International
Capital
Market
Association

ICMA

ICMA, on behalf of the MiFID II Working Group, has requested clarification from ESMA on hedging and new issues (packages) in a scenario where an investment firm buys a new issue in the primary markets as the result of an allocation and hedges their investment by selling another bond (such as a sovereign reference bond) to the lead manager of the issuance, simultaneously with and contingent upon the investment in the new issue.

ICMA notes that the deferral conditions for a package in Article 8 of RTS 2 does not reference the scenario where one or more components is not required to be published (eg because they are a new issue, or not traded on a trading venue) and therefore it is unclear whether or not such a package is eligible for a deferral.

The above scenario meets the conditions for a package (eg executed between two counterparties, simultaneous and contingent, etc). ICMA proposes that Q&A guidance should confirm that such new issue packages are eligible for a deferral.

ICMA also considers that the relevant execution time stamp for the hedge is the same time as that of the new issue that is priced. Therefore, if ESMA agrees, the deferred hedge publication time should be based on the execution timestamp (as the starting point for the deferral) and the deferral regime adopted by the relevant competent authority.