

PRESS RELEASE

ESMA publishes review on best execution supervisory practices under MiFID

The European Securities and Markets Authority (ESMA) has conducted a [peer review](#) on how national regulators (national competent authorities or NCAs) supervise and enforce the MiFID provisions relating to investment firms' obligation to provide best execution, or obtain the best possible result, for their clients when executing their orders.

ESMA found that the level of implementation of best execution provisions, as well as the level of convergence of supervisory practices by NCAs, is relatively low. In order to address this situation a number of improvements were identified, including:

- prioritisation of best execution as a key conduct of business supervisory issue;
- the allocation of sufficient resources to best execution supervision; and
- a more proactive supervisory approach to monitoring compliance with best execution requirements, both desk-based and onsite inspections.

The review was conducted on the basis of information provided by 29 NCAs and complemented by on-site visits to the NCAs of France, Liechtenstein, Luxembourg, Malta, Poland and Spain.

Steven Maijor, ESMA Chair, said:

“The overall findings in this report show that the standard of supervision to ensure the implementation of MiFID’s best execution requirements falls short of its aim of ensuring that retail investors receive the best outcome when trading securities. A number of factors, including differing views on the application of the best execution requirements, lack of supervisory focus, insufficient resources and market structure issues have contributed to the current situation.

“It is important that this situation is addressed in the interests of Europe’s investors. The report includes a number of recommendations whose implementation would

contribute to the consistent application of best execution requirements across the EU, thereby helping to achieve the best outcome for retail investors.”

Key Findings

The Report found that:

- oversight of best execution is usually a component of the supervision of general conduct of business issues, and is often limited to verifying if an execution policy exists rather than assessing the methods by which firms evaluate execution quality;
- best execution is often viewed in terms of best price. Other characteristics such as cost, speed, likelihood of execution and settlement, and order size received limited attention;
- execution venues tend to be highly concentrated in the main domestic market, with a low level of development of alternative venues;
- the absence of a European consolidated tape makes it difficult for NCAs to develop a comprehensive oversight of what constitutes best execution across all venues;
- monitoring of best execution of non-equity and less liquid markets is (largely) absent; and
- a lack of understanding amongst investors may explain the low rate of complaints on this topic which in turn has resulted in few enforcement actions on the issue.

Recommendations for future work

The Report identifies a number of areas for future work by NCAs and ESMA which could promote a more coherent cross-EU implementation, supervision and enforcement of the best execution rules, including:

- providing guidance for the national implementation of MiFID rules to ensure a common understanding of the best execution rules;
- assessing the adequacy of NCAs resources devoted to best execution supervision and the frequency and intensity of their active monitoring of best execution;
- providing guidance to help NCAs develop the assessment criteria to be used when

firms use only one execution venue for a particular type of financial instrument;

- assessing whether obstacles exist to developing alternative execution venues;
- examining the use of sanctions to ensure a credible deterrent against breaches; and
- developing specific consumer education programmes.

Notes for editors

- [2015/494 Peer Review Report: Best Execution under MiFID](#);
- The review covered the period from 1 January 2011 to 31 December 2012. The on-site visits took place between 09 June 2014 and 01 August 2014.
- The NCAs subject to on-site visits were FMA (Liechtenstein), AMF (France), CNMV (Spain), CSSF (Luxembourg), KNF (Poland) and the MFSA (Malta).
- ESMA has issued the following Opinions in relation to MiFID client issues:
- [2014/332 Opinion - Structured Retail Products - Good practices for product governance arrangements](#); and
- [2014/146 Opinion - MiFID practices for firms selling complex products](#).
- ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
- ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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