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Additional Information

Level 1 Regulation
Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014- MDP

Topic
* Transaction reporting

Historic Question Reference
ESMA70-1861941480-56 Questions and Answers on MiFIR reporting

Subject Matter
Transaction reporting

Question
(a) Where there is more than one level of underlying instrument which should be considered when determining whether an instrument is in scope for reporting under article 26(2)(b) and

(c) of MIFIR?
(b) Does the concept of an underlying for the purposes of Article 26(2)(b) or (c) of MiFIR extend to investments in a collective investment undertaking or an exchange traded fund?
(c) What is the implication of Answer (b)?
(d) Does the concept of underlying extend to the instruments on which ADRs, GDRs are based for the purposes of Article 26(2)(b) of MIFIR ?
(e) What is the implication of Answer (d)?
(f) Does the concept of an underlying for the purposes of Article 26(2)(b) of MiFIR extend to convertible bonds, reverse convertible bonds and reverse convertible notes?
(g) What is the implication of Answer (f)?
(h) Does the concept of an underlying for the purposes of Article 26(2)(b) or (c) of MiFIR extend to warrants?
(i) What are the implications of Answer (h)?

ESMA Answer

14-12-2017

Original language

[ESMA 70-1861941480-56 MiFIR data reporting Q&A, Q&A 24.11]

(a) The underlying is the direct or immediate underlying for the instrument rather than any ultimate underlying. For example, consider a CFD on an option on an equity. The immediate underlying is the option. Therefore, if the option is traded on a trading venue then the CFD is a reportable instrument under article 26(2)(b) and if the option is not traded on a trading venue then the CFD is not a reportable instrument under article 26(2)(b). This is regardless of whether the equity that is the ultimate underlying is traded on a trading venue.

(b) No, the concept of underlying does not extend to such situations.

(c) Transactions in a unit of a collective investment undertaking or an exchange traded fund are only reportable if the unit of a collective investment undertaking or the exchange traded fund is itself admitted to trading or traded on a trading venue or a request for admission has

been made.

(d) Yes.

(e) Where a transaction takes place in an ADR, GDR (the main instrument) where the underlying instrument on which the main instrument is based is traded on a trading venue the transaction is reportable under article 26(2)(b). Where a transaction report is made on the basis of the instrument being in scope of 26(2)(b) the underlying instrument on which the main instrument is based should be reported in field 47 (Underlying instrument code). Where the main instrument is also in scope under 26(2)(a) then the underlying does not need to be populated in the transaction report as only the ISIN of the main instrument needs to be reported (in field 41).

(e) Yes.

(f) Where a transaction takes place in a convertible bond, reverse convertible bond or reverse convertible note (the main instrument) and the instrument into which the bond can be converted is traded on a trading venue the transaction is reportable under article 26(2)(b). Where a transaction report is made on the basis of the instrument being in scope of 26(2)(b) the underlying instrument into which the main instrument can be converted should be reported in field 47. Where the convertible bond, reverse convertible bond or reverse convertible note is also in scope under 26(2)(a) then the underlying does not need to be populated in the transaction report as only the ISIN of the convertible bond needs to be reported (in field 41).

(g) Yes.

(h) Where a transaction takes place in a warrant and the instrument on which the warrant is based is traded on a trading venue the transaction is reportable under article 26(2)(b). Where the warrant is based on an index or a basket composed of financial instruments traded on a trading venue the transaction is reportable under 26(2)(c). Where the warrant is also in scope of Article 26(2)(a) then the underlying does not need to be populated in the transaction report as only the ISIN of the warrant needs to be reported (in field 41).