

PRESS RELEASE

ESMA finds shortcomings in national supervision of efficient portfolio management by UCITS

The European Securities and Markets Authority (ESMA) has found that national regulators need to improve their supervision of Undertakings for Collective Investments in Transferable Securities (UCITS) engaging in efficient portfolio management techniques (EPM). A recent [peer review](#) by ESMA, which assessed the level of compliance of six national competent authorities (NCAs) with its Guidelines on EPM, found a number of shortcomings in certain NCAs' approaches when supervising the use of EPM by UCITS.

ESMA identifies shortcomings in the application and supervision of the Guidelines

ESMA's peer review assessed six NCAs from Estonia, France, Germany, Ireland, Luxembourg, and the United Kingdom. Based on the Guidelines, besides identifying some good practices, ESMA found deficiencies in the national supervision of UCITS engaging in EPM. The findings of the peer review relate in particular to the supervisory practices regarding operational aspects of costs, fees and revenues for EPM, and collateral management issues. In particular, ESMA calls for NCAs to:

- ensure a more systematic and formalised review of the required EPM disclosures, allowing investors to better understand funds' EPM engagement, the risks involved, and the cost and fee policy concerning EPM. This finding is relevant for all reviewed NCAs, and in particular for Estonia and the UK;
- provide more comprehensive internal supervisory guidance on costs, fees and revenues regarding EPM. This finding is relevant for all reviewed NCAs;
- ensure that all net revenues from EPM are returned to the investors. This finding is particularly relevant for Germany and Luxembourg regarding revenue splits between investors, fund managers and their service providers; and
- revise existing national exemptions to the Guidelines on collateral requirements granted in the UK and Germany so that fund assets can only be used for EPM purposes

where UCITS receive high-quality and liquid collateral in accordance with the standards set out in the ESMA Guidelines.

Steven Maijoor, Chair, said:

“This is an important stock-take revealing both good practices and areas where improvements are needed. Ensuring that the use of efficient portfolio management by UCITS is sound and not detrimental to the protection of investors, is important.

“In order to increase supervisory convergence in this important area, ESMA has asked NCAs to amend their supervisory practices in specific areas – as a true level playing field is built on consistent application and supervision of the rules.”

ESMA also identified good practices

The ESMA peer review also identified good practices, in particular focusing on:

- data-driven supervision to help identify areas on which to concentrate resources; as well as
- bespoke reporting tools to provide support to and augment oversight of UCITS and their adherence to the Guidelines.

Next steps

A number of NCAs have already informed ESMA of their intention to revise their practices to address ESMA’s findings. ESMA will follow up on the findings of this peer review in 24 months to assess the progress made by NCAs.

Background

ESMA’s Guidelines on ETFs and other UCITS issues provide rules on the use of EPM by UCITS. UCITS are permitted to engage in EPM in order to reduce risk and costs, or generate additional capital or income. However, such activity should be in line with the funds’ risk profiles and respect the rules laid down in ESMA’s Guidelines. A number of activities can fall under EPM, such as securities lending, and engaging in (reverse) repurchase agreements, and certain financial derivatives.



Notes for editors

1. [ESMA's Methodology for Peer Reviews](#)
2. [ESMA's Guidelines on ETFs and other UCITS issues](#)
3. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
 - ii. completing a single rulebook for EU financial markets;
 - iii. promoting supervisory convergence; and
 - iv. directly supervising specific financial entities.
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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