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COMMUNICATION TO THE COMMISSION

Approval of the content of a draft Commission Notice on the interpretation and implementation of the transitional provision laid down in Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow

Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (“MiFIR”) contains provisions to ensure that Union markets in financial instruments are more transparent, work more efficiently and provide investors with an adequate level of protection.

Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 (“MiFIR review”) amends MiFIR as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow. It will enter into force on 28 March 2024 and apply as of that date.

Several provisions in the MiFIR review need to be supplemented by Commission delegated regulations to become fully operational. In order to ensure legal certainty for market participants on the regime applicable until these new Commission delegated regulations enter into application, it is necessary to clarify the interpretation and implementation of the transitional provision laid down in Article 54(3) of MiFIR as amended by Article 1(47)(b) of the MiFIR review.

The Commission is therefore called upon to approve the content of a draft Commission Notice on the interpretation and implementation of the transitional provision laid down in the MiFIR review. This will allow publication of the draft Commission Notice on the Commission website in English only. Although the Commission Notice will be submitted for adoption in all languages and publication in the Official Journal at a later stage, the publication of the draft Commission Notice on the Commission website will provide timely guidance on the transitional arrangement contained in Article 54(3) MiFIR.

The Commission Notice clarifies that, pursuant to Article 54(3) MiFIR, the existing Commission delegated regulations, as applicable before 28 March 2024, continue to apply, together with the provisions that they supplement, in all cases where the MiFIR provisions are to be supplemented by new or amended Commission delegated regulations to become fully operational and cannot be supplemented adequately by the existing Commission delegated regulations only.

Statements and opinions provided in the draft Commission Notice reflect the view of the European Commission. According to the Treaty on the Functioning of the EU, the Court of Justice has the sole jurisdiction to interpret the acts of the institutions of the European Union.

The text of the draft Commission Notice is enclosed as Annex to this Communication.