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Additional Information

Level 1 Regulation

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

Topic

Managers' transactions

Subject Matter

Closely associated persons under Article 3(1)(26)(d) of MAR

Question

According to Article 3(1)(26)(d) of Regulation (EU) No 596/2014 of the European Parliament and of the council (MAR) a closely associated person is, inter alia, «a legal person, trust or partnership, the managerial responsibilities of which are discharged» by a person discharging managerial responsibilities (PDMR) or by a closely associated natural person. Is the reference to «the managerial responsibilities of which are discharged» contained in

Article 3(1)(26)(d) of MAR to be read in the same way as the definition of PDMR within an issuer contained in Article 3(1)(25) of MAR?

ESMA Answer

06-07-2017

Original language

[ESMA70-145-111 MAR Q&A, Q&A 7.7]

No, the reference to «*the managerial responsibilities of which are discharged*» in Article 3(1)(26)(d) of MAR should be read to cover those cases where a PDMR within an issuer (or a closely associated natural person) takes part in or influences the decisions of another legal person, trust or partnership (hereinafter “legal entity”) to carry out transactions in financial instruments of the issuer.

For example, in the case of mere cross board membership, where a person sits in the administrative, management or supervisory body of an issuer and also in the board of another legal entity where they exercise executive or non-executive functions, without however taking part nor influencing the decisions of that legal entity to carry out transactions in financial instruments of the issuer, then that person should not be considered discharging managerial responsibilities within that legal entity for the purposes of Article 3(1)(26)(d) of MAR. Therefore, that legal entity should not be subject to the notification obligations under Article 19(1) of MAR, unless it is directly or indirectly controlled by, is set up for the benefit of, or its economic interests are substantially equivalent to those of that person.