. Dec. no. 39 of 27/01/2010. Below is the text of sub-paragraph *b*) of paragraph 3 of Art. 193 that continues to be applicable on the basis of the transitory system applicable to Art. 162, paragraph 3: [...] "*b*) to the directors of independent audit companies that breach the provisions of Article 162, paragraph 3."

^[1019] Paragraph first added by Art. 9 of L. no. 62 of 18/04/2005 (2004 Community Law) and then substituted by Art. 37 of L. no. 262 of 28/12/2005.

^[1020] Paragraph added by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015.

^[1021] Paragraph added by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016.

Art. 194-*bis* ^[1034]
(Criteria for Determining Sanctions)

1. In determining the type, duration and amount of sanctions contemplated by this decree, the Bank of Italy or CONSOB shall consider all relevant circumstance and, in particular, taking into account whether the recipient of the sanction is an individual or legal person, where relevant:

- a) severity and duration of the violation;
- b) degree of responsibility;
- c) financial capacity of the person responsible for the violation;
- d) amount of the benefit gained or losses avoided through the violation, insofar as this can be determined;
- e) damages caused to third parties through the violation, to the extent that their amount can be determined;
- f) level of cooperation of the party responsible for the violation with the Bank of Italy or CONSOB;
- g) previous banking or financial violations committed by the same subject;
- h) potential systemic consequences of the violation;

h-bis) measures adopted by the p responsible for the breach, subsequent to the breach, to prevent it being repeated in the future^[1035].

^[1034] Article first added by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015 and then amended by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 and by art. 1 of IT Leg. Dec. no. 71 of 18/04/2016 as detailed in the following note. Paragraph 2 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 defines that the amendments to part V of Italian Legislative Decree no. 58 of 24 February 1998, apply to violations committed after entry into force of the provisions adopted by CONSOB and the Bank of Italy with regard to their respective remits under the terms of Article 196-*bis* of Italian Legislative Decree no. 58 of 24 February 1998. (In adoption of this legislation, CONSOB, with resolution no. 19521 of 24/02/2016, valid since 08/03/2016, amended its Regulation on Penalty Proceedings no. 18750 of 19 December 2013). The rules defined by part V of Italian Legislative Decree no. 58 of 24 February 1998 applicable prior to the entry into force of It Leg. Dec. no. 72 of 12/05/2015 continue to apply to violations which occurred before 08/03/2016.

^[1035] Paragraph first amended by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 which, in the sub-section, after the words: "In determining" added the words: "the type and" and then by Art. 1 of IT Leg. Dec. no. 71 of 18/04/2016 which, in the sub-section, substituted the words: "In determining the type and amount of the financial administrative sanctions or the duration of additional sanctions" with the words: "In determining the type, duration and amount of the sanctions" and added sub-paragraph *h-bis*).

Art. 194-quinquies ^[1039]
(Payment of a Reduced Amount)

1. It is possible to settle, by payment, within thirty days of notification of the dispute letter, of a sum equal to twice the minimum penalty prescribed by law, when there are none of the circumstances provided for in paragraph 2, the following violations as provided:

a) by Article 190, for infringement of Articles 45, paragraph 1, 46, paragraph 1, 65, 83-*novies*, paragraph 1, sub-paragraphs c), d), e) and f), 83-*duodecies*, and the related implementing provisions;

b) by Article 191, paragraph 2, for infringement of Articles 96 and 101, paragraphs 1, 2 and 3;

c) by Article 193, paragraphs 1, 1.1 and 1.2, for violation of Articles 113-*ter*, paragraph 5, sub-paragraph b), 114, paragraphs 2 and 7, and Article 193, paragraphs 2, 2.1, 2.2 and 2.3, for violation of Article 120 ^[1040];

d) by Article 194, paragraph 2, for the violation of Article 142, and Article 194, paragraph 2-*bis*.

2. Reduced payment may not be made if the person concerned has already benefited from this measure in the twelve months prior to the alleged violation.

⁽¹⁰³⁹⁾ Article first added by Art. 5 of IT Leg. Dec. no. 72 of 12/05/2015 and then amended by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 as detailed in the following note. Paragraph 2 of Art. 6 of IT Leg. Dec. no. 72 of 12/05/2015 defines that the amendments to part V of Italian Legislative Decree no. 58 of 24 February 1998, apply to the breaches committed after entry into force of the provisions adopted by CONSOB and the Bank of Italy with regard to their respective remits under the terms of Article 196-*bis* of Italian Legislative Decree no. 58 of 24 February 1998. (In adoption of this legislation, CONSOB, with resolution no. 19521 of 24/02/2016, valid since 08/03/2016, amended its Regulation on Penalty Proceedings no. 18750 of 19 December 2013). The rules defined by part V of Italian Legislative Decree no. 58 of 24 February 1998 applicable prior to the entry into force of It Leg. Dec. no. 72 of 12/05/2015 continue to apply to breaches which occurred before 08/03/2016.

^[1040] Sub-paragraph thus amended by Art. 1 of IT Leg. Dec. no. 25 of 15/02/2016 which substituted the words: "paragraph 1," with the words: "paragraphs 1, 1.1 and 1.2," and the words: "paragraph 2" with the words: "paragraphs 2, 2.1, 2.2 and 2.3,".

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Provisions for Administrative Penalties as per Regulation (EU) of the European Parliament and of the Council no. 596/2014 of 16 April 2014 (the "MAR")²

(Arts 30, 31, and 34)

CHAPTER 5

Article 30

Administrative Penalties 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(1) and (2), Article 17(1), (2), (4) and (5), and (8), Article 18(1) to (6), Article 19(1), (2), (3), (5), (6), (7) and (11) and Article 20(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(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 3 July 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 authorisation of an investment firm;

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

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

² The administrative penalties currently applicable are those established by Article 187-*bis* and subsequent of the Consolidated Law on Finance. These provisions may be amended/supplemented on the basis of the issue, by the Italian Legislator of the measures required by Articles 30 and subsequent of the MAR.

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, € 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, € 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, € 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, € 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, € 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, € 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(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 ⁽¹⁾, 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 ⁽²⁾ for banks and Council Directive 91/674/EEC ⁽³⁾ 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.

⁽¹⁾ Directive 2013/34/EU of the European Parliament and of the Council, of 26 June 2013, on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

⁽²⁾ Directive 86/635/EEC of the Council, of 8 December 1986, on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L. 372 of 31/12/1986, page 1).

⁽³⁾ Directive 91/674/EEC of the Council, of 19 December 1991, on the annual accounts and consolidated accounts of insurance undertakings (OJ L. 374 of 31/12/1991, page 7).

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 applicable:

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 and losses avoided by the person responsible for the infringement, insofar as they can be determined;

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

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 exercising their powers to impose administrative sanctions and other administrative measures under Article 30, competent authorities cooperate to ensure that the exercise of their supervisory and investigative powers and the administrative sanctions they impose and 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 jeopardise 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 jeopardised; or
 - ii) that 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 decides 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.