

ESMA recommends improvements in financial information enforcement

The peer review was carried out on the basis of a questionnaire to all NCAs, as well as on-site visits to seven jurisdictions: Germany, Italy, Malta, Norway, Portugal, Romania, and the UK.

The report identifies that further improvements are needed in relation to:

- how issuers are selected to examine their financial information;
- the depth of inquiries into financial statements going beyond correcting disclosure; and
- the financial and human resources allocated by NCAs to the enforcement of financial information.

In particular, five of the jurisdictions – Malta, Portugal, Romania, Sweden and UK – do not fully comply with Guideline 5, which requires that NCAs use selection models in which all issuers are eligible to be selected for scrutiny.

Steven Maijoor, ESMA Chair, said:

“The peer review’s findings show that in some jurisdictions there is a risk that insufficient resources are allocated to enforcement, and that some issuers are not eligible to be selected for scrutiny. Additionally, in some jurisdictions there is a tendency to focus on disclosure issues instead of in-depth inquiries into valuation issues. ESMA will work with the national competent authorities to implement the recommendations of the peer review, in order to promote more convergent supervisory practices throughout Europe.”

Recommendations

The Report makes a number of recommendations where NCAs and/or ESMA should consider further action:

- Enforcement of financial information should not be an ancillary function. NCAs should ensure that sufficiently skilled and dedicated staff are available for this purpose;
- A list of common risk factors should be created, to be used by all NCAs in the selection of issuers for examination;
- All NCAs should use a common approach for the selection model, providing for the use of rotation and random selection in addition to selection based on identified risks;
- NCAs should ensure that the selection models allow the coverage of the whole population of issuers in a Member State within at least 10-15

years;

- The default type of examination should be unlimited in scope. This examination should cover all relevant areas of the accounting framework, i.e. recognition, measurement, presentation and disclosures, and all relevant documents published by an issuer, e.g. the management report, consolidated and separate financial statements; and
- NCAs are encouraged to ask issuers questions even where there is no suspicion of misstatement.

Next steps

ESMA will now consider these recommendations and work with the NCAs in the corporate reporting area to see if they can be addressed by amendments to the Guidelines or by other work in this area.