

The Regulation applies to distribution to consumers. A consumer is 'any natural person who is acting for purposes which are outside his or her trade, business or profession'.

The Regulation thus does not apply to distribution to investment professionals (such as portfolio managers, etc.) or to financial activities (such as investment decisions taken by professionals) that do not fall within the notion of distribution.

Distribution of the instruments in question to a natural person who carries out a commercial, business, trade or professional activity thus falls within the scope of the Regulation if that person is acting in the capacity of managing his or her own private assets (and thus outside of his or her occupational activity).

It follows from this definition that the Regulation does not apply to distribution to legal persons and that distribution of derivative instruments to companies does not fall within its scope.

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