

Dear ESMA,

in the context of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on indices used as benchmarks in financial instruments and financial contracts 2013/0314 (COD) we are analyzing the scope of this regulation. Therefore we would like to ask you for some clarification relating to the definition of front office staff in connection with the question Nr. 26 of the Discussion paper ESMA/2016/288:

Q26: Do you agree that all staff involved in input data submission should undergo training, but that such training should be more elaborate / should be repeated more frequently where it concerns front office staff contributing to benchmarks?

We agree, it is necessary that staff involved in input data submission should undergo training, especially the front office staff meaning the front office staff “creating the contribution”. Our concern is the definition of “front office staff” according to the benchmark regulation, Article 7, point 3.a:

“Where the input data of a benchmark is contributed from a front office function, **meaning any department, division, group, or personnel of contributors or any of its affiliates that performs any pricing, trading, sales, marketing, advertising, solicitation, structuring, or brokerage activities**, the administrator shall:

- (a) obtain data from other sources that corroborates that input data;
- (b) ensure that contributors have adequate internal oversight and verification procedures.”

As per to the definition mentioned above, the entire staff selling to clients product related to the benchmark would be classified as front office staff, even if they had no influence on the benchmark reporting.

In our view, only the staff creating the contribution and actually dealing sensu stricto with the products should be considered “front office staff” for the purpose of the training.

We would be thankful for the clarification on this subject.

Kind regards,

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