

Regulatory News Alert

Market abuse: ESMA urges increased supervision of suspicious transaction reporting

17 December 2019

Context and objectives

On 12 December 2019, the European Securities and Markets Authority (ESMA) published a [peer review report](#) on how national competent authorities (NCAs) handle **suspicious transactions and order reports (STOR) under the Market Abuse Regulation (MAR)**.

STORs are a key element of NCAs' toolkits to detect and investigate suspected market abuse. As such, it is important for NCAs to **effectively supervise the STOR reporting obligations** to ensure Reporting Persons are fully engaged and complying with MAR requirements. This helps to ensure that NCAs receive useful information to fulfil their mandate to preserve market integrity and enhance investor protection and market confidence.

Given the significance of STORs, ESMA's Board of Supervisors decided to conduct a peer review on the topic. The ESMA peer review assessed all 31 NCAs to evaluate the effectiveness of their STOR supervision. Overall, ESMA found that NCAs are performing well in the analysis of suspected market abuse reported in STORs. However, ESMA also identified some areas for improvement in NCAs' supervision and enforcement of the STOR requirements.

What are the key recommendations?

Broader focus on Reporting Persons and financial instruments

- The peer review found that most STORs are from investment firms and relate to equities. NCAs therefore need to ensure that **all Reporting Persons** are fully engaged with the STOR Framework from authorisation through robust ongoing proactive and reactive supervision. Furthermore, Reporting Persons should put in place efficient systems to detect suspicious activity **across the range of financial instruments** for which they arrange or execute transactions.

- A general finding was that the focus of NCAs' engagement was mainly directed at investment firms and banks. NCAs should therefore enhance their focus on other Reporting Persons, including, in particular, **asset managers**.
- Furthermore, the peer review observed that NCAs might not always be paying due attention to activities carried out on **wholesale markets (including OTC trading)**, therefore, enhancement of supervision of the STOR framework in this regard is also expected, as such behaviours could have a sizeable impact and contagion effect.

Cross-border exchange of STORs

- NCAs should ensure that Reporting Persons have arrangements and procedures to detect suspicious activity in respect of transactions arranged or executed **in other Member States**.

Appropriate challenge for non-reported STORs

- NCAs should equip themselves with databases and expertise to **challenge Reporting Persons** in instances where they **would have expected to receive a STOR**.

Escalated supervisory response

- NCAs tend to focus on moral suasion in addressing deficiencies in Reporting Persons' compliance with the STOR framework including poor/non-reporting of STORs. NCAs should however be mindful of their **full supervisory toolkit** and ensure they monitor poor/non-reporting (e.g. maintain a log of such reporting) to **escalate their supervisory response in appropriate cases**.

Next Steps

ESMA will follow-up with NCAs on the different individual findings as noted in the peer review report.

How can Deloitte help?

Deloitte's advisory specialists and dedicated services will help you design and implement your business strategy in light of the future evolution of the regulatory framework and market trends. Starting the review of the MAR application is a must-have to prepare for envisaged increased regulator attention.

Deloitte can also help you with its RegWatch Kaleidoscope service to stay ahead of the regulatory curve to better manage and plan upcoming regulations.

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