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Additional Information

Level 1 Regulation
Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014 - Investor Protection and Intermediaries

Topic
Investment advice on an independent basis

Subject Matter
Investment advice on an independent basis

Question
An investment firm only offers financial instruments issued or provided by the investment firm itself or by entities having close links with the investment firm. On a look-through basis, the financial instruments offered (for example, investment funds, wrappers) allow the investor to indirectly invest in financial instruments issued by entities who do not have close links with

the investment firm.

Can such investment firm hold itself out as providing investment advice on an independent basis?

ESMA Answer

03-10-2018

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch 5, question 2]

No. In accordance with Article 24(7) of MiFID II, a firm can hold itself out as providing investment advice on an independent basis only if that investment firm assesses “a sufficient range of financial instruments available on the market which must be sufficiently diverse with regard to their type and issuers or product providers to ensure that the client’s investment objectives can be suitably met and must not be limited to financial instruments issued or provided by: (i) the investment firm itself or by entities having close links with the investment firm; or (ii) other entities with which the investment firm has such close legal or economic relationships, such as contractual relationships, as to pose a risk of impairing the independent basis of the advice provided”. When determining the range of financial instruments assessed, an investment firm providing investment advice must consider the financial instruments (directly) offered by the investment firm.