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Additional Information

Level 1 Regulation
Market Abuse Regulation (MAR) Regulation (EU) No 596/2014 - Market Intergrity

Topic
Inside information, public disclosure and delayed disclosure of inside information

Subject Matter
Disclosure to the public of credit ratings and inside information

Question
Where a credit rating agency discloses credit ratings, rating outlooks and information relating thereto on its public website, does such disclosure suffice to consider them no longer inside information under Regulation (EU) No 596/2014?

ESMA Answer

06-08-2021

Original language

[ESMA70-145-11 MAR Q&A 5.9]

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

Yes.

Further to their disclosure on the public website of the credit rating agency, credit ratings, rating outlooks and information relating thereto are no longer to be considered inside information.

Article 10(2a) of Regulation No 1060/2009 (Credit Rating Agencies Regulation or "CRAR") provides a presumption that credit ratings and rating outlooks are to be deemed inside information until their "*disclosure to the public*" without further specifying the formalities of such public disclosure[1].

Article 7(1)(a) of MAR defines inside information as an information "*that has not been made public*" regardless of whom has published the information or by which means.

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 prejudge the position that the European Commission might take before the Union and national courts.

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[1] Directive 2003/6/EC was repealed by Regulation (EU) No 596/2014 (Market Abuse Regulation or "MAR"), and references to the provisions contained therein are to be read as references to MAR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.