

PRESS RELEASE

ESMA publishes MiFID compliance function peer review results

The European Securities and Markets Authority (ESMA) has published the results of its [Peer Review on the Guidelines on certain aspects of the compliance function under MiFID \(Guidelines\)](#). The Guidelines cover national competent authorities (NCAs) supervision of investment firms' compliance functions, particularly how those functions carry out risk assessments, monitor compliance obligations, report to senior management and fulfil their advisory role.

The Review found a high level of compliance by the majority of EEA national competent authorities (NCAs) with the Guidelines, although significant weaknesses were identified in the supervisory approaches of Cyprus, Iceland and the Netherlands. Additionally, the Review identified a number of good practices by a number of NCAs in their supervision. ESMA will follow up regarding the points of insufficient compliance and partial compliance with the relevant NCAs.

Peer Review

The ESMA Supervisory Convergence Work Programme 2016 included a peer review on the Guidelines to assess compliance by the NCAs, identify good practices and potential areas for improvement.

The work involved assessing the approaches of thirty-one EEA NCAs to supervising investment firms' compliance functions, against the Guidelines requirements, and covered the period from 1 July 2014 to 30 June 2016. The assessment also involved on-site visits of the NCAs from Austria, Cyprus, Denmark, France and Slovakia.

The Review positively assessed 27 NCAs regarding the supervision of how the compliance function performs risk assessments, monitors compliance obligations and provides reports to senior management. While 22 NCAs were positively assessed on their supervision of the compliance function's advisory role, which includes support for staff training, day-to-day assistance for staff and participating in the establishment of new policies and procedures within the investment firm.

ESMA found diversity in the supervisory approaches applied by NCAs, showing a different reliance on the compliance function as a key source of information on the firms' compliance with MiFID requirements. For many authorities the compliance function was generally not the main target in supervisory reviews but an ancillary target of supervision of firms' obligations under MiFID.

Good practices identified

Good practices identified during the peer review will help in enhancing supervisory convergence across EEA NCAs. Key good practices identified included:

- the pre-screening by NCAs of compliance officers;
- clear communications by NCAs of expectations to the compliance function at the authorisation stage; and
- NCAs undertaking on-site visits shortly after the firm's authorisation, in particular for riskier firms.

The report provides a detailed assessment of the effective application of the Guidelines and the capacity of the NCAs to respond to market developments. It also assesses the capacity of NCAs to achieve high quality supervisory outcomes, including the adequacy of resources.

Notes for editors

1. [ESMA42-111-4285 Peer review on certain aspects of the compliance function under MiFID I](#)
2. [2012/388 Guidelines on certain aspects of the MiFID compliance function requirements](#)
3. The peer review focused on the compliance risk assessment of the compliance function, as well as its monitoring, reporting and advisory obligations. These are set out in guidelines 1, 2, 3 and 4 of the Guidelines that apply to investment firms (as defined in Article 4(1)(1) of MiFID), including credit institutions that provide investment services, and UCITS management companies when they are providing investment services of individual portfolio management or investment advice.
4. This peer review was conducted in accordance with Article 30 Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (ESMA Regulation) and the Review Panel Methodology (ESMA/2013/1709) (Methodology).

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.
6. 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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