

PRESS RELEASE

ESMA publishes its assessment of the Brexit relocation processes

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, is today publishing its Peer Review Report on National Competent Authorities' (NCAs) handling of firms' relocation to the European Union (EU) in the context of the UK's withdrawal from the EU.

ESMA worked closely with NCAs during the Brexit transition to provide guidance through opinions, supervisory briefings and Q&As, in order to assist market participants and deal with relocation in an aligned way across the EU27. ESMA also provided an EU wide collaborative platform in the form of the Supervisory Coordination Network (SCN). The SCN brought together senior supervisors from NCAs while they were processing the authorisation requests and helped reach common views on a number of important issues. These initiatives targeted enhanced convergence in NCAs' individual assessments of transfer of activities and authorisation requests from relocating firms, including investment firms, trading venues and fund managers.

The Peer Review published today gives further insight into the supervisory approaches adopted by NCAs when authorising relocating firms in the scope of Brexit. It should be noted that Brexit was an exceptional, one-off event, which created uncertainty and was complex to handle for market participants and NCAs alike.

Verena Ross, Chair, said:

“ESMA's extensive work with NCAs, including through the SCN, facilitated the smooth Brexit transition in financial markets, preserving orderly and stable markets and ensuring the protection of investors.

This Peer Review is part of ESMA's Brexit related work and provides observations on how NCAs have handled the associated relocations. It focused on some of the areas where full convergence was most difficult to achieve and therefore sets out important recommendations for NCAs and for ESMA. These recommendations will



help to promote further supervisory convergence at EU level and to strengthen the authorisation process of NCAs for the future.”

Key findings in the report:

- NCAs allowed in certain cases for an extensive use of outsourcing/delegation arrangements; and
- Several firms relocated with limited technical and human resources in the EU. In particular, NCAs applied different interpretations of proportionality when it came to substance requirements. This led in certain cases to some smaller firms relocating with only very minimal set-ups.

ESMA makes a number of **recommendations** for future ESMA work to achieve greater convergence at EU level on the application of the risk-based approach, the proportionality principle and on outsourcing/delegation arrangements. In addition, NCAs are also encouraged to improve their assessment of the adequacy of the internal control function, the extend of outsourcing and delegation, and the appropriateness of governance arrangements - to ensure a strong set up of the EU entity already at the authorisation stage.

The peer review focused its assessment on NCAs of jurisdictions where most or complex activities were relocated, which means per sector – AFM (The Netherlands) and AMF (France) for fund managers and trading venues, BaFIN (Germany) and CySEC (Cyprus) for MiFID firms, CSSF (Luxembourg) for fund managers, and CBoI (Ireland) for all three sectors. However, the recommendations are not only relevant to the NCAs that participated in this exercise but to all EU NCAs.

Next steps

ESMA will continue to facilitate and coordinate further convergence work at EU level and also expects work to be conducted at national level to address findings and recommendations made in the report. The aim is to learn lessons for the wider authorisation process from this very special relocation process associated with Brexit. It is planned to carry out a follow-up assessment in two years to see how the situation has evolved.



Notes for editors

1. [ESMA 42-111-7468 Peer review](#)
2. ESMA is the European Union's EU's financial markets regulator and supervisor. Its mission is to enhance investor protection and promote stable and orderly financial markets.
3. It achieves this objective through three strategic priorities:
 - i. fostering effective markets and financial stability,
 - ii. strengthening supervision of EU financial markets,
 - iii. enhancing protection of retail investors,
 - and two thematic drivers:
 - iv. enabling sustainable finance; and
 - v. facilitating technological innovation and effective use of data.
4. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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