ESMA_QA_1743

Submission Date
20/12/2016

Status: Answer Published

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
Recommendation on derivatives traded solely outside a trading venue

Question
Are recommendations relating to derivatives traded solely outside a trading venue in scope of Article 20 of MAR?

ESMA Answer

20-12-2016

Original language

[ESMA70-145-111 MAR Q&A, Q&A 8.7]

In line with Articles 2(1)(d) and 2 (3) of MAR, a derivative traded outside a trading venue is in scope of MAR insofar as its price or value depends on, or has an effect on the price or value of a financial instrument referred to in Article 2(1)(a), (b) or (c) of MAR.

If the price or value of a derivative traded outside a trading venue does not depend on or have an effect on the price or value of a financial instrument referred to in Article 2(1)(a), (b) or (c) of MAR, the derivative would not be in scope of MAR and therefore any recommendation relating to the financial instrument would not be in scope of Article 20 of MAR.

Therefore, firms are responsible for conducting their own assessment on a case by case basis as to whether a recommendation on a given derivative traded solely outside a trading venue is in scope of Article 20 of MAR and subject to the requirements of Commission Delegated Regulation (EU) 2016/958.