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Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Investor Protection and Intermediaries

Topic
Underwriting and placing

Subject Matter
Underwriting and placing

Question
Article 38(1) of the MiFID II Delegated Regulation applies to “investment firms which provide advice on corporate finance strategy as set out in Section B(3) of Annex I of MIFID II and provide the service of underwriting or placing of financial instruments”. Does this Article apply to?investment firms acting as a manager or a member of the syndicate for a specific

offering?

ESMA Answer

16-12-2016

Original language

[ESMA 35-43-349 MiFID II Q&As on Investor protection Ch. 6, question 4]

The activities of investment firms acting as a manager or member of the syndicate for a specific offering do not generally imply the provision of advice on corporate finance strategy. When no advice on corporate finance strategy is provided to the issuer client, provisions of Article 38(1) of the MiFID II Delegated Regulation are not to be applied. If, however, advice on corporate finance strategy is provided to the issuer client alongside the service of underwriting and placing, provisions in Article 38(1) will apply. In all circumstances, all other relevant requirements in the MiFID II Delegated Regulation related to underwriting and placing activity remain applicable.