

19 July 2021

ESMA Consults on Amendments to Market Abuse Regulation ('MAR' or 'the Regulation') Guidelines on Delayed Disclosure of Inside Information

This Circular is being addressed to all market participants, particularly but not limited to those falling within the scope of [MAR](#).

Consultation Paper

The Authority would like to inform market participants that on 15 July 2021, the European Securities and Markets Authority ('ESMA') launched a [Consultation Paper](#) on the review of its [Guidelines](#) on delayed disclosure of inside information under MAR in relation to its interaction with prudential supervision (the 'Guidelines').

Under Article 17(4) of MAR, issuers can delay the disclosure of inside information where: immediate disclosure is likely to prejudice an issuer's legitimate interest; the delay of disclosure is not likely to mislead the public; and confidentiality is ensured.

The Guidelines include a list of legitimate interests of issuers that are likely to be prejudiced by immediate disclosure of inside information. The Consultation Paper proposes to amend the current MAR Guidelines, by:

- clarifying that in case of redemptions, reductions and repurchases of own funds, pending the prudential supervisor's authorisation, the institution has a legitimate interest to delay disclosure of inside information until authorisation is granted;
- clarifying that in case of draft SREP decisions and related preliminary information, the institution has a legitimate interest in delaying disclosure of inside information until that information becomes final; and
- add a separate section clarifying that Pillar 2 Capital Requirements and Pillar 2 Capital Guidance contained in the Supervisory Review and Evaluation Process under the Capital Requirements Regulation and Directive package, are likely to meet the definition of inside information under MAR and would therefore need to be disclosed as soon as possible, once final.

ESMA invites all market participants including institutional and retail investors, consultants and academics to send their input by 27 August 2021. ESMA will consider the responses and expects to publish a final report including its amended MAR Guidelines by the end of 2021.

Responses shall be forwarded directly to ESMA through this [Link](#).

Contacts

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