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26/10/2016

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Additional Information

Level 1 Regulation
Market Abuse Regulation (MAR) Regulation (EU) No 596/2014 - Market Intergrity

Topic
Investment recommendations and statistics and disclosure of information on the media

Subject Matter
Communications made orally or via electronic means

Question
Do communications made orally or via electronic means such as telephone calls and “chat” functions, or communications labelled e.g. “morning notes” or “sales notes”, constitute an “investment recommendation” under MAR?

ESMA Answer

26-10-2016

Original language

[ESMA70-145-111 MAR Q&A, Q&A 8.1]

Any communication that meets the criteria of the definition of investment recommendation within the meaning of Article 3(1)(35) of MAR in conjunction with Article 3(1)(34) of MAR will be deemed to fall within the scope of the investment recommendation regime. When determining whether a communication is an "investment recommendation", an assessment should be made based on the substance of the communication, irrespective of its name or label and the format, form, or the medium through which it is delivered (whether electronically, orally or otherwise). As such, whether a specific oral or electronic communication, or a communication labelled as “morning notes” or “sales notes”, may be considered an investment recommendation within the meaning of MAR, it should be established on a case-by-case basis.

Where a standardised communication, including oral or electronic communication, is structured and pre-planned for distribution channels and it implicitly or explicitly suggests an investment strategy in relation to a financial instrument or issuer, it should be regarded as "investment recommendation".