ESMA sets out final position on Share Trading Obligation

The statement outlines that the trading of shares with a European Economic Area (EEA) ISIN on a UK trading venue in UK pound sterling (GBP) by EU investment firms will not be subject to the EU STO. This currency approach supplements the EEA-ISIN approach outlined in a previous ESMA statement of May 2019.

This revised guidance aims at addressing the specific situation of the small number of EU issuers whose shares are mainly traded on UK trading venues in GPB. ESMA, based on EU-wide data, regards that such trading by EU investments firms occurs on a non-systematic, ad-hoc, irregular and infrequest basis. Therefore, those trades will not be subject to the EU STO, under Artcile 23 of MiFIR.

ESMA has done the maximum possible in close cooperation with the European Commission to minimise disruption and to avoid overlapping STO obligations and their potentially adverse effects for market participants. The approach put forward by ESMA will effectively avoid such overlaps if the UK adopts an approach that does not include EEA ISINs under the UK STO. ESMA however notes that the scope of the UK STO after the end of the transition period remains unclear at this stage.

In the absence of an equivalence decision in respect of the UK, the potential adverse effects of the application of the STO after the end of the transition period are expected to be the same as in the no-deal Brexit scenario considered in the previous ESMA statement.

The application of the STO to shares with a different ISIN should continue to be determined taking into account the previous ESMA guidance published on 13 November 2017.