

ESMA_QA_1115

Submission Date 09/01/2015

Status: Answer Published

Additional Information

Level 1 Regulation

Undertakings for Collective Investment in Transferable Securities Directive (UCITS) Directive 2009/65/EC

Topic Disclosures

Subject Matter

Financial derivative instruments - KIID

Question

For the purposes of paragraph 39 of the guidelines, would the counterparty to a financial derivative instrument be considered as having discretion over the composition of the underlying of the financial derivative instrument under the following arrangement? The counterparty to the financial derivative instrument can decide on the composition of the

underlying of the financial derivative instrument or the UCITS investment portfolio without the prior consent of the UCITS management company.

ESMA Answer

09-01-2015

Original language

[ESMA 34-43-392 UCITS Q&A, section 3, Q&A 5d]

Yes, because the counterparty to the financial derivative instrument has discretion over the composition of the underlying of the financial derivative instrument or the UCITS' investment portfolio.