# ESMA_QA_2033

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## Additional Information

**Level 1 Regulation**
Transparency Directive (TD) Directive 2004/109/EC

**Topic**
Transparency

**Historic Question Reference**
[ESMA31-67-127 TD Q17]

**Subject Matter**
Responsibilities of the host Member State; TD Art. 21(3)

**Question**
According to Article 21(3) of the Transparency Directive (TD), the host Member State (MS) shall ensure disclosure of regulated information in accordance with Article 21(1) of the TD if

the securities are only admitted to trading in the host MS. In this case the disclosure of the regulated information will be done under the legal regime of the host MS. Article 19(1) of the TD demands that an issuer who discloses regulated information files that information with the Competent Authority (CA) in its home MS. Since the home MS necessarily differs from the host MS (cf. to Art. 2(1)(i) and (j) of the TD) the CA of the host MS may not know that the issuer is required to disclose/has disclosed certain information and which particular information has to be disclosed/has been disclosed. How can the CA of the host MS ensure that the issuers fulfill their obligations in these cases?

## ESMA Answer

23-10-2015

Original language

*[ESMA31-67-127 TD Q17]*

According to the TD, in case the securities are not admitted to trading in their home Member State, the applicable regime depends on the number of host Member States where the securities have been admitted to trading:

| Securities admitted to trading | Rules on disclosure | Who does the enforcement of the rules on disclosure? |
|---|---|---|
| Only in one host MS | Those of the host MS | The host CA |
| In several host MSs | Those of the home MS | The home CA |

Some CAs informed that their Member States have implemented a solution in their national legislation where the issuer has an obligation to file all regulated information also with the host CA. In other Member States the Competent Authorities involved agree on a case by case basis on how to apply Article 21(3) of the TD.