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30/05/2017

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Additional Information

Level 1 Regulation

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

Topic

Other MAR-related topics

Subject Matter

Blanket cancellation of orders policy

Question

Is a policy pursuant to which, after becoming in possession of inside information, the person should immediately and without the exercise of discretion cancel all orders relating to that information ("blanket order cancellation policy") compliant with the insider dealing prohibition under MAR?

ESMA Answer

30-05-2017

Original language

[ESMA70-145-111 MAR Q&A, Q&A 4.1]

Article 8(1) of MAR states that “*the use of inside information by cancelling or amending an order placed before the person concerned possessed inside information*” constitutes insider dealing. This presumption is rebuttable under Recital 25 of MAR if the person establishes that they “*did not use the inside information when carrying out the transaction*”.

For those reasons, it cannot be concluded that a blanket order cancellation policy per se constitutes insider dealing.

It follows that where a firm decides to adopt a blanket cancellation policy for its proprietary trading, the fact that the cancellation may or may not constitute insider dealing will have to be assessed on case-by-case basis, by determining whether or not the cancellation was indeed performed without using the inside information.