

Submission Date

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Additional Information

Level 1 Regulation

Market Abuse Regulation (MAR) Regulation (EU) No 596/2014 - Market Integrity

Topic

Inside information, public disclosure and delayed disclosure of inside information

Subject Matter

Credit ratings, rating outlooks and information relating thereto, pursuant to article 10(2a) of Regulation No 1060/2009

Question

Are credit ratings, rating outlooks and information relating thereto, pursuant to article 10(2a) of Regulation No 1060/2009, presumed to be inside information until disclosure to the public, or should a case-by-case assessment of the conditions in Article 7 of Regulation (EU) No 596/2014 be anyhow carried out?

06-08-2021

Original language

[ESMA70-145-111 MAR Q&A5.8]

Answer provided by the European Commission in accordance with article 16b(5) of the ESMA Regulation

Credit ratings, rating outlooks and information relating thereto are presumed to be inside information until disclosure to the public.

Article 10(2a) of Regulation No 1060/2009 (Credit Rating Agencies Regulation or “CRAR”) provides that “Until disclosure to the public of credit ratings, rating outlooks and information relating thereto, they shall be deemed to be inside information, as defined in and in accordance with Directive 2003/6/EC”^[1]. As a consequence of the presumption set out in article 10(2a) of CRAR, for “credit ratings, rating outlooks and information relating thereto”, the assessment of the conditions laid down in Article 7(1)(a) of MAR is not required and those ratings should always be treated as inside information.

Disclaimer:

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudice the position that the European Commission might take before the Union and national courts.

^[1] Directive 2003/6/EC was repealed by Regulation (EU) No 596/2014 (Market Abuse Regulation or “MAR”), and references to the provisions contained therein are to be read as references to MAR according to the correlation table provided in Annex II of MAR.