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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

Disclosure of inside information by collective investment undertakings without legal personality voluntarily admitted to trading or traded on a trading venue

Question

Is a collective investment undertaking (CIU) without legal personality subject to the obligation to disclose inside information under Article 17 of MAR?

20-03-2019

Original language

[ESMA70-145-111 MAR Q&A, Q&A 5.6]

Yes. Article 17(1) of MAR establishes the obligation of the issuer to inform the public as soon as possible of inside information which directly concerns that issuer, without exempting any sort of issuers.

For the purposes of Article 17 of MAR, a CIU without legal personality meets the definition of 'issuer' contained in Article 3(1)(21) of MAR regardless of the fact that the effective issuance/redemption of the shares/units of the CIU, and any obligations arising from MAR (or from any other piece of legislation) are discharged by the relevant asset manager.

In that context, the asset manager could be held responsible for a potential infringement of the CIU's obligation to disclose inside information under MAR.

However, ESMA recalls that the obligation to publish inside information under Article 17(1) of MAR only covers issuers that have requested or approved admission of their financial instruments to trading on a regulated market in a Member State or, in the case of instruments only traded on an MTF or an OTF, issuers who have approved trading of their financial instruments on an MTF or an OTF or have requested admission to trading of their financial instruments on an MTF in a Member State.

ESMA would like to highlight that, like any other issuer, a CIU without legal personality (and therefore, its management company on its behalf) may, on its own responsibility, delay the disclosure of inside information, provided that the relevant requirements set out in Article 17 of MAR are met.

Finally, ESMA recalls that the obligation to publicly disclose inside information under Article 17 of MAR is different from any other disclosure obligations arising from the UCITS Directive and AIFM Directive, as it strictly refers to cases involving 'inside information' (as defined in Article 7 of MAR) that directly concerns the issuer.