



European Securities and
Markets Authority

Supervisory Practices under MAD

Mapping report

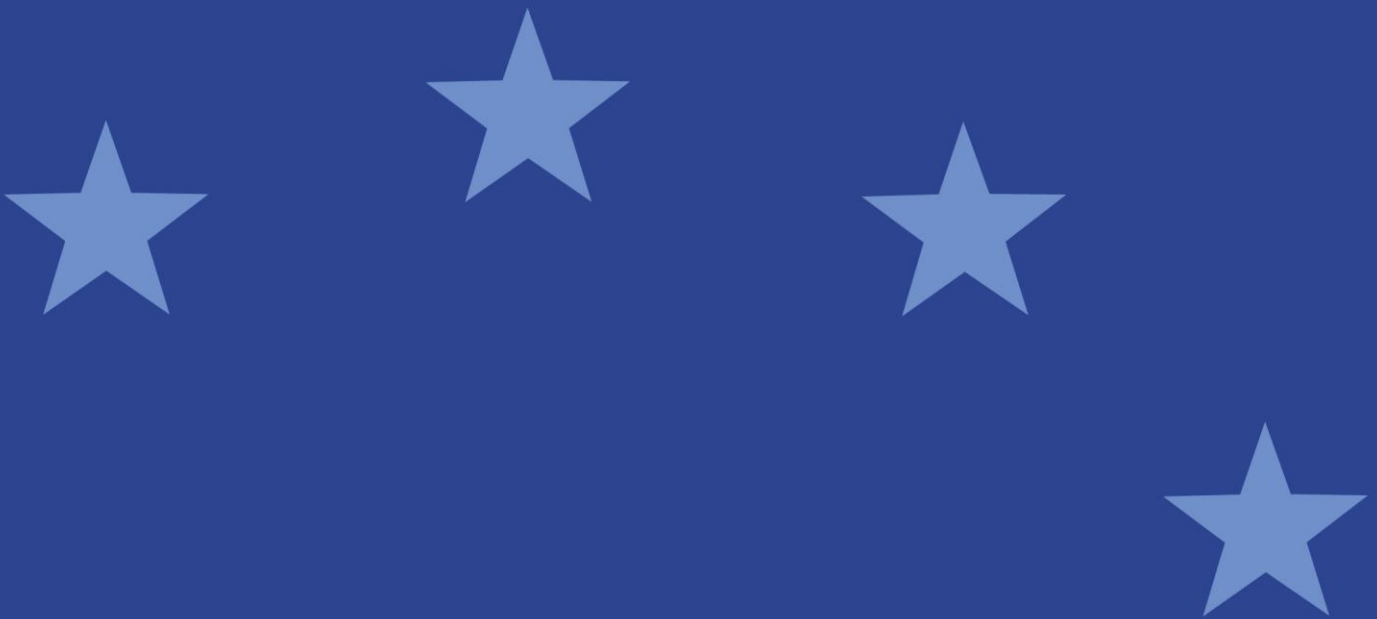


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Country codes and acronyms of Competent Authorities and Member States

Country codes Member EC/EEA	States	Competent Authorities-Acronyms	
AT	Austria	Financial Market Authority	FMA
BE	Belgium	Financial Services and Markets Authority	FSMA
BG	Bulgaria	Financial Supervision Commission	FSC
CY	Cyprus	Cyprus Securities and Exchanges Commission	CySEC
CZ	Czech Republic	Czech National Bank	CNB
DE	Germany	Bundesanstalt für Finanzdienstleistungsaufsicht	BaFin
DK	Denmark	Finanstilsynet	Finanstilsynet
EE	Estonia	Estonian Financial Supervision Authority	EFSA
EL	Greece	Capital Market Commission	HCMC
ES	Spain	Comision Nacional del Mercado de Valores	CNMV
FI	Finland	Finanssivalvonta	FIN-FSA
FR	France	Autorité des Marchés Financiers	AMF
HU	Hungary	Hungarian Financial Supervisory Authority	HFSA
IE	Ireland	Central Bank of Ireland	CBoI
IS	Iceland	Financial Supervisory Authority	FME
IT	Italy	Commissione Nazionale per le Società e la Borsa	Consob
LI	Liechtenstein	Finanzmarktsaufsicht Liechtenstein	FMA
LT	Lithuania	Lietuvos Bankas	LB
LU	Luxembourg	Commission de Surveillance du Secteur Financier	CSSF
LV	Latvia	Financial and Capital Markets Commission	FCCM
MT	Malta	Malta Financial Services Authority	MFSA
NL	Netherlands	Autoriteit Financiële Markten	AFM
NO	Norway	Finanstilsynet	Finanstilsynet
PL	Poland	Polish Financial Supervision Authority	KNF
PT	Portugal	Comissão do Mercado de Valores Mobiliários	CMVM
RO	Romania	Romanian National Securities Commission	CNVMR
SE	Sweden	Finansinspektionen	Finansinspektionen
SI	Slovenia	Securities Market Agency	SMA
SK	Slovakia	National Bank of Slovakia	NBS
UK	United Kingdom	Financial Services Authority	FSA

CA(s) – Competent Authority (Authorities)

MS(s) – Member State(s)

Introduction

1. In December 2011, the ESMA Board of Supervisors approved the Review Panel peer review work stream on the supervisory practices with regard to enforcement of Market Abuse issues – e.g. the spreading of misleading information through rumours, breach of reporting obligations and market abuse. Said work stream followed the input received from ESMA’s Securities and Markets Stakeholder Group and is in line with ESMA’s objective to promote convergence of supervisory outcomes.
2. The purpose of the work is to investigate how the EEA national competent authorities, who are represented in the ESMA Review Panel, domestically undertake certain tasks in the area of market integrity supervision, with a view to further strengthen the consistent application of the market abuse legislation in the EEA. As experienced in previous ESMA Review Panel’s work in relation to practices, the review also represents a useful opportunity for national competent authorities to learn from the experiences of each other and where appropriate to review and adjust their own practices. This work of the Review Panel includes a review of the activities of national competent authorities in the supervision of the obligations that issuers, investment firms, regulated markets (and MTFs if applicable) have under the relevant legal obligations as expressed in MAD, MiFID and CESR’s first, second and third set of Guidance on the common operation of MAD. The main objective of the review is to investigate factual information on the Member States supervisory practices in order to review it and also in order to identify the relevant good practices for the peer review.
3. The work has, where relevant, taken into account previous work conducted by ESMA (and its predecessor CESR) with regard to the Market Abuse Directive (hereinafter MAD), such as the mapping of the actual use of sanctions under MAD (ref. ESMA/2012/270). CESR has previously produced a report on mapping the Options and Discretions of MAD that Member States use (ref. CESR/09-1120). CESR has also undertaken mappings of the administrative measures and sanctions available in Member States under MAD (CESR/07-693) and produced a Report on CESR Members’ powers under the Market Abuse Directive and its implementing measures (CESR/07/380).
4. The peer review part of the work has been conducted partly in parallel with the fact finding mapping work already undertaken in the form of answers to a wide ranging questionnaire covering all six areas of the mandate.
5. **Section A** of the current mapping report deals with competent authorities’ supervisory practices as regards investment firms’ and regulated markets’ and MTFs’ (if applicable) obligations to have in place the *necessary market abuse investigation capabilities*, as spelled out in Article 6(6) and Article 6(9) of MAD, (namely the structural provisions that market operators must have in place and suspicious transaction reports).
6. Competent authorities should ensure that the requirements set forth in Article 6(6) of MAD (Directive 2003/6/EC) on the structural provisions of market operators aimed at preventing and detecting market manipulation practices are complied with. Moreover Article 43 of MiFID (Directive 2004/39/EC) (regulated markets) and Article 26 of MiFID (investment firms and market operators who are operating an MTF) require that market operators shall have in place effective arrangements and procedures for the regular monitoring of members or participants and that they shall monitor the transactions undertaken on their systems in order to identify breaches of those rules, disorderly trading conditions or conduct that may involve market abuse. Operators shall report such significant breaches to the competent authority. The market operator shall also provide the relevant information without delay to the competent authority for the investigation and prosecution of market

abuse to provide full assistance. However the above-mentioned MiFID provisions as such, i.e. Competent Authorities' supervision in this regard, were not in the material scope of the current work stream.

7. Additionally, this Section of the report also explores how the respective Competent Authorities (hereinafter referred to as "CAs") in each Member State supervise that investment firms, regulated markets (and MTFs if applicable) have the capabilities to detect market abuse.
8. Article 6(9) of MAD L1 and Articles 7-11 of the Directive 2004/72 require that any person professionally arranging transactions in financial instruments who reasonably suspects that a transaction might constitute insider dealing or market manipulation shall notify the competent authority without delay and file suspicious transaction reports (STRs). The work also takes into account the guidance provided in Section II of the third set of CESR guidance and information (CESR/09-219) on suspicious transactions reports and Section V of the first set of CESR guidance and information (CESR/04-505b). Although the work includes a measurement and an assessment of the number of STRs coming from entities obliged to send STRs and for each Competent Authority, it was decided that there was a need to avoid duplication of efforts by the Review Panel, having taken into account previous work undertaken by ESMA-Pol as regards STRs in the course of 2010 and 2011.
9. Finally, it is noted that for the purpose of this exercise, the term "investment firm" relates to all legal entities falling within the scope of Article 4 paragraph 1 of MiFID.
10. **Section B** of the report deals with the handling of insiders' lists. Article 6(3) of MAD L1 and Article 5 of the Directive 2004/72 provide for the treatment of insiders' lists *by issuers or persons acting on their behalf or for their account*. The work has also taken into account the guidance provided in Section I of the third set of CESR guidance and information (CESR/09-219) on insiders' lists and Section IV of the second set of CESR guidance and information (CESR/06-562b).
11. **Section C** of the report is related to the cooperation arrangements between Competent Authorities, which need to be in place in accordance with Article 16 of MAD, the CESR MMoU and the IOSCO MMOU, since it would be highly relevant in the scope of general information gathering on how Competent Authorities exchange information.
12. **Section D** of the report deals with the arrangements/procedures in place in both Competent Authorities and issuers as regards the *handling of rumours*. The work in particular addresses how the dissemination of rumours is handled when it occurs in several jurisdictions in terms of supervising the disclosure obligation by issuers or barriers to rumour dissemination by investment firms. Article 6(7) of MAD L1 provides that the competent authorities may take all necessary measures to ensure that the public is correctly informed. Para 1.5 of the Second set of CESR Guidance (CESR/06-562b) and Section 4.1 of the third set of CESR Guidance (CESR/09-219) deal with the treatment of false rumours by issuers.
13. Rumours fall into many possible categories including: false or malicious rumours intended to affect the price of an investment; leaks of inside information; and general speculation based on limited publically available facts. There is no definition of what might constitute a rumour in the current market abuse legislation (level 1 or 2) or on CESR Guidance. Rumours, where false and misleading information may result in market manipulation, are defined in the MAD under Article 1, Paragraph 2 b) & c). Article 5(a) of the implementing directive 2003/124/EC further defines manipulative behaviours involving such false information. Finally, it is noted that the market abuse legislation (level 1

and 2), as well as CESR guidance, have few references on how Competent Authorities should regulate their markets with respect to rumours.

14. **Section E** of the report deals with alternative sources of information and includes a description of the use of such sources, which are not part of information coming from regulated entities, but from the public in general (e.g. investors, consumer organisations) to the Competent Authorities, including allegations that an act that might constitute market abuse might have been committed (leaving aside information provided by investment firms, RM's and MTFs, since they provide information to the competent authorities under a special regime, namely by submitting STR's). Such a description of "complaints/tip-offs" would provide an interesting source of information in order to detect market abuse and it would be valuable to gather and share information in this respect. The review includes a description of arrangements in place in Competent Authorities as regards gathering and handling of information from such sources, while leaving aside the issue of whistle-blowing.

A. Supervisory practices of Competent Authorities regarding investments firms', regulated markets' (and MTFs', if applicable) obligations to have necessary market abuse investigation capabilities

15. The number of investment firms, credit institutions, and other entities providing investment services that have the obligation to detect and report suspicious transactions differs widely from 10 (EE) to 8,493 (UK), showing the different sizes of the capital markets in the Member States.
16. This is also reflected by the number of the supervised regulated markets and MTFs which vary from one (BG, LT, SI) to 52 (UK). One CA (LI) clarified that there is no regulated market or MTF supervised by the Competent Authority.
17. The statistics concerning potential breaches of market abuse legislation as regards the obligations for necessary market abuse investigation capabilities resulting either in formal investigations, or on-site investigations, and imposition of administrative sanctions or other sanctions show that neither with respect to investment firms nor to regulated markets and MTFs significant numbers were identified. For regulated markets and MTFs the relevant statistics are close to zero. In 2010, nine CAs carried out formal investigations (desk-based) with respect to investment firms, whereas in 2011, seven CAs carried out said investigations respectively. In 2010, six CAs carried out formal inspections and on-site visits on investment firms, whereas in 2011 eight CAs respectively. A small number of administrative sanctions (pecuniary fines) have been imposed in 2010 (CZ: 2, EL: 3, IT: 1, UK: 2) and in 2011 (EL: 5, FR: 2, IT: 1 and FR: 1 formal sanction) respectively on investment firms.
18. In 2010 as well as 2011 there was a small number of formal investigations (desk-based) with respect to regulated markets (and MTFs, if applicable).. LI has no regulated markets or MTFs.
19. In 2010, one and in 2011 five CAs performed formal inspections/on-site visits to their stock exchanges in this regard. DE clarified that due to the supervisory structure there is a permanent on-site-visit, as there is a so-called 'Handelsüberwachungsstelle' (trading surveillance authority) which is part of the administrative structure of the exchange and physically present on an on-going basis. There were no administrative sanctions (pecuniary fines) imposed by any CA, as a result of a potential breach of regulated markets/MTFs to comply with the duty to detect and report market abuse to the CA. One CA (NO) made one report to the prosecuting authorities in 2010 and two in 2011. *Approach*
20. Five different approaches can be identified in relation to the supervision of investment firms, regulated markets (and MTFs, if applicable) to comply with the duty to detect and report market abuse cases to the Competent Authority. The identified general approaches and the means to monitor human and technical resources are as follows: All Competent Authorities clarified that they may initiate an analysis/investigation 'ex post', meaning that if a breach of the obligation of investment firms and regulated markets/MTFs to detect and report market abuse to the CA is detected, there will be further investigations or inspections. Thirteen Competent Authorities said that they organise regular meetings or issue letters on the basis of on-going information of investment firms and regulated markets/MTFs (i.e. general reminders, circulars etc.). In fifteen Competent Authorities evidence had to be provided during the authorization procedure of new investment firms that adequate measures to detect and report market abuse to the CA were in place and that they could comply with all the obligations they would have when they are authorized, and in NO for regulated markets and MTFs. Eighteen Competent Authorities mention that they have on-going procedures in place to supervise whether the duty of investment firms and regulated markets/MTFs is fulfilled (i.e. annual reports). On-site visits/inspections are conducted in 18 Competent Authorities. There is in principle a reliance

on audit reports (LI). Monitoring of sufficient human and technical resources (IT, software, etc.) to fulfil the relevant obligations was confirmed by all Competent Authorities except SI.

21. Guidance or regulation for investment firms or development of good practices on how to detect and identify market abuse exist in 23 CAs (AT, BE, BG, CZ, DK, EE, EL, ES, FI, FR, HU, IE, IT, LI, LT, LU, MT, NL, PT, RO, SE, SI, UK) whereas seven CAs (CY, DE, IS, LV, NO, PL, SK) reported this was not the case. 23 CAs (AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, MT, NL, NO, PT, RO, SE, SI, UK) responded that they have issued guidance on how to communicate suspicious cases to the CA, while seven CAs (CY, DK, IS, LI, LV, PL, SK) responded that they have not issued such guidance.
22. With regard to regulated markets and MTFs 17 CAs responded that they have issued either guidance or regulation or have developed good practices on how to detect and identify market abuse cases (AT, BE, CZ, EE, EL, ES, FR, HU, IT, LT, LU, MT, NL, PT, RO, SI, UK), whereas thirteen CAs (BG, CY, DE, DK, FI, IE, IS, LV, NO, PL, SE, SK, UK) responded that they have not issued such guidance. 18 CAs (AT, BE, DE, EE, EL, ES, FR, HU, IT, LT, LU, MT, NL, NO, PT, RO, SE, SI) responded that they have also issued guidance on how to communicate the suspicious cases to the CA and 11 CAs (BG, CY, CZ, DK, FI, IE, IS, LV, PL, SK, UK) responded that they have not issued such guidance. All CAs with the exception of four (BG, IS, LV, PL) responded that investment firms need to have procedures in place in relation to the telephone conversation recording obligation, compliance, training and education.

Competent Authorities' awareness of the procedures in place

23. All CAs with the exception of two (PL, SK) were aware of the procedures that investment firms, have in place to detect and identify potential market abuse cases, at least for those larger investment firms and those that generate a higher risk to the market. All CAs, with the exception of two (DE, LI), responded that they were aware of the procedures that regulated markets and MTFs, if applicable, have in place to detect and identify potential market abuse cases. DE clarified that the Competent Authority is aware of the said procedures only for those regulated markets and MTFs which are under the supervision of BaFin, whilst the remaining RM and MTF are under the supervision of the Federal State authorities). LI have no RM and no MTFs.
24. In general, the tools that investment firms, regulated markets and MTFs have in place to detect and identify market abuse cases are a mix of IT tools (developed internally or by third parties), training of personnel and internal rules. The complexity of the systems in place basically depend on the size of the entity and the size of the market in which these entities operate.

Difficulties encountered in supervising the obligations of investment firms and/or regulated markets/MTFs to comply with the duty to detect and report market abuse

25. The main difficulties encountered in supervising the obligations of investment firms and/or regulated markets/MTFs to comply with the duty to detect and report market abuse are as follows:
 - Maintenance of insider lists and reporting of suspicious transactions.
 - Over-reporting or misreporting of suspicious transactions.
 - Gaps between the information that the Compliance office receives and the information available on the work floor.

26. Regarding the problems encountered in obtaining any necessary information and support from investment firms in a possible market abuse investigation, the main problems that have been reported are connected to the gathering of information related to telecommunications records (telephone and internet records) held by investment firms: because telephone records are to be kept for a relatively short period of time (one year), this information is only accessible through a court order and is not available or is not provided by the investment firm. Another problem encountered is obtaining information directly from remote members or MTFs located outside the jurisdiction of the CA in a timely and appropriate manner.
27. No CAs reported problems in obtaining any necessary information and support in a possible market abuse investigation from domestic regulated markets and MTFs.

Strategies or plans to increase the number of Suspicious Transactions Reports

28. Eighteen CAs (AT, BE, BG, DE, EL, ES, FI, FR, HU, IE, IT, LU, MT, NL, NO, SE, SI, UK) reported that they have a strategy or a plan to increase the number of STRs. These strategies include:
 - Facilitating the contact with the CA by setting up a dedicated e-mail address.
 - Regular meetings, contacts by letter or supervision visits to the industry to encourage communications of suspicious transactions and/or to enhance the quality of the reports.
 - Including the obligation to report suspicious transactions as soon as these transactions are identified in the Annual Report of the competent authority - Changes in legislation to clarify this obligation.

B. Supervisory practices of Competent Authorities regarding the treatment of insider lists by issuers or persons acting on their behalf or for their account

29. Insider lists are an important tool for CAs while conducting investigations for market abuse cases.
30. Twenty-three CAs (AT, BE, BG, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LI, LU, NL, NO, PL, PT, SE, SK, UK) responded that they receive insider lists upon request. Two CAs (LT, SI) responded that they receive insider lists both automatically and upon request.
31. Twenty-nine CAs (AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IS, IT, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK, UK) keep records (electronic or in paper) in the course of their investigation in order to maintain the information included on the insiders' lists, whereas, one CA (LI) does not keep records. Twenty-three CAs (AT, BE, BG, CY, CZ, DE, DK, EL, ES, FI, FR, HU, IE, LI, LU, LV, NL, NO, PL, PT, RO, SE, SK, UK) do not update these files regularly. Six CAs (EE, IS, IT, LT, MT, SI) update these files regularly. Twenty-two CAs (BE, CY, CZ, DK, EL, ES, FI, HU, IE, IT, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, UK) responded that they use insider lists mostly as a first instance tool in a market abuse inquiry or investigation; eight CAs (AT, BG, DE, EE, FR¹, IS, LI, SK) do not. Most CAs concluded a number of investigations in 2010-11 making use of insider lists. Most CAs have taken enforcement actions in 2010-11 against issuers or persons acting on their behalf or for their account for not fulfilling the requirements for providing insider lists to the CA.
32. According to the experience of 17 CAs (AT, BE, BG, CY, CZ, DE, DK, EL, ES, FI, IT, LT, LV, MT, PL, PT, RO) insider lists do fulfil the requirements of completeness and preciseness, whereas 11 CAs (FR, HU, IE, IS, LU, NL, NO, SE, SI, SK, UK) said that insider lists do not fulfil these requirements. LI responded n/a to this question because due to the very low number of domestic issuers, there was no case as of now in which the CA had to compel the issuers to transmit insider lists.
33. Twenty-four CAs (AT, BE, BG, CY, CZ, EE, ES, FI, HU, IE, IS, IT, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK) check the accuracy of information provided by the issuers or the persons acting on their behalf, whereas five CAs (DE, DK, EL, FR, UK) do not check on a regular basis the accuracy of the information provided by the issuers. LI responded non applicable.
34. Twenty-three CAs (AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, HU, IE, IS, IT, LI, LT, LV, MT, NL, RO, SI, SK, UK) do not have internal instructions containing considerations for insider lists scrutiny, whereas seven CAs (BG, FR, LU, NO, PL, PT, SE) have such internal instructions.
35. Almost all CAs have rules/guidelines/circulars, providing for the inclusion of specific categories of persons/professionals on their insider lists.
36. According to all CAs rules/regulations/guidance, with the exception of three CAs (IS, SE, SK), insiders lists include information regarding members of the board of directors, CEOs, persons discharging managerial responsibilities, related staff members and internal auditors. With the exception of four CAs (AT, IS, SE, UK) insiders lists include information on people having access to databases on budgetary control or balance sheet analyses, and with the exception of five CAs (FI, IS, PT, SE, SK) insiders lists include information on the people who work in units that have regular access to inside information (e.g. IT people).

¹ FR specified that it depends on the type of the case.

37. All CAs responded that information of registered names of issuers is included on insiders lists, whereas all CAs except four (BG, LV, MT, SK) include on insiders lists names of third parties. All CAs with the exception of two (LV and PL) consider auditors as relevant professionals for inclusion on the insider lists, whereas all CAs except two (LV and PL) consider attorneys as relevant for inclusion. Moreover, all CAs with the exception of two (LV, PL) consider accountants and tax auditors relevant for inclusion on insiders' lists, whereas all CAs with the exception of three (LV, MT and PL) consider managers of issues relevant for inclusion. A general observation is that all CAs have responded that, all the categories of persons included on insiders' lists should have regular or incidental access to inside information. Ten CAs (AT, DK, ES, IE, IT, LT, LU, NL, NO, RO) mentioned that lists of professional are only supervised in case of investigations and on-site inspections. Seven CAs (BE, BG, EL, IS, SE, SI, UK) said that the inclusion of third parties on insiders lists is generally the responsibility of the issuer. Twelve CAs (AT, BE, DE, EE, EL, ES, HU, IE, NL, NO, PT, UK) consider that external investment analysts / journalists should be included on insider lists, if they have access to inside information. Twenty-three CAs (AT, BE, BG, CY, EE, EL, ES, FI, FR, HU, IE, IS, IT, LT, LV, MT, NL, NO, PT, RO, SE, SI, SK) out of thirty jurisdictions make issuers or third parties acting on their behalf aware, that they must inform persons having access to inside information of their legal duties. Nine CAs (CZ, DE, ES, HU, IT, LU, MT, NO, SE) responded that they issue any kind of publicly available information via a guidance or circular in order to make issuers or any other third party acting on their behalf or for their account (e.g. advisors) aware that all persons who might be expected to have access to inside information are to be included on the insider lists, whereas two CAs (EE and FI) offered training events.
38. Twenty- five CAs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, HU, IT, LI, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK, UK) responded that they focus on the access to inside information. Five CAs (DK, FI, FR, IE, IS) responded that they distinguish between regular and occasional access to inside information.
39. For issuers or persons acting on their behalf or for their account, 18 CAs (CY, DE, DK, EE, EL , ES, FI, FR, IE, IT, LU, LV, NL, NO, PT, RO, SE, SI) responded that that they accepted insiders lists from other EU or EEA Member States in case the issuer has its registered office there, whereas four CAs did not recognize that (AT, CZ, IS, MT) and eight CAs (BE, BG, HU, LI, LT, PL, SK, UK) considered this as not applicable, for example because insider lists are submitted by domestic authorized advisers (UK).Twenty-five CAs (AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IS, IT, LU, LV, NL, NO, PL, PT, RO, SE, SI, UK) responded that they accepted insider lists in another foreign language other than their official language. Four of these 25 CAs (AT, DE, DK, EE) responded that only English is accepted as a foreign language. Another four CAs (BG, LT, MT, SK) responded that they do not accept any other language than their official languages.

C. Cooperation between Competent Authorities

40. The number of full time employees (FTEs) within each CA working on requests for information (meaning all matters falling under the scope of requests for information and encompassing thus requests made in the context of Article 16 (3) and Article 16 (4) sub-paragraphs 1 and 2 of the Directive 2003/6/EC) varies from one (RO), to thirteen (IT).
41. Most CAs had no cases in the years 2010 and 2011 in relation to article 16(3) of the Directive 2003/6/EC. For those CAs who had such cases the number varied in total between one (CY, ES, IE) and seventy eight (UK). Most CAs had no cases in the years 2010 and 2011 in relation to article 16(4) sub-paragraph 1 of the Directive 2003/6/EC. For those CAs who had such cases the number varied in total between one (IT) and twelve (NO). For the purposes of this report, both minutes and transcribed tape recordings of hearings were considered as equivalent written records.
42. Fifteen CAs (AT, BG, CY, CZ, DE, EL, ES, FR, HU, IE, IT, LU, NL, PT, SK) took draft minutes, either as the sole record of the interview or in conjunction with tape recordings. Fifteen CA's (BE, CY, CZ, DE, EE, ES, FI, IE, IT, NL, NO, PT, RO, SK, UK) record hearings by means of a tape recording either as the sole record of the interview or in conjunction with tape recordings. FI responded that if participants agree hearings may be recorded, while BE responded that although recordings were possible they were not used in practice. Eleven CAs (CY, CZ, DE, ES, FI, IE, IT, NL, PT, RO, SK,) responded that they both record hearings by means of a tape recording and by taking minutes. Four CAs (DK, IS, SE, SI,) responded that they neither record nor take minutes. In the case of DK, the CA was not permitted to record statements, but was allowed to take minutes of meetings.

D. Rumours

43. All CAs responded that either their Authority or another regulator within the jurisdiction had a role in monitoring rumours. In relation to the approach to detecting rumours, the key issues provided by CAs included, but were not limited to: daily review of media including, but not limited to newspapers, blogs, financial websites, social network etc (23 CAs); reaction to complaints or tip-offs (ten CAs); the evaluation of the relevance based on established criteria/steps to be taken following the detection of rumours (six CAs) and the monitoring of certain security price movements (eight CAs).
44. Ten CAs (AT, CZ, DE, ES, IE, IT, NL, PT, SI, UK) responded that they have a policy or have published guidance on the handling of rumours and 9 of those (AT, BE, DK, IE, IT, NL, PT, SI, UK) had taken action on the basis of this policy or published guidance. In addition, two CAs (BE, FR) who did not have a policy or published guidance specific to rumours reported that they had taken action on the basis of: (i) the general principle of the obligation of issuers to inform the public of all information necessary to ensure the transparency, integrity and good functioning of the market, (ii) implemented legislation in respect of the handling of rumours.
45. Seven CAs (AT, DK, ES, IS, LT, NL, PL) required issuers to have an internal written policy outlining procedures regarding the treatment of rumours. Fifteen CAs (CY, EL, ES, FI, FR, HU, IE, IT, LT, LV, NO, PL, RO, SE, SI) responded that journalists are subject to rules, regulations or guidance regarding the handling of rumours (save for the Market Abuse Directive). All CAs responded that they monitor trading ahead of or after the dissemination of rumours which may have led to price movements. Moreover, all CAs with the exception of one (SK) reported to monitor rumours which may be affecting the secondary market. The tools used for investigating whether any market abuse had arisen as a result of the dissemination of rumours appeared similar to those used for investigating market abuse in general. Common basic tools included market and trading surveillance in combination with monitoring the press and other media. The outcomes were further analysed in light of other information available to the CA or gathered by the CA by making use of its general investigatory powers. Eight CAs mentioned the use of specific IT tools designed to issue alerts on unusual trading activity on a particular security, whilst others referred to the powers and tools available for investigating market abuse in general, one CA to monitors the history and development of rumours on Internet forums.
46. Contacts with issuers were reported to play a key role in relation to the investigation of rumours which could be affecting the secondary market. In this respect, all CAs except three CAs (AT, DK, SK²) mentioned that they intervened in real-time to ensure that rumours which contained a leak of inside information were adequately addressed through public disclosure. Six CAs (EL, FR, IT, LU, NL, PT) reported to have investigated rumours spread across borders in 2010/2011, in the large majority of cases (all except NL) with the help of another CA. Eleven CAs (AT, DE, DK, DE, FR, IT, NL, PL, PT, SE, SI) reported to have taken enforcement actions of some kind with respect to rumours in 2010/2011. Four CAs (BG, LT, LV, SK³) reported that they do not contact other EU CAs where there appeared to be a cross-jurisdictional issue caused by a rumour. Thirteen CAs (BG, DE, EE, EL, ES, HU, IE, IT, LU, PT, RO, SK, UK) responded that the investment firms they regulate monitored trading ahead or after the dissemination of rumours which could have led to price movements. All CAs with the exception of four (AT, MT, NL, SE) responded that regulated markets and MTFs they regulate monitor trading ahead or after the dissemination of rumours which could have led to price movements. Two CAs (FR and NL) noted that there are no specific requirements on rumours, but

² SK reported not having had such a case.

³ SK reported not having had such a case.

regulated markets and MTFs are required to detect and report suspicious transactions. One CA (SE) stated that regarding leaks of inside information, there is a review of share price movements in issuers that have an observation status. Thirteen CAs (BE, CZ, ES, FR, IT, LV, MT, NO, PT, RO, SE, SI, UK) reported that they monitor communications within regulated investment firms, whereas nine CAs (CY, EE, EL, HU, IE, IS, LT, NL) reported that they do so in certain circumstances.

E. Alternative sources of information

47. All CAs, with the exception of three (LU, LV, MT), use alternative sources of information but seven of them (AT, DE, FR, IT, PT, SE, UK) have a written handbook or instructions in place. Fifteen CAs (AT, CY, DE, EE, EL, ES, FR, HU, IS, IT, LT, NL, PT, SK, UK) responded that they have a dedicated place (telephone line, email address or web page) where the public was actively invited to provide information. Nineteen CAs (AT, BE, BG, CZ, DE, DK, ES, FI, HU, LI, LU, LV, MT, NO, PL, RO, SE, SK, UK) responded that they do not have a template for the public to fill out if they want to provide information in relation to potential market abuse cases, while 11 CAs (CY, EE, EL, FR, IE, IS, IT, LT, NL, PT, SI) responded that they have such a template.
48. All CAs with the exception of two (DK and LU) considered information coming from alternative sources to be useful for market abuse investigations, as a complement to information received from STRs and own surveillance, while some remarked that this kind of information could be useful as a first signal that something is wrong, or of facts which would otherwise be difficult to get hold of. Nine CAs (AT, DE, FR, LT, MT, PT, RO, SI, UK) responded that they keep statistics of information received from alternative sources of information, whereas 21 CAs (BE, BG, CY, CZ, DK, EE, EL, ES, FI, HU, IE, IS, IT, LI, LU, LV, NL, NO, PL, SE, SK) responded that they do not keep statistics of such information.
49. The numbers of information items received in year 2010, 2011 varied among authorities from only a handful to several hundreds (see table below).

	2010	2011
0	BG, ES, MT, SK	BG, MT, SK
1-2	CZ2, IS 1, LU 2, PT 2	ES 1, IS 1, LU 2,
3-5	SI 3	CZ 3, LT 3, PT 3, SI 3,
6-10	BE 7, CY ca 10, EE 10, EL 9, FI 7, LT 7	BE 6, CY ca 10EE 10, EL 10, FI 7
11-30	NO 18, RO 20	NO 22, RO 15,
31-60	AT 48, HU 60	AT 53, HU 40
100 +	DE 241, FR 137, SE 100, NL 100-200, UK 151	DE 473, FR 247, NL 100-200, SE 100,UK 286
N/A	DK, IE, PL	DK, IE, PL