

Trading Conduct & Settlement Policy team
Markets Policy & International Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

By email: cp15-35@fca.org.uk

4 February 2015

Dear Sirs

ICSA response to CP15/35: Implementation of the EU Market Abuse Regulation

We welcome the opportunity to comment on the FCA's consultation paper 15/35 on implementation of the EU Market Abuse Regulation.

ICSA: The Governance Institute is the professional body for governance. We have members in all sectors and are required by our Royal Charter to lead 'effective governance and efficient administration of commerce, industry and public affairs'. With 125 years' experience, we work with regulators and policy makers to champion high standards of governance and provide qualifications, training and guidance. ICSA is the professional body that qualifies Chartered Secretaries, which includes company secretaries. Company secretaries have a key role in advising companies on their governance arrangements and for governance reporting. Our members are therefore well placed to understand the issues around the implementation of the EU Market Abuse Regulation.

We have confined our response to those questions set out in section 2 of the consultation paper, where there are options for implementation.

Q1: Do respondents agree that the issuer/EAMP should provide a written explanation following notification of delayed disclosure to the FCA only upon its request?

No. It is our view was that Issuers may prefer to make an immediate notification rather than wait for a request from the FCA. The rationale for this is that, at the point a decision is taken to delay disclosing inside information, the Issuer will need to consider their reasoning for doing so and would document the basis upon which the decision is made. It would seem appropriate to provide an explanation to the FCA at the time, whilst matters are fresh in the mind, rather than wait for the FCA to request the information at some later date.

Q2: Are you able to provide information on the number of written notifications you anticipate that you would make a year under the proposed regime?

Yes. Our view is that the number would be minimal.

Q3: Would it be too burdensome to automatically provide the explanation without waiting for a specific FCA request? Please could you provide data regarding the resources required?

No. Please see our response to Q1. The resource requirement would be fairly small as Issuers would already be incurring resource in justifying the basis for the delay. The additional resource required to file the explanation with the FCA would not be great.

Q4: Do you agree with our proposal to adopt the €5,000 threshold? If not, please specify the market conditions that you consider would justify the decision to increase it to €20,000.

No. It is our view that both the de minimis limits quoted will have limited practical effect. Unless the de minimis limits were substantially increased, the threshold may well be set at zero.

We would also suggest that, if a threshold is used, it should be quoted in a local currency equivalent rather than set in Euros.

Q5: Please provide quantitative data on the number of transactions you would have to notify at a threshold at €5,000 and €20,000 respectively in a calendar year?

Our view is that the number would be minimal.

We hope you find our comments helpful and would be happy to expand on any of these points should you wish to discuss them further.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Swabey', with a large, sweeping flourish at the end.

Peter Swabey
Policy & Research Director
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