

30 March 2016

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WMA¹ response to ESMA's Consultation Paper on Guidelines on the Market Abuse Regulation

Q1: Do you agree with this proposal regarding MSR's assessment as to whether they are in possession of inside information as a result of the market sounding and as to when they cease to be in possession of inside information?

We note in para 5 of the Consultation Paper that ESMA clarified that a broker who receives a market sounding from an advisor would not be deemed to be a DMP, even though the broker may in turn sound their own clients.

We are aware that, particularly in the corporate bond space, there is an increase in the number of new issues that come with a requirement for brokers to sign a distribution agreement, and there is concern within our member firms that as a result of signing such agreement a broker might be still deemed to be acting on behalf of the issuer, thereby being brought within the scope of the DMP regime.

Can ESMA confirm that brokers will maintain their MSR status regardless of them signing a distribution agreement with advisors.

¹ The Wealth Management Association (WMA) is a trade association that represents 186 wealth management firms (full members) and associate members who provide professional services to our full member firms. WMA members firms look after over £670 billion of wealth for over 4 million retail investors. WMA full members deal in stocks, shares and other financial instruments for individuals, trusts and charities through a range of services spanning execution only, advisory and discretionary fund management. The WMA exists to support its members and their clients through education and engagement, advocacy and influence, research and analysis and by playing an active role as a facilitator and thought leader. WMA firms operate across more than 580 sites, employing over 32 000 staff. These firms also run over 5.5 million client portfolios and carry out over 20 million trades a year.

Q2: Do you agree with this proposal regarding discrepancies of opinion between DMP and MSR?

No comment.

Q3: Do you agree with this proposal regarding internal procedures and staff training? Should the guidelines be more detailed and specific about the internal procedures to prevent the circulation of inside information?

We want to stress the importance that the requirement to establish, implement and maintain internal procedures be proportionate to the size, nature and complexity of an MSR's business activities.

We are supportive of ESMA's view that MSRs should have the flexibility to determine their internal organisation.

Q4: Do you agree with this proposal regarding a list of MSR's staff that are in possession of the information communicated in the course of the market sounding?

We see no issue with this requirement as long as the list is drawn up for internal record-keeping purposes and does not result in an extension of MAR art. 18 requirements to MSRs.

Q5: Do you agree with the revised approach regarding the recording of the telephone calls?

We are supportive of ESMA's approach.

Q6: Do you agree with the proposal regarding MSR's obligation to draw up their own version of the written minutes or notes in case of disagreement with the content of those drafted by the DMP?

No comment.

Q7: Can you provide possible elements of compliance costs with reference to the regime proposed in the guidelines for MRSs?

No comment.

Q8-Q10: N/A

Wealth Management Association

