

ESMA issues additional Q&As

The European Securities and Markets Authority (“ESMA”), the overall European regulatory authority for financial services, recently published a series of updated questions and answers (Q&A) documents addressing new queries under a range of headings. The goal of the Q&A documents is to assist market participants and foster consistency in interpretation amongst the National Competent Authorities (“NCAs”) responsible for supervision and authorisation in each member state of the European Union.

Background

ESMA periodically issues Q&A documents to clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are however intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions.

Scope of the new Q&As

The following are the new Questions and Answers released in January 2025 and the headings under which they were released:

Alternative Investment Fund Managers Directive

- Permission of AIFMs to delegate portfolio or risk management to non-supervised undertakings outside of the EU (2229)
- AIFMs safekeeping client money (2230)

Central Securities Depositories Regulation (CSDR)

- Change of beneficial ownership (714)

Digital Operational Resilience Act (DORA)

- Questions on Microenterprises and RMF (2219)
- ICT-related incidents (management / classification / reporting) - Critical Services Affected
- ICT-related incidents (management / classification / reporting) - Duplicate ICT Incident Reporting
- Oversight framework of CTPPs - Exemption for Non-EU ICT Intra-group Service Providers

Markets in Crypto-Assets Regulation (MiCA)

- Possibility of natural persons and trusts / trustees to be authorised as CASPs (2342)
- Minimum capital requirements for CASPs (2343)
- Audit / certification of CASP financial statements (2344)

OTC derivatives, central counterparties and trade repositories (EMIR) – CCPs

- Calibration of confidence interval for CCP margin requirements (2010)

How Clerkin Lynch Can Help

Clerkin Lynch’s financial services team can assist with queries on the interpretation of EU financial services legislation. Contact us with questions or for more information.



Mark Browne
Partner
email:
markbrowne@clerkinlynch.com
Phone: 01 611 4400

