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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

Delayed inside information that lost the feature of the price sensitivity

Question

How should an issuer deal with a situation where it has delayed a disclosure of inside information in accordance with Article 17(4) of MAR and, due to subsequent circumstances, that information loses the element of price sensitivity and therefore its inside nature?

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Original language

[ESMA70-145-111 MAR Q&A, Q&A 5.2]

According to Article 17(1) of MAR, an issuer has to inform the public as soon as possible of inside information that directly concerns that issuer. Article 17(4) of MAR states that an issuer may, on its own responsibility, delay disclosure of inside information to the public, provided that all of the conditions therein contained are met. Where an issuer has delayed the disclosure of inside information according to Article 17(4) of MAR, immediately after the information is disclosed to the public the issuer needs to inform the competent authority that disclosure of inside information was delayed, and provide written explanation on how the conditions set out in Article 17(4) of MAR were met.

Where the issuer has delayed the disclosure of inside information in accordance with Article 17(4) of MAR and the information subsequently loses the element of price sensitivity, that information ceases to be inside information and thus is considered outside the scope of Article 17(1) of MAR. Therefore, the issuer is neither obliged to publicly disclose that information nor to inform the competent authority in accordance with the last paragraph of Article 17(4) that disclosure of such information was delayed.

However, given that the information had been inside information for a certain period of time, the issuer had to comply with all relevant obligations relating to the drawing up and updating of insider lists and the maintenance of the information relating to the delay of disclosure, stemming from MAR and its delegated and implementing Regulations.