

# ESMA clarifies trading obligation for shares under MiFID II

MiFIR introduces a trading obligation for shares that will require investment firms to ensure that the trades they undertake in shares admitted to trading on a regulated market, or traded on a trading venue, take place on a regulated market, MTF, systematic internaliser, or an equivalent third-country trading venue.

Given the importance of this provision and its correct implementation amongst market participants, ESMA is publishing the below Q&A clarifying that all EU investment firms that are part of a chain of transmission should ensure that the ultimate execution of the order complies with the trading obligation requirements under Article 23(1) of MiFIR.

ESMA is aware that the scope of the trading obligation in Article 23, and the absence of the relevant equivalence decisions, might cause issues for investment firms that wish to undertake trades in non-EEA shares in the primary listing venues of such shares. ESMA and the European Commission are working closely together to resolve those issues. While the Commission is preparing equivalence decisions for the non-EU jurisdictions whose shares are traded systematically and frequently in the EU, the absence of an equivalence decision taken with respect to a particular third country's trading venues indicates that the Commission has currently no evidence that the EU trading in shares admitted to trading in that third country's regulated markets can be considered as systematic, regular and frequent.

## **Q&A – Trading Obligation for Shares**

**Q** What is the scope of the trading obligation where there is a chain of transmission of orders?

**A** Article 23(1) of MiFIR determines the scope of the trading obligation for shares admitted to trading on a regulated market or traded on a trading venue by requiring investment firms to ensure that trades they undertake in shares take place on a regulated market, MTF, systematic internaliser or equivalent third country venue. Where there is a chain of transmission of orders concerning those shares all EU investment firms that are part of the chain (either initiating the orders or acting as brokers) should ensure that the ultimate execution of the orders complies with the requirements under Article 23(1) of MiFIR.

As an example, where an EU investment firm transmits an order for a share admitted to trading on a regulated market or traded on a trading venue to an EU investment firm that subsequently passes it on to a non-EEA firm, the EU investment firms should ensure the trade is undertaken in accordance with the requirements set out in Article 23 of MiFIR, i.e. on a regulated market, MTF, systematic internaliser or equivalent third country venue.

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# Pressemitteilung: Gemeinsame Forschungsunternehmen der EU: “Rechnungsführung einwandfrei und Vorgänge größtenteils vorschriftsgemäß”, so das Fazit der EU-Prüfer

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## Daily News 13 /11/ 2017

**Investment Plan backs radiology services in Germany [updated on 13/11/17 at 12:39]**

The European Investment Bank (EIB) has signed a €30 million financing agreement with German medical diagnostics provider [medneo](#) to expand its radiology services. The company will use the financing to open new radiology centres and improve the efficiency of its current services, thereby reducing patient waiting time. The transaction with medneo was made possible by the support of the European Fund for Strategic Investments (EFSI), the central pillar of the Juncker Plan. European Commission Vice-President Jyrki **Katainen**, responsible for Jobs, Growth, Investment and Competitiveness, said: *“The Investment Plan is supporting an increasing number of projects in the medical sector. These projects – such as the one being signed today with medneo – are innovative and use cutting-edge technology to improve citizens’ access to the best available healthcare. The importance of imaging diagnostics is growing in the health care sector, so I wish medneo every success in their project.”* (For more information see the [Investment Plan website](#) or contact Annika Breidthardt – Tel.: +32 229 56153; Siobhán Millbright – Tel.: +32 229 57361)

**Cohesion Policy invests in faster, smoother connectivity in Bulgaria**

The Commission has approved an investment package worth almost €330 million from the [Cohesion Fund](#), to finance the construction of parts of the Struma motorway; lot 3.1., between the towns of Blagoevgrad and Krupnik and lot 3.3., between the towns of Kresna and Sandanski. The motorway connects the South-West part of the country to the Greek border, on the Trans-European Transport Network ([TEN-T](#)). The EU supported the construction of lots 1, 2 and

4 of the Struma Motorway under the 2007-2013 EU budget framework, with €291 million from Cohesion Policy funds. *"Improving connectivity drives growth,"* said Commissioner for Regional policy Corina **Crețu**, *"it provides a major boost to trade and tourism. It also tangibly improves the quality of everyday life for citizens. Last week President **Juncker** and the college of Commissioners met the Bulgarian government in preparation of the Bulgarian presidency of the Council, and connectivity infrastructure projects were a key point in our exchanges. This project shows that we are delivering for faster, smoother connectivity in Bulgaria and with its neighbours."* Still in the field of transport infrastructure, the Commission has approved the modification of the 2014-2020 Cohesion Policy programme for transport infrastructure for Bulgaria, upon request from the national authorities. The programme, worth €1.6 billion from EU funds, was modified to allow better preparation of railway projects, by ensuring efficient complementarities with the [Connecting Europe Facility](#) on the line from Plovdiv to Burgas and by redirecting some funding for investments in smart systems for traffic management and safety. (For more information: Johannes Bahrke – Tel.: +32 229 58615; Sophie Dupin de Saint-Cyr – Tel.: +32 229 56169)

### **Next steps against fake news: Commission sets up High-Level Expert Group and launches public consultation**

The Commission launched today a public consultation on fake news and online disinformation and set up a High-Level Expert Group representing academics, online platforms, news media and civil society organisations. The work of the [High-Level Expert Group](#) as well as the results of the [public consultation](#) will contribute to the development of an EU-level strategy on how to tackle the spreading of fake news, to be presented in spring 2018. Citizens, social media platforms, news organisations (broadcasters, print media, news agencies, online media and fact-checkers), researchers and public authorities are all invited to share their views in the [public consultation](#) until mid-February. It will gather opinions on what actions could be taken at EU level to give citizens effective tools to identify reliable and verified information and adapt to the challenges of the digital age. The Commission is inviting experts to apply for the High-Level Group on fake news to advise the Commission on scoping the phenomenon, defining the roles and responsibilities of relevant stakeholders, grasping the international dimension, taking stock of the positions at stake, and formulating recommendations. As far as possible, the group should include several representatives of each field of expertise, be it academia or civil society delegate. The Commission aims at a balanced selection of the experts. The [call for application](#) is open until mid-December. The High-Level Expert Group is expected to start in January 2018 and will work over several months. Commissioner **Gabriel** will deliver the welcoming speech at the [multi-stakeholder conference on "Fake news"](#) today at 13:00 in the Centre Albert Borschette, Brussels, which will be available [here](#). The event will be web-streamed [here](#) (today) and [here](#) (tomorrow). The full press release is available [here](#). (For more information: Nathalie Vandystadt – Tel.: +32 229 67083; Julia-Henriette Bräuer – Tel.: +32 229 80707)

## **Sustainable Finance: Commission seeks views on how best to encourage sustainable investments**

The Commission is today launching a public consultation on how asset managers and institutional investors could include environmental, social and governance factors when taking decisions. This would help them allocate capital more efficiently by taking into account sustainability risks, rather than merely seeking to maximise short-term financial returns. Today's consultation follows up on one of the eight early recommendations delivered by the [High-Level Expert Group on Sustainable Finance](#) (HLEG) in its [interim report](#) of July 2017. It forms part of the Commission's efforts to mobilise private capital towards green and sustainable investments to enable the transition to a low-carbon economy and shows the EU's strong commitment to mitigate risks posed by climate change and environmental challenges. The EU has taken the lead in building a financial system that supports sustainable growth and sustainable finance continues to be one of the Juncker's Commission's main priorities. The consultation further underlines the EU's commitment to the [Paris Climate Agreement](#) and the [UN 2030 Agenda for Sustainable Development](#). As announced in its [2018 Work Programme](#), the Commission will adopt an Action Plan on sustainable finance in the first quarter of 2018. The public consultation is open until 28 January 2018 and is available [here](#). *(For more information: Vanessa Mock – Tel.: 32 229-56194; Letizia Lupini – Tel.: +32 229 51958)*

## **Mergers: Commission clears creation of joint-venture between JSR and UMG**

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control by JSR Corporation and UMG ABS, Ltd. over Techno Polymer Co., Ltd. (TPC), all three of Japan. JSR is a chemical manufacturing company, whose core businesses are petrochemical and fine chemical products. TPC is a wholly-owned subsidiary of JSR, active in the supply of resins and alloys. UMG ABS is also active in the supply of resins and alloys. As a result of the operation TPC will be transformed into a joint venture between JSR and UMG ABS, and will comprise the business of both TPC and UMG. The Commission concluded that the transaction would raise no competition concerns because the joint venture has negligible actual or foreseen activities in the European Economic Area. The transaction was examined under the simplified merger review procedure. More information will be available on the Commission's [competition](#) website, in the [public case register](#) under the case number [M.8586](#). *(For more information: Ricardo Cardoso – Tel.: +32 229 80100; Maria Sarantopoulou – Tel.: +32 229 13740)*

## **Eurostat: Les fonds envoyés à l'étranger par les résidents de l'UE en baisse à 30,3 milliards d'euros en 2016**

En 2016, les sommes d'argent envoyées par les résidents de l'Union européenne (UE) dans les pays hors-UE, appelées transferts personnels, se sont élevées à 30,3 milliards d'euros, contre 31,3 mrds en 2015. Comme les flux entrants dans l'UE se sont établis dans le même temps à 9,9 milliards d'euros, il en a résulté un solde négatif (-20,4 mrds d'euros) pour l'UE avec le reste du monde. La majorité des transferts personnels se compose de flux d'argent envoyés par les migrants dans leur pays d'origine. Un communiqué de presse

est disponible [ici](#). (Pour plus d'informations: Annika Breidhardt – Tel.: +32 229 56153; Letizia Lupini – Tel.: +32 229 51958)

## **ANNOUNCEMENTS**

### **La Commissaire Thyssen participe aux premiers trilogues sur la révision des règles concernant le détachement des travailleurs**

Demain la Commissaire pour l'Emploi, les Affaires sociales, les Compétences et la Mobilité des travailleurs, Marianne **Thyssen**, participe aux premières discussions entre le Parlement européen, le Conseil des Ministres de l'UE et la Commission européenne concernant la révision des règles européenne sur le détachement des travailleurs. Ces discussions seront la dernière ligne droite vers un accord final sur la révision, suite aux accords obtenus au Parlement (16 octobre 2017) et au Conseil des ministres au sein du Conseil Emploi, Politiques sociales, Santé et Consommateurs (23 octobre 2017). A la veille des discussions, la Commissaire **Thyssen** a dit: *"La position de la Commission a toujours été claire et se trouve dans sa proposition du 8 mars 2016: nous voulons établir le principe fondamental d'une même rémunération pour un même travail au même endroit. Je me réjouis donc que cette avancée essentielle se retrouve dans les textes approuvés par le Parlement et le Conseil. C'est là l'enjeu essentiel de cette révision. Sur tous les autres aspects, nous espérons obtenir un accord équilibré qui améliore la situation sur le terrain et qui rende les règles plus claires et plus équitables. Un accord qui favorise la mobilité des services et les droits des travailleurs, tout en permettant aux autorités à tous les niveaux de combattre les abus. Je suis heureuse que nous puissions désormais initier les trilogues et je souhaite que nous arrivions à un accord final le plus tôt possible."* (Pour plus d'informations: Christian Wigand– Tel.: +32 229 62253; Sara Soumillion – Tel.: + 32 229 67094)

[Upcoming events](#) of the European Commission (ex-Top News)

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## **Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on the earthquake on the Iran/Iraq border**

*The earthquake that struck the area on the border between Iran and Iraq last night has taken the lives of hundreds of people and caused extensive damage across the two countries.*

*On behalf of the European Union, I express our heartfelt condolences to the victims and their families at this time of great sadness.*

*The European Union stands by the people of Iran and Iraq and the authorities and their efforts to respond to this tragedy.*

*We are committed to help both countries and provide any humanitarian assistance necessary.*

*At this stage, our humanitarian partners in the region have immediately started to provide emergency assistance.*

*We are in touch with the authorities in Iran and Iraq and our 24/7 Emergency Response Coordination Centre is closely monitoring developments in the area.*

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## **Defence: European Commission welcomes steps towards Permanent Structured Cooperation**

The Commission strongly welcomes the move by Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Romania, Slovenia, Slovakia, Spain and Sweden towards launching Permanent Structured Cooperation (PESCO) on defence, by signing today a joint notification and handing it over to High Representative Federica **Mogherini**.

President **Juncker** has been calling for a stronger Europe on security and defence since his election campaign, saying in April 2014: “*I believe that we need to take more seriously the provisions of the existing Treaty that allow those European countries who want to do this to progressively build up a common European defence. I know this is not for everybody. But those countries that would like to go ahead should be encouraged to do so. Pooling defence capacities in Europe makes perfect economic sense.*” This same ambition was set out in his three-point plan for foreign policy, which was incorporated in the Political Guidelines – the Juncker Commission’s political contract with the European Parliament and the European Council.

PESCO is a Treaty-based framework and process to deepen defence cooperation amongst EU Member States who are capable and willing to do so. It will enable Member States to jointly develop defence capabilities, invest in shared projects and enhance the operational readiness and contribution of their armed forces. Following today’s notification the Council should adopt a formal decision establishing PESCO by the end of the year, with the first projects to be identified in parallel.

The [European Defence Fund](#) launched by the Commission in June 2017 will boost collaborative projects in the area of defence research, prototype development and joint acquisition of capabilities. Today’s joint notification marks an

important step towards creating a fully-fledged European Defence Union by 2025, as President **Juncker** stressed in his [State of the Union address on 13 September 2017](#).

For more information on PESCO please see a factsheet [here](#). See [here](#) the Strategic Note: In Defence of Europe by the European Political Strategy Centre. You can watch the PESCO signing ceremony on [EbS](#).