ESMA_QA_847

Submission Date
27/04/2023

Status: Answer Published

Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- MDP

Topic
* EMIR Reporting

Additional Legal Reference
MiFID II main text, Annex I, Section C on financial instruments

Subject Matter
Interpretation of "emission allowances" under C(4)

Question
Does the financial instruments in Annex I, section C(4) include derivatives on emission allowances not recognized under the EU ETS, thus making these reportable under EMIR?

Specific example: Derivatives on UKAs, recognized under UK ETS.

ESMA Answer

24-06-2024

Original language

Yes. The definition of derivatives on emission allowances provided in Section C(4) of Annex I to MiFID II does not distinguish between emission allowances recognised for compliance under the EU ETS Directive, and other emission allowances. Therefore, derivatives on emission allowances not recognised for compliance under that Directive qualify as financial instruments.