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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
Delayed disclosure of inside information under Article 17(5) of MAR: assessment of the relevant conditions

Question
When issuers that are credit/financial institutions or parent undertakings of such institutions intend to delay disclosure of inside information under Article 17(5) of MAR, what are the elements they should consider in their assessment of the conditions therein contained?

ESMA Answer

08-10-2026

Original language

[ESMA70-145-111 MAR Q&A, Q&A 5.3]

When a credit/financial institution or its parent undertaking intend to resort to the financial stability delay under Article 17(5) of MAR, it should provide evidence to the NCA that the conditions laid down in points a), b) and c) of the same article are met.

The assessment of those conditions should be as complete as possible to the best of the knowledge of that credit/financial institution or the parent undertaking of such institution.

If the NCA gives its consent to the delay further to its own assessment of the relevant conditions, the credit/financial institution or its parent undertaking are expected to share with the NCA any subsequent additional information relating to the conditions for the delay.

Point a) of Article 17(5) of MAR: disclosure of inside information entails a risk of undermining the financial stability of the issuer and the financial system

It should be noted that to resort to the delay under Article 17(5) of MAR, disclosure of inside information has to entail a risk of undermining the financial stability of both the issuer and the financial system.

For the disclosure of inside information to entail a risk of undermining the stability of the financial system, it is likely for it to pertain and be performed by an institution of relevance, e.g. in terms of impact and interconnection.

In this context, credit/financial institutions or their parent undertakings should not simply rely on *ex ante* categorisations but rather look at the specific circumstances.

Point b) of Article 17(5) of MAR: the public interest to delay the disclosure

In the absence of any definition of "*public interest*", Recital 52 of MAR provides guidance stipulating that "*the wider public and economic interest in delaying disclosure outweighs the*

interest of the market in receiving the information which is subject to delay".

When assessing the public interest, the credit/financial institution or its parent undertaking should attempt to identify different entities or groups who could be directly or indirectly affected by the decision to delay the disclosure of the inside information and whose interests may be understood as a public interest.

During the assessment of the public interest, it is important to consider interests beyond the direct economic impacts and other non-financial interests of the public. All of these interests would need to be considered, and none of them should be considered in isolation.

If there are divergent interests of the public, the credit/financial institution or its parent undertaking should assess on a case-by-case basis if the prevailing public interest(s) is to delay the disclosure of inside information. For example, a potential loss to investors who have made or may make an investment decision should be weighed against the adverse effect of public disclosure on other groups, such as depositors and consumers.

Point c) of Article 17(5) of MAR: the confidentiality of the information

Credit/financial institutions or their parent undertakings should provide the NCA with information on how the confidentiality of the inside information can be ensured.

Credit/financial institutions or their parent undertakings are expected to assess the confidentiality of the information at the time of the notification to the NCA, but also how the confidentiality can be ensured during the period in which the information might be delayed.

To that purpose, credit/financial institutions or their parent undertakings should consider their procedures and measures put in place to ensure the confidentiality and draw up their insider list given that, pending the NCA's decision to consent to the delay, the disclosure of the inside information is de facto already delayed.