

ESMA Publishes Follow-Up Report on Peer Review of Best Execution

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On January 11, the European Securities and Markets Authority (ESMA) published its follow-up report (Follow-Up Report) to its peer review on best execution of European Economic Area (EEA) national regulators. Best execution refers to the obligation under article 21 of the Markets in Financial Instruments Directive (MiFID) for investment firms to execute orders on terms most favorable to their clients, taking into account factors such as price, costs and speed. ESMA conducted its peer review on how national regulators supervised and enforced these provisions for 29 countries in the EEA from January 1, 2011 to December 31, 2012, and published its findings in 2015 (Initial Report).

The Initial Report found that the level of implementation of best execution provisions, as well as the level of convergence of supervisory practices by regulators, was relatively low. In particular, 15 regulators were found not to have applied or only partly applied criteria considered by ESMA to be essential for ensuring effective best execution. As part of ESMA's continued vigilance regarding investor protection, it revisited those 15 regulators in September 2016, in countries such as Denmark and Greece, to evaluate what progress had been made; the findings of which are set out in the Follow-Up Report. Among those countries that did not originally meet the relevant standards, ESMA found that there had been clear improvements in the level of attention paid to the supervision of best execution requirements, and in general, regulators were adopting a more proactive supervisory approach to monitoring compliance. Nevertheless, ESMA stressed in the Follow-Up Report that it considers "only a regular and proactive supervision can ensure an appropriate level of investor protection" in relation to best execution.

The Initial Report and Follow-Up Report are available [here](#) and [here](#).

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