

## Public Notice

**REGIS TR, S.A. ('REGIS-TR')** is a trade repository ('TR') headquartered in Luxembourg and registered with ESMA since 14 November 2013. On 6 May 2020, the registration was extended to include all types of securities financing transactions ('SFTs') reported under the Securities Financing Transactions Regulation ('SFTR').

As regards the provision of trade repository services in the EU, in 2021 REGIS-TR ranked second among the EU-based trade repositories in terms of the number of clients and revenues. Since the legislative reporting go-live in 2014, REGIS-TR ranks first among the EU-registered trade repositories in terms of the trade reports received.

Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ('EMIR') lays down obligations for TRs in the conduct of their activities. In conjunction with its role as the supervisor of TRs under EMIR, ESMA has functions and powers to take enforcement actions in relation to infringements of EMIR by TRs.

EMIR requires to ensure integrity of the data received by TRs and that, in order to ensure transparency and availability of information, TRs shall ensure that specified authorities and regulators (the 'Regulators') have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

In 2020, following preliminary investigations, ESMA's Supervision Department submitted their final report to ESMA's Executive Director, concluding with respect to REGIS-TR that there were serious indications of the possible existence of facts liable to constitute one or more of the infringements of EMIR.

The matter was then referred to an IIO who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the complete file submitted by the IIO, and having taken into duly account the defensive submissions presented by REGIS-TR, the Board has found that REGIS-TR committed the following eight infringements of EMIR, leading to the issuance of this public notice in accordance with Article 73 of EMIR (Decision 2021/7) and to the imposition of a total fine of EUR 186 000 for the infringements committed with negligence<sup>1</sup>.

---

<sup>1</sup> Link to the Methodology used by ESMA to calculate the fines: <https://www.esma.europa.eu/supervision/enforcement/calculation-fines>.

## **First infringement**

By failing to ensure the integrity of the data reported to it due to an inadequate system configuration ('Collateral update incident'), REGIS-TR negligently committed the infringement of Article 80(1) of EMIR.

### **A) Legal background**

According to Article 80(1) of EMIR, a TR shall ensure the confidentiality, integrity and protection of the information received under Article 9 of EMIR.

### **B) Factual findings**

Between 1 November 2017 and 27 July 2020, due to an inadequate system configuration incorrectly implementing validation rules, where Reporting Parties submitted a modification to collateral-related information (to update the data provided in fields 1.24 to 1.35 of the reports), the field 1.17 'Value of contract' appeared reported as empty in the reports that REGIS-TR generated for the entities referred to in Article 81(3) of the Regulation (the 'Regulators'), even though this field had been informed in previous messages sent by the Reporting Parties to REGIS-TR and should have formed part of the data set to be provided to the Regulators.

Consequently, the data previously correctly reported by the Reporting Parties was omitted from the data set to be provided to the Regulators.

### **C) Finding of the infringement**

The Board deemed that the inadequate system configuration led to two different outcomes: (i) failing to ensure the integrity of the data previously reported and (ii) providing incorrect reports to the Regulators.

Regarding the first outcome, on the basis of the assessment of the complete file submitted by the IIO and of the arguments raised by REGIS-TR in the written submissions, the Board found that REGIS-TR failed to comply with Article 80(1) of EMIR because it did not ensure the integrity of the data reported to it by the Reporting Parties. Therefore, it committed the infringement set out at Point (c) of Section II of Annex I of EMIR.

Furthermore, the Board found that REGIS-TR did not meet the special care expected from a TR as a professional firm in the financial services sector. Therefore, the Board found that REGIS-TR had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 65 of EMIR. In addition, the Board applied the relevant aggravating factors (the infringement was committed for more than six months, it revealed systemic weaknesses in the organisation of REGIS-TR, it had a negative impact on the data quality) prescribed by Annex II of EMIR, and therefore fined REGIS-TR EUR 64 000.

The second outcome was assessed by the Board in the context of the second infringement (below).



## **D) Supervisory measures**

### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

### **Fine**

The fine imposed on REGIS-TR is EUR 64 000.

## **Second infringement**

By generating reports for Regulators that contained data that was not consistent with the data reported to it ('Collateral update incident'), REGIS-TR negligently committed the infringement of Article 81(2) of EMIR.

### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

### **B) Factual findings**

Between 1 November 2017 and 27 July 2020, due to an inadequate system configuration incorrectly implementing validation rules, where Reporting Parties submitted a modification to collateral-related information (to update the data provided in fields 1.24 to 1.35 of the reports), the field 1.17 'Value of contract' appeared reported as empty in the reports that REGIS-TR generated for the entities referred to in Article 81(3) of the Regulation (the 'Regulators'), even though this field had been informed in previous messages sent by the Reporting Parties to REGIS-TR and should have formed part of the data set to be provided to the Regulators.

Consequently, the Regulators were not provided with direct and immediate access to the data they need to fulfil their mandates and tasks.

### **C) Finding of the infringement**

The Board deemed that the inadequate system configuration led to two different outcomes: (i) failing to ensure the integrity of the data previously reported and (ii) providing incorrect reports to the Regulators.

Regarding the second outcome, the Board found that REGIS-TR breached Article 81(2) of EMIR of the by failing to comply with the requirement to ensure that Regulators have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates. Therefore, it committed the infringement set out at Point (b) of Section III of Annex I of EMIR.

Furthermore, the Board found that REGIS-TR did not meet the special care expected from a TR as a professional firm in the financial services sector. Therefore, the Board found that REGIS-TR had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 65 of EMIR. In addition, the Board applied the relevant aggravating factors (the infringement was committed for more than six months, it revealed systemic weaknesses in the organisation of REGIS-TR, it had a negative impact on the data quality) prescribed by Annex II of EMIR, and therefore fined REGIS-TR EUR 64 000.

Nevertheless, the Board considered that this infringement and the first infringement set out above, despite being autonomous, stem from the same (inadequate) system configuration as a result of the Collateral update incident.

In accordance with Article 65(4) of EMIR, only the highest fine should be applied, and since in this case the two fines are of the same amount, only one fine of EUR 64 000 is to be applied for the two mentioned infringements.

#### **D) Supervisory measures**

##### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

##### **Fine**

Further to the application of Article 65(4) of EMIR, no fine will be applied.

### **Third infringement**

By not providing to the Regulators the reports in the required format and within the required deadlines ('XML incident'), REGIS-TR negligently committed the infringement of Article 81(2) of EMIR.

#### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

#### **B) Factual findings**

Between 1 November 2017 and 20 June 2020, due to a malfunction in the validation rules applied to the Reporting Parties' messages related to the various fields REGIS-TR accepted modification messages relating to the affected fields that should have been rejected according to the new reporting requirements.

Consequently, when further passed on to the Regulators, reports in XML format that contained data that was not in compliance with the new reporting requirements did not pass the schema validations of the ISO 20022 methodology and had to be regenerated. Therefore, the data reported to REGIS-TR by the Reporting Parties was not provided to the Regulators to fulfil their responsibilities and mandate, first, in the required format and, second, within the required deadlines.

#### **C) Finding of the infringement**

The Board found that the incident took place due to validation issues concerning modification messages over the derivative contracts reported prior to the new reporting requirements that came into effect on 1 November 2017. As a consequence, reports that the Regulators should have had access to, were not provided, first, in the required format and second, within the required deadline. Therefore, REGIS-TR failed to comply with the requirement to ensure that Regulators have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates. Therefore, it committed the infringement set out at Point (b) of Section III of Annex I of EMIR.

Furthermore, the Board found that REGIS-TR did not meet the special care expected from a TR as a professional firm in the financial services sector. Therefore, the Board found that REGIS-TR had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 65 of EMIR. In addition, the Board applied the relevant aggravating factors (the infringement was committed for more than six months, it revealed systemic weaknesses in the organisation of REGIS-TR, it had a negative impact on the data quality) and the relevant mitigating factors (the trade repository has voluntarily taken measures to ensure that a similar infringement cannot be committed in the future) prescribed by Annex II of EMIR, and therefore fined REGIS-TR EUR 56 000.



## **D) Supervisory measures**

### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

### **Fine**

The fine imposed on REGIS-TR is EUR 56 000.

## **Fourth infringement**

By failing to safeguard the integrity of the data correctly reported to it due to an inadequate system configuration ('Compression incident'), REGIS-TR negligently committed the infringement of Article 80(1) of EMIR.

### **A) Legal background**

According to Article 80(1) of EMIR, a TR shall ensure the confidentiality, integrity and protection of the information received under Article 9 of EMIR.

### **B) Factual findings**

Between 1 November 2017 and 14 December 2020, the system configuration, set up and employed by the REGIS-TR, incorrectly interpreted and applied the validation rules for the messages over derivatives contracts reported before the new reporting requirements came into effect on 1 November 2017 but that were outstanding.

In particular, the field 2.16 'Compression' was mandatorily required whereas according to the reporting requirements for action type 'M' (modification) messages the field was not relevant and therefore had to be left blank by the Reporting Parties and for action type 'R' (correction) messages was optional and thus had been populated by the Reporting Parties only where applicable. This resulted in rejection of the reports with Action type 'M' (modification) and 'R' (correction) where the Reporting Parties had not informed the fields 2.15 'Venue of execution' or 2.16 'Compression' although the reporting was done in accordance with the reporting requirements.

Consequently, the data correctly reported by the Reporting Parties was incorrectly rejected and thus omitted from the data set to be provided to the Regulators.

### **C) Finding of the infringement**

The Board deemed that in the case under consideration, the inadequate system configuration led to two different outcomes: i) it impacted the integrity of the data (correctly) reported to the REGIS-TR; and ii) it led to the provision of incorrect reports to the Regulators.

Regarding the first outcome, the Board found that REGIS-TR failed to comply with Article 80(1) of EMIR, because it did not ensure the integrity of the data correctly reported to it by the Reporting Parties. Therefore, it committed the infringement set out at Point (c) of Section II of Annex I of EMIR.

Furthermore, the Board found that REGIS-TR did not meet the special care expected from a TR as a professional firm in the financial services sector. Therefore, the Board found that REGIS-TR had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 65 of EMIR. In addition, the Board applied the relevant aggravating factors (the infringement was committed repeatedly, it was committed for more than six months, it revealed systemic weaknesses in the organisation of REGIS-TR, it had a negative impact on the data quality) prescribed by Annex II of EMIR, and therefore fined REGIS-TR EUR 66 000.





The second outcome was assessed by the Board in the context of the fifth infringement (below).

#### **D) Supervisory measures**

##### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

##### **Fine**

The fine imposed on REGIS-TR is EUR 66 000.

## **Fifth infringement**

By generating reports for Regulators that contained data that was not consistent with the data reported to it ('Compression incident'), REGIS-TR negligently committed the infringement of Article 81(2) of EMIR.

### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

### **B) Factual findings**

From 1 November 2017 until 14 December 2020, REGIS-TR incorrectly interpreted and applied the validation rules for the messages over derivatives contracts reported before the new reporting requirements came into effect on 1 November 2017 but that were outstanding. Due to an incorrect system configuration, REGIS-TR's system was coded to validate modification messages (reports with Action type 'M' and 'R') as new messages (reports with Action type 'N'). As a result, REGIS-TR required Reporting Parties to populate fields 2.15 'Venue of execution' and 2.16 'Compression' that could have been left blank when submitting a modification message and rejected any such message in which these fields were left blank, even though they were reported by the Reporting Parties in line with the new reporting requirements.

Consequently, the data correctly reported by the Reporting Parties was incorrectly rejected and the Regulators were not provided with access to such correctly reported data by the Reporting Parties.

### **C) Finding of the infringement**

The Board deemed that in the case under consideration the inadequate system configuration led to two different outcomes: i) it impacted the integrity of the data (correctly) reported to REGIS-TR; and ii) it led to the provision of incorrect reports to the Regulators.

Regarding the second outcome, the Board found that due to the incorrect interpretation and application of the new reporting requirements that took effect as of 1 November 2017, REGIS-TR breached Article 81(2) of EMIR by failing to comply with the requirement to ensure that Regulators have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates. Therefore, it committed the infringement set out at Point (b) of Section III of Annex I of EMIR.

Furthermore, the Board found that REGIS-TR did not meet the special care expected from a TR as a professional firm in the financial services sector. Therefore, the Board found that REGIS-TR had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 65 of EMIR. In addition, the Board applied the relevant aggravating factors (the infringement was committed repeatedly, the infringement was committed for more than six months, it revealed systemic weaknesses in the organisation of REGIS-

TR, it had a negative impact on the data quality) prescribed by Annex II of EMIR, and therefore fined REGIS-TR EUR 66 000.

Nevertheless, the Board considered that this infringement and the fourth infringement set out above, despite being autonomous, stem from the same (inadequate) system configuration as a result of the Compression incident.

In accordance with Article 65(4) of EMIR, only the highest fine should be applied, and since in this case the two fines are of the same amount, only one fine of EUR 66 000 is to be applied for the two mentioned infringements.

#### **D) Supervisory measures**

##### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

##### **Fine**

Further to the application of Article 65(4) of EMIR, no fine will be applied.

## **Sixth infringement**

By providing incorrect and unreliable reports to the Regulators as a result of a validation incident regarding the currency codes reported by Reporting Parties ('Currencies incident'), REGIS-TR committed the infringement of Article 81(2) of EMIR.

### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

As the Board clarified in its recent decisions<sup>2</sup>, TRs have the obligation to provide Regulators with direct and immediate access to correct and reliable details of derivatives contracts they need to fulfil their respective responsibilities and mandates. If the requirement is not met, this constitutes the infringement set out at Point (b) of Section III of Annex I of EMIR.

Further to that, pursuant to Articles 55 (1) and (4), 56(1) and (3) of EMIR, complemented by Article 19 of Delegated Regulation (EU) No 150/2013, TRs, at the material time of the facts, had the obligation to have in place procedures to verify the compliance of the Reporting Parties with the reporting requirements and the correctness of the information reported. The obligation, which existed as a condition for registration as a TR, has to be complied with at any time.

As explicitly clarified by ESMA already in 2015 in Q&A TR 20b "How are TRs expected to verify completeness and accuracy of the reports submitted by the reporting entities?", "[i]n order to be compliant with the requirements of Article 19 of the Commission Delegated Regulation (EU) 150/2013, TRs should reject the reports which are not submitted in line with the reporting requirements specified in the Validations table" (provided by ESMA).

### **B) Factual findings**

From 1 November 2017 (date of entry into force of new reporting format) until 22 June 2020, the reference database table used by Regis-TR to validate the currency codes reported by Reporting Parties had discrepancies with the ISO4217 (official list of currency codes) and the currency code CNH (Chinese Yuan Renminbi) was wrongly accepted in all the fields where currency codes shall be reported. Therefore, due to an inadequate system configuration, REGIS-TR did not apply appropriate validation rules and accepted that Reporting Parties reported derivative contracts using currency codes that did not (or no longer) figure among the currency codes established by the ISO 4217 standard.

Consequently, these messages should have been rejected, but they were accepted and incorrectly delivered to the Regulators. The incident impacted the daily trade activity reports, the daily trade state reports and all the trade activity and state reports requested by Regulators on ad hoc basis.

---

<sup>2</sup> Decision 2021/6 of 8 July 2021 [[esma41-356-187 decision - dtcc derivatives repository.pdf \(europa.eu\)](#)] and Decision 2021/7 of 21 September 2021 [[esma41-356-233 decision - unavista limited.pdf \(europa.eu\)](#)].

### **C) Finding of the infringement**

The Board deemed that in the case under consideration, the inadequate system configuration affecting the currency-related fields of reports led to two different outcomes: i) REGIS-TR failed to verify the completeness and correctness of the data reported to it by Reporting Parties and did not reject reports that did not comply with the applicable reporting requirements; ii) REGIS-TR provided incorrect and unreliable reports to the Regulators.

Regarding the first outcome, the Board found that the infringement could not be established. This was due to the lack of enforceability of the obligation which was not yet in force at the material time of the incident. Indeed, the Board noted that the TRs' obligation to control the correctness of the data reported to them, stemming from the joint reading of the provisions of Articles 55 (1) and (4) and 56(1) and (3) of EMIR and Article 19 of Delegated Regulation (EU) No 150/2013, was not enforceable at the material time of the incident, lacking a specific infringement provision corresponding to the obligation.

The enforceability of the mentioned obligation is ensured since June 2021 by the introduction of Article 78(9)(b) of EMIR and by the corresponding infringement provision (Point (j) of Section I of Annex I of EMIR), which however was not applied to this case because not in force at the material time of the incident.

Regarding the second outcome, the Board, on the basis of the assessment of the complete file submitted by the IIO and having duly taken into account the defensive submissions of REGIS-TR, found that REGIS-TR infringed Article 81(2) of EMIR, by providing Regulators with wrong (in the rejection figures) and unreliable reports. The Board clarified that the infringement was attributable to REGIS-TR because it should have verified the correctness of the data received by the Reporting Parties before providing direct and immediate access to them to the Regulators.

On the basis of a thorough assessment of the complete file submitted by the IIO and having taken into account the written submissions made by Regis-TR, the Board did not find negligence on the part of the Regis-TR. In accordance with the relevant provisions of EMIR, no fine has been imposed for such an infringement.

### **D) Supervisory measure**

#### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

## **Seventh infringement**

By providing incorrect and unreliable reports to the Regulators as a result of a validation incident affecting the Legal Entity Identifiers ('LEIs') codes reported by the Reporting Parties (the 'LEI incidents'), REGIS-TR committed the infringement of Article 81(2) of EMIR.

### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

As the Board clarified in its recent decisions<sup>3</sup>, TRs have the obligation to provide Regulators with direct and immediate access to correct and reliable details of derivatives contracts they need to fulfil their respective responsibilities and mandates. If the requirement is not met, this constitutes the infringement set out at Point (b) of Section III of Annex I of EMIR.

Further to that, pursuant to Articles 55 (1) and (4), 56(1) and (3) of EMIR, complemented by Article 19 of Delegated Regulation (EU) No 150/2013, TRs, at the material time of the facts, had the obligation to have in place procedures to verify the compliance of the Reporting Parties with the reporting requirements and the correctness of the information reported. The obligation, which existed as a condition for registration as a TR, has to be complied with at any time.

As explicitly clarified by ESMA already in 2015 in Q&A TR 20b "How are TRs expected to verify completeness and accuracy of the reports submitted by the reporting entities?", "[i]n order to be compliant with the requirements of Article 19 of the Commission Delegated Regulation (EU) 150/2013, TRs should reject the reports which are not submitted in line with the reporting requirements specified in the Validations table" (provided by ESMA).

### **B) Factual findings**

From 1 November 2017 until 2 December 2019, due to an inadequate system configuration, for collateral updates ('CU') messages sent at portfolio level, the REGIS-TR accepted reports without checking/validating the LEI code status. From 1 November 2017 until 22 June 2020, due to an inadequate system configuration, REGIS-TR accepted reports without validating the LEIs against the Global Legal Entity Identifier Foundation ('GLEIF').

Consequently, Regis-TR wrongly accepted potentially incorrectly reported information and delivered it to the Regulators. The incident impacted the daily trade activity reports, the daily trade state reports and the trade activity and state reports requested by Regulators on ad hoc basis, as well as the Rejection Reports generated from 30 August 2019.

---

<sup>3</sup> Decision 2021/6 of 8 July 2021 [[esma41-356-187 decision - dtcc derivatives repository.pdf \(europa.eu\)](#)] and Decision 2021/7 of 21 September 2021 [[esma41-356-233 decision - unavista limited.pdf \(europa.eu\)](#)].

### **C) Finding of the infringement**

The Board deemed that in the case under consideration, the inadequate system configuration affecting the Legal Entity Identifiers ('LEIs') codes reported by the Reporting Parties led to two different outcomes: i) the REGIS-TR failed to verify the completeness and correctness of the data reported to it by Reporting Entities and did not reject reports that did not comply with the applicable reporting requirements; ii) REGIS-TR provided incorrect and unreliable reports to the Regulators.

Regarding the first outcome, the Board found that the infringement could not be established. This was due to the lack of enforceability of the obligation, which was not in force yet at the material time of the incident. Indeed, the Board noted that the TRs' obligation to control the correctness of the data reported to them, stemming from the joint reading of the provisions of Articles 55 (1) and (4) and 56(1) and (3) of EMIR and Article 19 of Delegated Regulation (EU) No 150/2013, was not enforceable at the material time of the incident, lacking a specific infringement provision corresponding to the obligation.

The enforceability of the mentioned obligation is ensured since June 2021 by the introduction of Article 78(9)(b) of EMIR and by the corresponding infringement provision (Point (j) of Section I of Annex I of EMIR), which however was not applied to this case because not in force at the material time of the incident.

Regarding the second outcome, the Board, on the basis of the assessment of the complete file submitted by the IIO and having duly taken into account the defensive submissions of REGIS-TR, found that REGIS-TR infringed Article 81(2) of EMIR, by providing Regulators with wrong (in the rejection figures) and unreliable reports. The Board clarified that the infringement was attributable to REGIS-TR because it should have verified the correctness of the data received by the Reporting Parties before providing direct and immediate access to them to the Regulators.

On the basis of a thorough assessment of the complete file submitted by the IIO and having taken into account the written submissions made by Regis-TR, the Board did not find negligence on the part of the Regis-TR. In accordance with the relevant provisions of EMIR, no fine has been imposed for such an infringement.

### **D) Supervisory measure**

#### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

## **Eighth infringement**

By providing incorrect and unreliable reports to the Regulators as a result of a validation incident affecting the reporting level of trades ('Reporting level incident'), REGIS-TR committed the infringement of Article 81(2) of EMIR.

### **A) Legal background**

According to Article 81(2) of EMIR, a TR shall ensure that the entities referred to in Article 81(3) of EMIR have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

As the Board clarified in its recent decisions<sup>4</sup>, TRs have the obligation to provide Regulators with direct and immediate access to correct and reliable details of derivatives contracts they need to fulfil their respective responsibilities and mandates. If the requirement is not met, this constitutes the infringement set out at Point (b) of Section III of Annex I of EMIR.

Further to that, pursuant to Articles 55 (1) and (4), 56(1) and (3) of EMIR, complemented by Article 19 of Delegated Regulation (EU) No 150/2013, TRs, at the material time of the facts, had the obligation to have in place procedures to verify the compliance of the Reporting Parties with the reporting requirements and the correctness of the information reported. The obligation, which existed as a condition for registration as a TR, has to be complied with at any time.

As explicitly clarified by ESMA already in 2015 in Q&A TR 20b "How are TRs expected to verify completeness and accuracy of the reports submitted by the reporting entities?", "[i]n order to be compliant with the requirements of Article 19 of the Commission Delegated Regulation (EU) 150/2013, TRs should reject the reports which are not submitted in line with the reporting requirements specified in the Validations table" (provided by ESMA).

### **B) Factual findings**

From 1 November 2017 until 30 November 2020, due to an incorrect system configuration, REGIS-TR's system incorrectly allowed the Reporting Parties to update the information provided in field 2.94 (which indicates if a report is done at trade [T] or position [P] level) through the submission of an action type 'V' (Valuation Update) message. In other words, REGIS-TR incorrectly allowed a report done at trade level to be subsequently modified and reported at position level.

These messages should have been rejected, but, as of 1 November 2017, they were accepted and incorrectly delivered to the Regulators. The incident impacted the trade activity reports, the daily trade state reports as well as the Rejection and Reconciliation Reports generated by Regis-TR from 30 August 2019.

---

<sup>4</sup> Decision 2021/6 of 8 July 2021 [[esma41-356-187 decision - dtcc derivatives repository.pdf \(europa.eu\)](#)] and Decision 2021/7 of 21 September 2021 [[esma41-356-233 decision - unavista limited.pdf \(europa.eu\)](#)].



### **C) Finding of the infringement**

The Board deemed that in the case under consideration, the 'Reporting level incident' led to two different outcomes: i) REGIS-TR failed to verify the completeness and correctness of the data reported to it by Reporting Parties and did not reject reports that did not comply with the applicable reporting requirements; ii) REGIS-TR provided incorrect and unreliable reports to the Regulators.

Regarding the first outcome, the Board found that the infringement could not be established. This was due to the lack of enforceability of the obligation which was not in force yet at the material time of the incident. Indeed, the Board noted that the TRs' obligation to control the correctness of the data reported to them, stemming from the joint reading of the provisions of Articles 55 (1) and (4) and 56(1) and (3) of EMIR and Article 19 of Delegated Regulation (EU) No 150/2013, was not enforceable at the material time of the incident, lacking a specific infringement provision corresponding to the obligation.

The enforceability of the mentioned obligation is ensured since June 2021 by the introduction of Article 78(9)(b) of EMIR and by the corresponding infringement provision (Point (j) of Section I of Annex I of EMIR), which however was not applied to this case because not in force at the material time of the incident.

Regarding the second outcome, the Board, on the basis of the assessment of the complete file submitted by the IIO and having duly taken into account the defensive submissions of REGIS-TR, found that REGIS-TR infringed Article 81(2) of EMIR, by providing Regulators with wrong (in the rejection figures) and unreliable reports. The Board clarified that the infringement was attributable to REGIS-TR because it should have verified the correctness of the data received by the Reporting Parties before providing direct and immediate access to them to the Regulators.

On the basis of a thorough assessment of the complete file submitted by the IIO and having taken into account the written submissions made by Regis-TR, the Board did not find negligence on the part of the Regis-TR. In accordance with the relevant provisions of EMIR, no fine has been imposed for such an infringement.

### **D) Supervisory measure**

#### **Public notice**

Pursuant to Article 73 of EMIR, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

#### **Overall fine**

The overall fine to be imposed on REGIS-TR for the above five infringements committed with negligence amounts to EUR 186 000.