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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 not referring to one or several issuers

Question
Can communications that do not refer to either one or several financial instruments or issuers be considered investment recommendations under MAR

ESMA Answer

26-10-2016

Original language

[ESMA70-145-111 MAR Q&A, Q&A 8.2]

Communications that meet 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.

In particular, Article 3(1)(35) of MAR sets out that “*investment recommendation*” means " *information recommending or suggesting an investment strategy, explicitly or implicitly,* ***concerning one or several financial instruments or the issuers*** [emphasis added]*, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public*".

Therefore, a communication that does not refer to either a financial instrument or an issuer, should generally not be considered an investment recommendation. However, the producer’s assessment as to whether the above communication may be investment recommendation should be conducted on a case-by-case basis.

Communication relating solely to spot currency rates, sectors, interest rates, loans, commodities, macroeconomic variables or industry sectors and not referring to a financial instrument or an issuer would be considered as investment recommendation where it contains information assessed as allowing a reasonable investor to deduce that the communication is implicitly recommending specific financial instruments or issuers and provided that the other 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 are met. For example, an opinion on a specific sector that is composed of a very limited number of issuers may be considered an investment recommendation regarding those issuers.