

28 September 2020

ESMA Publishes Outcomes of Market Abuse Regulation ('MAR' or 'the Regulation') Review

This Circular is being addressed to market participants falling within the scope of MAR, particularly issuers whose financial instruments are admitted to trading on a Trading Venue and to issuers who have requested that their financial instruments are admitted to trading on a Trading Venue, as well as investment firms and asset management companies.

Review of MAR

The Authority would like to inform market participants that the European Securities and Market Authority ('ESMA') has, on 24 September 2020, published a review of MAR ('the Report'). The purpose of this Report is to contribute towards the European Commission's ('EC') review of MAR. The Report follows a consultation paper published in 2019 ([link](#)).

Based on the responses following the consultation paper, ESMA has concluded that, overall, MAR has worked well in practice and is fit for purpose.

In this respect, the Report proposes a number of targeted amendments to the Regulation, including in relation to:

- (i) Market Soundings - ESMA recommends clarifying that besides representing an obligation for disclosing market participants, the requirements set out by the Regulation will also protect them against allegations of unlawful disclosure of inside information.
- (ii) Benchmarks provisions and the interplay between MAR and collective investment undertakings - ESMA recommends clarifying the responsibility of management companies with regard to the disclosure of inside information.
- (iii) Withholding tax reclaim schemes – Enabling National Competent Authorities to exchange information with tax authorities more freely by removing legal limitations.

Besides the above amendments, ESMA is also suggesting providing further guidance on certain areas of the Regulation, namely in relation to inside information and disclosure, and pre-hedging.

Furthermore, the Report addresses:

- Buy-back programmes;
- Insider lists;

- Managers' transactions;
- Establishment of an EU framework for cross-market order book surveillance;
- Appropriateness of introducing common rules on the need for all Member States to provide administrative sanctions for insider dealing and market manipulation;
- Cross border enforcement of sanctions; and
- Retention period of personal data.

A copy of the Report may be accessed through the following [link](#).

Contacts

Should you have any queries in relation to any of the above, kindly contact the Authority on pfma@mfsa.mt.