

## PRESS RELEASE

### ESMA review finds good compliance with EU market abuse rules

The European Securities and Markets Authority (ESMA) has published a [peer review](#) of the supervisory practices EEA national competent authorities (NCAs) apply in enforcing the requirements of the Market Abuse Directive (MAD). The Directive deals with the prevention of the dissemination of misleading information, the breach of reporting obligations and market abuse.

ESMA's peer review, conducted in parallel with a mapping exercise, identifies good practices, which NCAs should apply when supervising investment firms and regulated markets with regard to market abuse. ESMA included in its review the supervisory practices of those 30 NCAs that have responsibility in preventing, detecting and punishing market abuse. Overall, ESMA found that a majority of NCAs had correctly implemented MAD's provisions.

A total of 16,890 investment firms, credit institutions, and other entities providing investment services in the EEA fall under MAD and are therefore obliged to monitor, detect and report suspicious transactions to their regulator, which in turn investigate possibly abusive behaviour. These investigations vary due to the size of markets across the EU, ranging from markets with a small numbers of firms to the UK with 8,493 firms alone, Germany with 2,550, France with 953 and Austria with 934 .

**Steven Maijor**, ESMA Chair, notes

“The market abuse regime in the European Union is designed to ensure that its financial markets are transparent, stable and well-functioning and is key to maintaining investor confidence in our financial markets.

“This review presents a good opportunity for national competent authorities to learn from each other's experiences and where appropriate, to review and adjust their own practices to better police the regime in their own jurisdictions. This will contribute to a more



consistent approach across the EU and reduce the opportunities for those who intent on profiting through their illegal behaviour.”

### **Peer Review of Market Abuse Regimes in the EEA**

ESMA, in its review, looked at how NCAs assessed:

- whether investment firms and regulated markets/multilateral trading facilities (MTFs) had in place structural provisions fulfilling the requirements under MAD;
- the firms’ handling of insider lists, which list the names and functions of staff with access to confidential information; and
- the handling of rumours.

The key findings include:

- **Ability to take regulatory actions:** all NCAs have the ability to take action over regulated firms, which do not fulfil their obligation to detect and identify potential market abuse cases or which lack resources to properly comply with these obligations. Action can range from a simple phone call to enforcement measures and administrative sanctions;
- **Procedures for on-site visits:** 29 NCAs, when conducting routine on-site supervisory visits, regularly check those procedures of firms aimed at detecting market abuse;
- **Monitoring of sufficient resources:** 28 NCAs monitor whether firms have sufficient resources in place to fulfil their obligations on detecting and identifying potential market abuse cases;
- **Insider lists:** 26 NCAs receive insider lists by firms upon request. Those lists include members of the board of directors, CEOs, relevant persons discharging management responsibility, related staff members (such as secretaries and personal assistants), internal auditors, people having access to databases on budgetary control, or balance sheet analyses, and people who work in units that have regular access to inside information;
- **Practices on rumours:** all NCAs have a role in investigating rumours. The range of

investigative tools available for investigation of market abuse includes:

- use of alerts on abnormal market volumes and price movements;
  - monitoring of the press;
  - dedicated tools to monitor the history and development of rumours on internet forums which includes searches by keyword, company name or forum participant;
  - IT tools and staff following the trading in markets of financial instruments on real time; and
  - statements on the regulated markets/MTFs websites; databases of the NCAs and of regulated markets/MTFs, supervision of the disclosure of relevant inside information.
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- **Analyses of trading:** 29 NCAs monitor trading ahead of or after the dissemination of rumours (whether in the media or more generally in the market) which have led to price movements and/or look at whether unusual price movements that could be indicative of manipulative behaviour or a leak of inside information could be caused by false or misleading statements or improperly disclosed information through the media, including through Internet, or by any other means;
  
  - **Analysis of communications within firms:** 29 NCAs look at the communications within regulated firms, where applicable e.g. phone call, email, instant messages and Bloomberg messages, if there has been a rumour and it can be relevant to the case; and
  
  - **Power of intervention:** all NCAs intervene to ensure that any rumour which may contain a leak of inside information is adequately addressed through public disclosure and, when applicable, the issuer is requested (or even forced) to make a proper disclosure and, even, disciplinary actions can be taken when appropriate.



## Notes for editors

1. [2013/805 Supervisory Practices under MAD – Peer review report and Good Practices](#)
2. [2013/806 Supervisory Practices under MAD – Mapping Report](#)
3. 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).
4. 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.

Further information:

### **Reemt Seibel**

Communications Officer

Tel: +33 (0)1 58 36 42 72

Mob: +33 6 42 48 55 29

Email: [reemt.seibel@esma.europa.eu](mailto:reemt.seibel@esma.europa.eu)

### **David Cliffe**

Senior Communications Officer

Tel: +33 (0)1 58 36 43 24

Mob: +33 6 42 48 29 06

Email: [david.cliffe@esma.europa.eu](mailto:david.cliffe@esma.europa.eu)