

Enhancing investor protection and promoting stable and orderly financial markets in the EU

Annex to the Statement by ESMA Chair to the ECON hearing

Facts & figures from 1 October 2022 to 30 September 2023

The European and Securities Markets Authority (ESMA) is an independent European Supervisory Authority (ESA), and pursuant to its Regulation it is legally accountable to the European Institutions, including the European Parliament. The Chair of ESMA appears before the Committee on Economic and Monetary Affairs (ECON) at their request for formal hearings, including the annual hearing of the Chairs of the ESAs.

In this context, and to accompany the Opening Statement of the ESMA Chair, the Annex hereby lists the deliverables that ESMA has produced in the past 12 months, from 1 October 2022 to 30 September 2023.

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1 ESMA Strategic Priorities and Thematic Drivers

[ESMA's Strategy for 2023-2028](#) contains ESMA's long-term priorities and how it will use its competences and toolbox to respond to future developments and challenges.

1.1 Fostering effective markets and financial stability

ESMA supports the deepening of European capital markets, contributes to their integrity and to making them more effective. To this end, during the reporting period, ESMA continuously monitored risks across its remit, and developed and adjusted the Single Rulebook to enhance financial stability, increase

transparency and support fair, orderly and efficient markets. ESMA also actively participated in international regulatory and supervisory discussions with the aim of providing a common EU voice.

- ESMA has published two reports on trends, risks and vulnerabilities (TRV) for 2023, the first one in February and the second one in September, assessing the economic fundamentals and the risks of the financial sector.
- ESMA has published three market reports on selected segments under ESMA’s remit, which provide an overview of these EU markets based on regulatory data:
 - the EU Prospectus market report;
 - the EU Money Market Funds market report; and
 - the EU Credit Ratings market report.
- ESMA has published four TRV risk analysis articles and two working papers:
 - the article “The EU securitisation market – an overview”;
 - the article “A framework to assess operational resilience”;
 - the article “EU natural gas derivatives markets: risks and trends”; and
 - the article “Stress testing MMFs in the EU – First evidence from fund reporting”.
 - the working paper “Connectedness in the EU fund industry” (in collaboration with Consob); and
 - the working paper “Bang for (breaking) the buck: Regulatory constraints and money market funds reforms”.
- ESMA launched the fifth stress test exercise for EU CCPs and Tier 2 CCPs, which included credit, liquidity, concentration, and climate risk components.
- In response to the heightened volatility observed in energy derivatives markets following Russia’s invasion of Ukraine, ESMA has:
 - concluded the preliminary data report and the effects assessment on the introduction of the Market Correction Mechanism (MCM);
 - published the report on the implementation and functioning of the Intra-Day Volatility Management Mechanism (IVM)
 - signed an updated Memorandum of Understanding with the Agency for the Cooperation of Energy Regulators (ACER) concerning the consultation and cooperation regarding their statutory responsibilities in relation to EU wholesale energy markets;
 - published a final report with draft RTS that proposed emergency measures on collateral requirements. The objective was to temporarily amend CCP collateral requirements to provide liquidity relief on energy derivatives markets and alleviate the liquidity pressure

on non-financial counterparties (NFCs) active on gas and electricity regulated markets cleared in EU-based CCPs; and

- issued an Opinion on the position limits on ICE Endex Dutch TTF Gas contracts.
- Under the Joint Committee, ESMA has contributed to two risk assessment reports in 2023. These reports identify the key cross-sectoral risks facing the EU's financial system in a context of high inflation and tighter financial conditions, and set out recommendations on how these can be addressed through coordinated policy and supervisory action by policy-makers, the European Supervisory Authorities (ESAs) and the Member States' supervisors.
- Under the ESRB, and as co-chair of the Non-Bank Expert Group, ESMA has contributed to the notes on policy options to address risks in corporate debt and real estate investment funds, and the 2023 ESRB Non-Bank Financial Intermediation Risk Monitor.
- At international level, under the FSB, ESMA has in particular contributed to:
 - the report on the financial stability aspects of commodities markets; and
 - the Global Monitoring Report, as co-chair of the Non-bank Monitoring Experts Group.

1.2 Strengthening the supervision of EU financial markets

Effective supervision is at the heart of ESMA's strategy, with the objective of building a strong common supervisory culture across the EU and promoting effective, sound and consistent supervision of the EU financial markets.

1.2.1 Direct supervision of financial entities by ESMA

ESMA exerts direct supervisory powers in relation to: Credit Rating Agencies, Trade Repositories both under EMIR and SFTR, Securitisation Repositories, EU critical benchmark administrators and non-EU recognised benchmark administrators, and Data Reporting Service Providers.

ESMA recognises Third Country CCPs (TC-CCPs), and supervises TC-CCPs tiered as systemically important for the EU. Lastly, ESMA has also the responsibility to recognise Third Country Central Securities Depositories.

Supervision of Credit Rating Agencies (CRAs)

- As of 30 September 2023, ESMA supervises 23 CRAs and three certified CRAs.
- In line with its 2023 work programme, ESMA has notably:
 - monitored and addressed new risks posed by industry and capital markets developments (war in Ukraine, turmoil in banking sector);

- further assessed whether CRAs employ independent, robust, and well-structured rating processes, focusing in particular on surveillance processes to monitor evolving market conditions;
 - focused on CRAs' business development in new markets including as relates to non-rating products (e.g., ESG ratings) as well as CRAs' outsourcing practices; and
 - in the context of the current geopolitical instability and the hybrid working environment, engaged with CRAs to ensure that identified concerns on information security and cloud outsourcing are adequately addressed.
- Finally, ESMA has adopted supervisory measures and imposed a fine against a credit rating agency (S&P) for breaches of the Credit Rating Agencies Regulation for having published credit ratings before the concerned securities were issued by the rated entities and announced to the market.

Supervision of Trade Repositories (TRs) under EMIR

- As of September 2023, there are four TRs registered under EMIR by ESMA.
- For the three-month period of June-August 2023, there has been on average more than 54 million trade reports submitted each day to TRs.
- In line with its 2023 work programme, ESMA has:
 - assessed and drawn up action plans to address the areas where ESMA has most concerns (e.g., governance, internal controls, IT processes and systems, adequacy of resources and operational separation);
 - ensured that firms' change implementations comply with its expectations, in particular on cloud computing;
 - performed re-validations on data submissions, assessed completeness and accuracy of Trade State and Trade Activity reports, assessed inter-TR reconciliation, as well as implemented the EMIR Data Quality Action plan; and
 - monitored and assessed the progress of TRs' implementations of the EMIR Refit requirements to ensure a smooth go-live of the new regime, with a focus on IT and data related aspects.

Supervision of Trade Repositories (TRs) under SFTR

- As of September 2023, ESMA supervises three TRs under SFTR.
- For the last three months (June-August 2023), there has been on average 2.4 million SFT reports submitted each day to TRs.
- In line with its 2023 work programme, ESMA has:

- assessed and drawn up action plans to address the areas where ESMA has most concerns (e.g., governance, internal controls, IT processes and systems, adequacy of resources and operational separation);
 - ensured that firms' change implementations comply with its expectations, in particular on cloud computing;
 - verified and monitored performance of SFTR reconciliation by TRs; and
 - implemented the SFTR Data Quality Engagement Framework and defined data quality indicators.
- Finally, ESMA has supervised the implementation of the relevant updates to SFTR validation rules and XML schemas, as well as of the SFT Positions guidelines.

Supervision of Securitisation Repositories (SRs) under SECR

- As of September 2023, ESMA supervises two SRs under SECR, both of which were registered in June 2021. More than 400 securitisations are reported as outstanding as of September 2023.
- In line with its 2023 work programme, ESMA has:
 - identified shortcomings to data quality by assessing the completeness and consistency of SR data;
 - performed re-validations on SR data to ensure correct implementation of validation rules;
 - addressed feedback from the users of SR data; and
 - verified the reliability and continuity of SRs' IT systems by monitoring SR IT and information security incidents.
- ESMA has also engaged and cooperated with relevant stakeholders to promote the use of SR data and collect feedback to identify data quality issues.

Data Reporting Service Providers (DRSPs)

- Since January 2022, ESMA holds supervisory powers to authorise and supervise DRSPs, i.e., Approved Publication Arrangements (APAs), and Authorised Reporting Mechanisms (ARMs)¹. ESMA currently supervises 7 APAs and 6 ARMs under MiFIR².
- During the course of 2023, ESMA has received approximately 15 million daily transactions from ARMs (around 50% of total transaction data volumes). As regard transparency obligation for OTC transactions, approximately 500,000 transactions are being published by APAs daily.

¹ Complemented by, once established, Consolidated Tape Providers (CTPs).

² Another 8 APAs and 13 ARMs are supervised at national level (as falling below the thresholds established by co-legislators).

- In line with its 2023 work programme, ESMA has:
 - determined those DRSPs which come under its direct supervisory remit, as well as those (derogated) entities which remain under the supervision of NCAs due to their more limited relevance for the EU market;
 - assessed and drawn up action plans to address the areas where ESMA has most concerns (e.g., governance, internal controls, IT processes and systems, adequacy of resources and operational separation);
 - ensured that firms' change implementations comply with its expectations, in particular on cloud computing;
 - engaged and co-operated with NCAs to ensure timely and accurate access to transaction data reported by ARMs;
 - extended and further enhanced its supervisory tools and processes to apply its risk-based and data-driven supervisory approach to DRSPs; and
 - performed regular monitoring of data-related aspects, completed its first data consistency project and initiated additional specific data monitoring projects.

Benchmarks

- Since January 2022, ESMA directly supervises the administrators of EU critical benchmarks and recognised third country benchmarks under the Benchmark Regulation (BMR).
- As of 30 September 2023, ESMA supervises one administrator of the EU Critical Benchmark EURIBOR and 10 recognised third-country administrators (the latter category including three additional third-country administrators ESMA recognised since it started its supervisory mandate in January 2022).
- In line with its 2023 work programme, ESMA supervisory focus has been:
 - In relation to the critical benchmark EURIBOR, on the robustness and resilience of EURIBOR methodology and related EURIBOR representativeness;
 - As the chair of EURIBOR College, promoting and coordinating NCAs' supervisory actions and ensuring an efficient exchange of information;
 - Effectiveness of governance and internal controls of supervised benchmarks administrators; and
 - Supervisory convergence work together with NCAs, notably in the area of sustainability-related benchmarks and disclosure requirements.

Recognition and supervision of Third-country CCPs

Tier 1 CCPs

- During the reporting period, ESMA recognised four Tier 1 CCPs from Malaysia, Taiwan, Colombia and Israel³.
- ESMA also completed a review of the recognition of four Tier 1 CCPs due to a change in the scope of clearing services offered to the EU⁴.
- In addition, the recognitions of six Indian CCPs⁵ were withdrawn by decisions of ESMA's Board of Supervisors of 31 October 2022, effective as of 30 April 2023.
- Following the European Commission adding the United Arab Emirates (UAE) and South Africa to the list of high-risk third countries presenting strategic deficiencies in their national anti-money laundering and counter financing of terrorism ("AML/CFT") regime, ESMA has withdrawn the recognition decisions of four Tier 1 CCPs⁶ from those countries.
- ESMA performed the ongoing monitoring of Tier 1 CCPs and enhanced scrutiny of risks related to EU activities, whether with respect to the clearing of products denominated in EU currencies or with respect to the volumes cleared or the financial commitments made by EU participants.
- In the context of recognition and supervision of Third Country CCPs, during the reporting period, ESMA has notably signed three Memoranda of Understanding:
 - with the Financial Supervisory Commission of Taiwan, related to CCPs established in Taiwan;
 - with the Colombian SFC related to CCPs established in Colombia; and
 - with the Israel Securities Authority, related to CCPs established in Israel.

Tier 2 CCPs

During the reporting period, ESMA has:

- conducted the ongoing supervision of systemically important TCCCPs (Tier 2 CCPs) based on its newly developed supervisory framework;
- completed the first annual review cycle of Tier 2 CCPs and developed supervisory priorities based on identified risks;
- conducted several model validations under Article 49 of EMIR;

³ Bursa Malaysia Derivatives Clearing Berhad, established in Malaysia; Taiwan Futures Exchange Corporation, established in Taiwan; Cámara de Riesgo Central de Contraparte de Colombia S.A., established in Colombia; and Tel-Aviv Stock Exchange Clearing House Ltd, established in Israel.

⁴ ASX Clear (Futures) Pty Limited and ASX Clear Pty Limited, both established in Australia; Japan Securities Clearing Corporation, established in Japan; National Securities Clearing Corporation, established in the USA; and New Zealand Clearing Limited, established in New Zealand.

⁵ The Clearing Corporation of India Ltd, Indian Clearing Corporation Limited, NSE Clearing Limited, India International Clearing Corporation (IFSC) Limited, NSE IFSC Clearing Corporation Limited and Multi Commodity Exchange Clearing Corporation Limited.

⁶ In UAE: Dubai Commodities Clearing Corporation; Dubai Clear LLC; and Nasdaq Dubai Ltd. In South Africa: JSE Clear.

- progressed the development of CCP databases to support risk-based, data driven supervision;
- applied its crisis management framework to monitor and deal with several relevant crisis events;
- prepared an analysis on the impact of the MCM on the functioning of CCPs and set-up regular monitoring;
- contributed to several analyses on the concentration risk exposure in energy derivatives markets; and
- reviewed the recognition and re-tiered ICE EU, following the closure of the CDS segment.

1.2.2. Supervisory Convergence

Guidance tools

They are designed to help support the effective application of new or amended rules or a response to new market developments, and to support the application of common high-level standards of supervision. In this sense:

- ESMA has issued various guidelines, Q&As, Opinions, and Statements over the past year (detailed in the thematic sections below).
- **Supervisory briefings:** ESMA published three supervisory briefings: one on supervision of cross-border activities of investment firms, one on Copy Trading and one on understanding the definition of advice under Market in Financial Instrument Directive II (MiFID II) - updating CESR's 2010 Q&A issued under MiFID I.

Implementation tools

They are designed to understand how rules or market developments are being supervised in practice to enable NCAs to improve the efficiency, effectiveness, and consistency of current or future supervisory work, and/or to take action to address a live issue. ESMA has also case specific discussions across all its mandates, to enhance information flow on and sharing of real supervisory cases and issues amongst NCAs. A few voluntary supervisory colleges complete the framework and bring relevant supervisors together that are looking at the same entity from different national perspectives. The published deliverables for this period are as follows:

- **Union Strategic supervisory priorities:** In November 2022, ESMA announced the launch of a new Union Strategic Supervisory Priority (USSP) on “ESG disclosures” (as of 2023), the continuation of the USSP on “Market data quality” and the discontinuation of the USSP on “Costs and performance of retail investment products” (launched in November 2020). As part of these, during the reference period, ESMA has published:

- In relation to Market Data quality, the 2022 Report on Quality and Use of Transaction Data across the EU/EEA which showcases the important improvement of the quality of data following coordinated supervisory actions;
- In relation to Costs and performance of retail investment products, the deliverables detailed under the section 1.3; and
- In relation to ESG Disclosures: the deliverables detailed under the section 1.4.
- **Enforcement:** As the single supervisor of several financial entities in the EU, ESMA has responsibilities and powers to deal with possible infringements. Moreover, ESMA is conducting important convergence activities in the area of enforcement, bringing together relevant experts across the NCAs to discuss their respective approach to enforcement work and to exchange experiences and practices (this work has not led to published outcomes in the reporting period and is not included in this Annex).
- **Common Supervisory Actions (CSAs):** over the reporting period, ESMA conducted:
 - a CSA on the supervision of the asset valuation rules under the UCITS and AIFM Directives. It explored the compliance with organisational requirements, valuation principles and methodologies with a view for asset managers to reflect a fair value of their financial positions under normal and stress market conditions; and
 - a CSA and a mystery shopping exercise regarding compliance with disclosure requirements for costs and charges under MIFID II. It revealed certain shortcomings in information provided to retail clients and suggested areas for improvement regarding both disclosure format and content.

Assessment and remediation tools

They are designed to test whether supervision of rules or market developments is being carried out in line with expectations and/or to take action to address a situation where this appears not to be the case.

- **Peer Reviews:** ESMA has published two peer reviews covering:
 - National Competent Authorities' (NCAs) handling of firms' relocation to the EU in the context of the UK's withdrawal from the EU. It gives further insight into NCAs' supervisory approaches when authorising firms that have relocated due to Brexit, and sets out important recommendations for NCAs and future ESMA work; and
 - the national supervision of Central Securities Depositories (CSDs) providing cross-border services. It sets out important recommendations for national authorities that aim at reinforcing their supervision of CSDs to ensure efficient securities settlement.
 - ESMA has also published two follow-up reports to peer reviews covering: (i) certain aspects of the compliance function under MiFID; and the (ii) Guidelines on ETFs and other UCITS issues.

- **Breach of Union law and complaint-handling:** During the reporting period, ESMA received 191 new complaints, and closed 174 inadmissible complaints and eight admissible cases. ESMA sent five requests for information to NCAs under Article 35 of the ESMA Regulation, in order to receive information needed to handle these complaints. The overall objective is the achievement of greater supervisory convergence outcomes through a structured dialogue leading to effective change in the contested national supervisory approaches during the preliminary investigations. In this regard, the cases in the reporting period have provided good examples of positive results in terms of supervisory convergence and successful cooperation with the NCAs concerned.

1.3 Enhancing the protection of retail investors

ESMA and the NCAs are committed to ensure that investors are effectively protected, with a particular focus on retail investors. This commitment is underpinned by actions related amongst others to investor engagement, and effective information and disclosure. This section covers the deliverables produced under different pieces of legislation that have contributed specifically to the protection of retail investors over the past year. Additional deliverables produced under these legislations are further detailed in the sections 2 and 3.

- In relation to the **costs and performance of retail products**, ESMA has published:
 - an ESMA market report on costs and performance of retail investment products in the EU
 - the results of the 2022 Common Supervisory Action MiFID II requirements on “information on costs and charges”; and
 - the results of the first Mystery shopping exercise coordinated by ESMA on the same topic.
- In relation to the **MiFID II/ MiFIR investor protection framework**, ESMA has published:
 - updated guidelines on product governance requirements, which have been reviewed taking into account recent regulatory and supervisory developments: the Capital Markets Recovery Package and subsequent Amending Directive, the sustainability-related amendments to the MiFID II Delegated Directive, the recommendations on the product governance guidelines by ESMA’s Advisory Committee on Proportionality (ACP), and the findings of ESMA’s 2021 Common Supervisory Action on product governance.
 - four public Statements:
 - on risks arising from the provision of unregulated products and/or services by investment firms;
 - on the risks of securities lending in relation to retail client financial instruments and clarifying certain important MiFID II investor protection requirements;
 - reminding firms of the impact of inflation in the context of investment services to retail clients; and

- on derivatives on fractions of shares.
- two Opinions on:
 - the product intervention measure relating to futures with additional payment obligations proposed by the German BaFin; and
 - the product intervention measures on Contracts for Differences (CFDs) and other high-risk products proposed by the Spanish Comision Nacional del Mercado de Valores (CNMV).
- the three supervisory briefings presented in the section 1.2.1. on the supervision of cross-border activities of investment firms, copy trading, and understanding the definition of advice under MiFID II - updating CESR's 2010 Q&A issued under MiFID I.
- Under the **Regulation of the packaged retail and insurance-based investment products (PRIIPs)**, ESMA has issued a Q&A on the Key Information Document (KID).
- ESMA has published 15 Q&As on the European Crowdfunding Service Providers Regulation (ECSPR).
- As part of the Joint Committee of the ESAs, ESMA has contributed to an interactive factsheet on the impact of increases in inflation and interest rates on financial products and services provided to consumers.
- Jointly with the European Bank Authority (EBA), ESMA has published a consultation paper on Guidelines on the system for the exchange of information relevant to fit and proper assessments.
- Lastly, ESMA has published a number of deliverables relevant retail investor protection in an era of digitalisation and technological change, as further specified in section 1.5.

1.4 Enabling sustainable finance

In continuity with its Sustainable Finance Roadmap, ESMA prioritises (i) tackling greenwashing and promoting transparency, (ii) building NCAs' and ESMA's capacities, and (iii) monitoring ESG markets and their risks. This section covers the deliverables produced under different pieces of legislation that have contributed specifically to enabling sustainable finance over the past year. Additional deliverables produced under these legislations are further detailed in the sections 2 and 3.

- In relation to the **European Sustainability Reporting Standards (ESRS)**, ESMA has issued an Opinion on the technical advice by the European Financial Reporting Advisory Group (EFRAG).
- In relation to **greenwashing**, ESMA has issued :

- a consultation paper on guidelines on the use of ESG or sustainability-related terms in funds' names; and
 - a call for evidence to collect input on the risk of greenwashing across the investment value chain,
 - a progress report on greenwashing in which ESMA together with the other ESAs put forward a common understanding of this concept, detailed description across the different segments of the investment value chain of how greenwashing may materialise and preliminary recommendations.
- In relation to the **Sustainable Finance Disclosure Regulation (SFDR)**, as part of the Joint Committee of the ESAs, ESMA has contributed to the preparation of:
 - a consultation paper on the Review of SFDR Delegated Regulation regarding PAI and financial product disclosures;
 - the joint ESAs Report on Article 18 SFDR; and
 - consolidated Q&As on the SFDR Delegated Regulation.
 - In relation to **MiFID**, ESMA has issued a call for evidence on integrating sustainability preferences into suitability assessment and product governance under MiFID. It has been followed by the publication of Guidelines on these aspects of the MiFID II suitability requirements. As mentioned in section 1.4, ESMA has also updated its Guidelines on MiFID II product governance requirements to include recent sustainability changes.
 - Under the **Prospectus Regulation**, ESMA has published a Statement on the sustainability disclosure in prospectuses, which underlines the relevant requirements concerning both equity and non-equity securities.
 - In the context of the **USSP on ESG disclosures**, ESMA has launched a Common Supervisory Action to assess disclosures and integration of sustainability risks in the investment management sector.
 - ESMA has published assessments on the state of ESG markets as part of its Trends, Risks and Vulnerabilities Reports as well as articles such as the one on "EU Ecolabel: Calibrating green criteria for retail funds".
 - At international level, ESMA has actively participated in the IOSCO Sustainability Task Force (STF). As part of ESMA's co-chairmanship of the STF's Carbon Market Workstream, ESMA staff jointly held the pen in drafting the IOSCO report on the Compliance Carbon Markets.
 - In addition, ESMA has published two comment letters in response to consultations of the International Sustainability Standards Board (ISSB) in relation to the Request for Information on the Agenda Priorities for the next two years and on the internationalisation of the SASB standards.

1.5 Facilitating technological innovation

ESMA endeavours to ensure that financial regulation does not hinder innovation, while maintaining a level playing field between emerging players and products, and more traditional ones. ESMA's focus is on assessing the impact of new technologies on financial markets and its participants and investors. This includes ensuring that the regulatory framework remains fit for purpose and providing for effective implementation of existing and upcoming EU legislation in this space.

- Under the **markets in crypto-assets framework (MiCA)**, ESMA has published its first set of draft standards for consultation, specifying certain requirements of MiCA.
- In addition, ESMA has published a TRV article on Crypto-assets and their risks for financial stability and one article on Artificial intelligence in EU securities markets.
- In relation to the work of the Joint Committee of the ESAs on the **Digital Operation Resilience Act (DORA)**, ESMA working closely with colleagues from the other ESAs, has contributed to the preparation of:
 - a joint ESAs discussion paper in response to the call for advice regarding criticality criteria for the designation of critical ICT third party providers and oversight fees, and the ensuing final technical advice to the European Commission;
 - a joint ESAs consultation package on the 12-month DORA mandates, and
 - the ESRB report on advancing macroprudential tools for cyber resilience, building on the 2022 ESRB recommendation for the establishment of a pan-European systemic cyber incident coordination framework.
- In relation to **Distributed Ledger Technologies (DLTs)**, ESMA has issued:
 - a final report on guidelines on standard forms, formats, and templates to apply for permission to operate a DLT market infrastructure; and
 - 13 Q&As under the DLT Pilot Regime.
- ESMA has actively contributed to the Supervisory Digital Finance Academy, together with the other ESAs, the European Commission and the European University Institute.
- As part of the Joint Committee of the ESAs, ESMA has contributed to the joint thematic report on national financial education initiatives on digitalisation.
- Under the ESRB, and as co-chair of ESRB Task Force on Crypto-Assets and Decentralised Finance, ESMA has contributed to the report outlining the systemic implications of crypto-assets and decentralised finance, and proposing policy options to address the risks identified.
- At international level, ESMA has contributed to the FSB and IOSCO consultation reports and policy recommendations for crypto and digital asset markets, for stablecoins and for decentralised finance.

1.6 Effective Use of Data and Information and Communication Technologies (ICT)

ESMA aims at facilitating the use of new data-related technologies, reducing reporting compliance costs by regulated entities, enabling the effective use of data at both EU and national level, and making data more broadly available to all stakeholders, including individual investors.

- ESMA has published its new Data Strategy 2023-2028, elaborating on how ESMA data assets will be mobilised to best serve and help deliver on its strategic and thematic objectives. The new Data Strategy is ESMA's response to the growing importance of data and to technological developments.
- Through its Data Strategy, ESMA also aims to contribute to the implementation of the Strategy on supervisory data in EU financial services that was published by the European Commission in 2021.
- ESMA has effectively used regulatory and non-regulatory data to guide with evidence its activities including those related to the proposal of regulatory changes, to on-going supervision and financial risk assessment. Uses of data are multiple, but we can single out as an example the comprehensive analyses on the energy derivatives markets where ESMA has used data from regulations like EMIR and MiFIR to monitor the financial derivatives on gas.
- ESMA has also increased its internal capability to explore the opportunities of the available data and technological solutions. In particular:
 - ESMA has adapted its internal organisation by creating a new Data Intelligence and Technology Department that covers the full set of competences related to the entire data lifecycle and intends to establish, by the end of 2023, a new data governance framework;
 - ESMA has expanded its Data Platform, based on Big Data technologies to additional data sets.
 - In addition, ESMA is now working on opening access to its Data Platform to the NCAs.
 - In order to progress in building the competence and to increase the adoption of modern analytical technics by ESMA and across the NCAs, ESMA has launched experimental projects related to the use of Machine Learning / Artificial Intelligence in supervision.
- ESMA has started a feasibility study on an integrated market monitoring of crypto assets markets, that considers establishing efficient data and supervisory tools to support the implementation of MiCA by the NCAs.

2 Key regulated sectors and entities

2.1 Investment Services

- In relation to **MiFID II/ MiFIR investors framework**, ESMA has delivered:
 - a Final Report on MiFID II sanctions and measures issued in 2022 by NCAs;
 - two updated technical standards:
 - on cooperation in supervisory activities which aim at facilitating exchange among competent authorities for both urgent and non-urgent requests for information; and
 - on passporting of investment services, which specifies the information to be notified by investment firms providing cross-border services without the establishment of a branch; and
 - a public Statement on the deprioritisation of supervisory actions on the obligation for execution venues to publish reports (under RTS27), which make available to the public information related to the quality of execution of transactions on their venues.

2.2 Investment Management

2.2.1 Alternative Investment Fund Managers Directive (AIFMD) and Undertakings for Collective Investments in Transferable Securities Directive (UCITS)

- ESMA has issued:
 - a piece of advice on the proposed measure by the Central Bank of Ireland under Article 25 of AIFMD to impose leverage limits on AIFMs established in Ireland managing real estate AIFs;
 - a report on penalties and measures imposed under the UCITS Directive and the AIFMD in 2022;
 - a consultation paper on guidelines on funds' names related to ESG/sustainability;
 - an Opinion to the European Commission on undue costs of UCITS and AIFs;
 - two final reports on:
 - the Draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS; and

- the 2022 Common Supervisory Action (CSA) on the supervision of the asset valuation rules under the UCITS and AIFM Directives, further details in section 1.2.2.
- eight Q&As on the Application of the AIFMD and five Q&As on the application of the UCITS Directive.
- At international level, under the FSB and IOSCO asset management-related work, ESMA has contributed to:
 - the progress report on the financial stability implications of leverage in non-bank financial intermediation;
 - the assessment of the effectiveness of the FSB's 2017 Recommendations on Liquidity Mismatch in Open-Ended Funds; and
 - the consultation report on the revision of the FSB 2017 policy recommendations addressing structural vulnerabilities from liquidity mismatch in open-ended funds.

2.2.2 Money Market Fund (MMF) Regulation

- ESMA has delivered:
 - a market report on EU MMF markets;
 - the annual update of the Guidelines on stress test scenario under the MMF Regulation (the 2022 update); and
 - a consultation paper on the review of the methodology, included in the Guidelines on stress test scenario under the MMF Regulation.

2.2.3 European long-term investment funds (ELTIFs) Regulation

- ESMA has published a consultation paper on the draft regulatory technical standards under the revised ELTIFs Regulation.

2.2.4 Other funds-related regulations

- ESMA has published two Q&As on the application of the European Social Entrepreneurship Funds/ European Venture Capital Fund (EuSEF/ EuVECA) Regulations.
- ESMA has published a report on marketing requirements and marketing communications under the Regulation on cross-border distribution of funds (CBDFs).

2.3 Issuer Disclosures

- ESMA has issued:

- a call for Evidence on the implementation of SRD2 and delivered to the European Commission a Report on the implementation of SRD2 provisions on proxy advisors and the investment chain.
- the European Single Electronic Format (ESEF) XBRL Taxonomy Documentation (2023 Reporting Manual, 2022 Taxonomy Files, 2022 Conformance Suite); and
- a Q&A on the Prospectus Regulation, along with a statistical report on EU Prospectuses 2022.
- In order to improve the enforceability and consistent application of IFRSs, ESMA has issued three letters to the International Accounting Standards Board (IASB) on financial reporting proposals, and a letter to the IFRS Interpretations Committee (IFRS IC).
- Lastly, during the reporting period, ESMA has published three deliverables in the area of the enforcement of regulation for corporate financial reporting:
 - a Statement on the European Common Enforcement Priorities for the 2022 annual financial reports;
 - a report on the corporate reporting enforcement and regulatory activities for 2022; and
 - an additional extract of financial reporting enforcement decisions from the European Enforcers Coordination Sessions (EECS) database.

2.4 Benchmark Providers

- ESMA has published:
 - a report on sanctions imposed under the Benchmarks Regulation in 2021;
 - a Consultation Paper on the review of the RTS on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation; and
 - two final reports on:
 - the review of the RTS on the form and content of an application for recognition under the Benchmarks Regulation; and
 - the review of the RTS on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation.
 - a revised Q&A on the selection and appointment of the legal representative under the Benchmarks Regulation.
- ESMA also closely engaged with EU and non-EU competent authorities and other stakeholders for coordination and market monitoring purposes in the area of benchmarks. In that context, since May 2021, ESMA has also acted as the Secretariat of the EURO Risk-Free Rate Working Group contributing to the implementation of the benchmark interest rate reform in Europe.

- At international level, during the reporting period, ESMA has:
 - signed two Memoranda of Understanding with the UK FCA, related to the : i) recognition of UK benchmark administrators, and ii) EU critical Benchmarks; and
 - issued a recognition decision for a third-country benchmark administrator based in the UK and the update of relevant ESMA's registers.

2.5 Credit Rating Agencies

- To contribute to the establishment of a robust supervisory and regulatory framework for CRAs, ESMA has:
 - delivered a report on CRA market share calculation to help issuers and related third parties in their evaluation of a CRA with no more than 10% total market share in the EU, and through this help stimulate competition in the credit rating industry by encouraging issuers and related third parties to appoint smaller CRAs; and
 - co-operated with EBA and EIOPA to provide a mapping to newly registered External Credit Assessment Institutions (ECAIs) and monitored the mapping provided to already registered ECAIs, in order to promote a consistent implementation of CRR and Solvency II.
 - published a revised CEREP register including CRA performance statistics up to H2 2022; and
 - issued a Q&A on reporting of errors in CRAs methodologies under the CRA Regulation.
- As part of the Joint Committee of the ESAs, ESMA has contributed to the preparation of a consultation Paper on draft implementing technical standards amending the mapping of ECAIs' credit assessments.

2.6 Trading

2.6.1 Trading Market Infrastructure

- In relation to the **MiFIDII/MiFIR markets framework**, ESMA has published:
 - a letter to the European Commission on the MiFIR review and emphasised specifically the transparency regime for single name-CDS and standardised OTC-derivatives, based on lessons learned from the banking stress in March this year;
 - a final report on the review of the RTS on the EMIR Clearing Obligation (CO) and MiFIR Derivative Trading Obligation (DTO) in the context of the benchmark transition;

- a manual on post-trade transparency under MiFID II/ MiFIR, which promotes common approaches and practices in the areas of post-trade transparency and transparency calculations for equity and non-equity instruments;
- the annual report 2022 on Waivers and Deferrals;
- four Opinions on:
 - RTS 1 and 2 amendments in relation MiFID II/ MiFIR provided to the European Commission;
 - the trading venue perimeter (including a final report), which provides guidance on when systems should be considered as multilateral systems and seek authorisation as a trading venue;
 - market outages (including a final report), which sets out ESMA's expectations on how NCAs should ensure that trading venues have appropriate communication protocols to avoid an outage affecting the closing auction and that the market is provided with an official closing price; and
 - position limits on TTF gas, corn, rapeseed, milling wheat and farmed salmon contracts, setting exact position limits for commodity contracts.
- three Q&As on:
 - MiFIR data reporting;
 - MiFID II and MiFIR market structures topics; and
 - MiFID II and MiFIR transparency topics.

2.6.2 Post-trading Market Infrastructure

- In relation to the **European Market Infrastructure Regulation (EMIR)**, ESMA has published:
 - three final reports:
 - on the guidelines for reporting under EMIR Refit;
 - on the Review of the RTS with respect to the procyclicality of CCP margins;
 - on the clearing obligation in view of the benchmark transition (jointly with the MiFIR derivative trading obligation, see above).
 - a consultation paper on the amendments to Guidelines on position calculation under EMIR Refit.
 - guidelines further specifying the circumstances for temporary restrictions in the case of a significant non-default event in accordance with Article 45a of EMIR.
- As part of the Joint Committee of the ESAs, ESMA has contributed to the preparation of a letter to the European Commission on EMIR bilateral margining framework and equity options.

2.7 Central Counterparties

- Under the CCP Recovery and Resolution Regulation (CCPRRR), ESMA has delivered:
 - a report on draft RTS on Business Reorganisation Plans.
 - nine guidelines on:
 - the types and content of the provisions of Cooperation Arrangements;
 - the assessment of resolvability (Article 15(5) of CCPRRR);
 - the Template written arrangement for resolution colleges;
 - the summary of resolution plans;
 - CCP recovery plan indicators (Article 9(5) CCPRRR);
 - CCP recovery plan scenarios (Article 9(12) of CCPRRR);
 - the methodology to be used by the resolution authority for determining the valuation of contracts prior to their termination as referred to in Article 29(1) of CCPRRR;
 - the consistent application of the triggers for the use of Early Intervention Measures; and
 - the application of the circumstances under which a central counterparty is deemed to be failing or likely to fail.
- With regards to supervisory and convergence priorities related to CCP, ESMA has published a report on the 2023-2025 CCP Strategic Objectives.

2.8 Central Securities Depositories

- ESMA has issued a final report amending Article 19 of the RTS on settlement discipline (European Commission Delegated Regulation (EU) 2018/1229), aimed at simplifying the process of collection and distribution of cash penalties for settlement fails relating to cleared transactions.

2.9 Securitisation Repositories

- As part of the Joint Committee of the ESAs, ESMA led the drafting of the Final RTS on ESG disclosures for Simple, Transparent and Standardised securitisations.
- ESMA has also published 28 Q&As on the Securitisation Regulation (11 new Q&As under the Joint Committee Securitisation Committee (JCSC); 17 new or revised ESMA Q&As on securitisation topics).

- ESMA has also contributed to:
 - the joint ESAs-ECB Statement on disclosure on climate change for structured finance products to facilitate access to climate-related data with a view to improving sustainability-related transparency in securitisations and to promoting consistent and harmonised requirements for similar instruments; and
 - two pieces of advice from the Joint Committee to the European Commission on the revision of the prudential framework for securitisation exposures for banking and insurance.

2.10 Market Integrity

- ESMA has published:
 - an annual report on the Market Abuse Regulation (MAR) administrative and criminal sanctions;
 - a report on Suspicious Transaction and Order Reports (STORs);
 - a follow-up report on the Call for Evidence on pre-hedging; and
 - a revised Q&A on the MAR.
- ESMA has also issued a letter to the Economic and Financial Affairs Council of the Council of the European Union and to the Chair of the Committee on Economic and Monetary Affairs of the European Parliament regarding concerns with proposed changes to the insider list regime under the Listing Review proposals.

3 ESMA as an organisation

3.1 Governance

- ESMA has published its 2023-2028 Strategy, its Annual Work Programme 2024 and 2022 Annual Report. In addition, it contributed to the Joint Committee Annual Work Programme for 2024, and to the Joint Committee Annual Report 2022.
- ESMA has issued its Environmental Statement 2022. In line with its EMAS registration, ESMA aims to ensure the environmental impact of its activities and daily operations is kept as low as possible and that we operate in a sustainable way.

3.2 International and institutional cooperation

- Throughout the year, ESMA has been accountable to and has worked closely with the EU Institutions. In line with the ESMA Regulation, ESMA has advised the European Commission, the European Parliament, and the Council of the EU on various legislative initiatives.
- From an international perspective, ESMA has contributed to the work of standard-setting bodies, such as FSB and IOSCO, where it played an important role in shaping standards that are likely to affect EU legislation and markets.
- ESMA continued to enhance its cooperation with third-country regulators and supervisors. ESMA participates along with the European Commission in regulatory dialogues with the EU's key economic partners, in particular the USA, Japan, and Canada, notably to monitor regulatory development and work towards the convergence of international standards. Throughout the past months, ESMA has also been supportive of the preparations for the EU-UK Regulatory Dialogue. In addition, ESMA maintained strong bilateral supervisory relations with key non-EU supervisors.
- Finally, ESMA assessed existing equivalence decisions as part of its equivalence-monitoring mandate – the findings of this exercise informed a confidential report which was shared with the European Parliament, the Council of the EU, and the European Commission in December 2022, as per the ESMA Regulation.

3.3 Resources

This section provides key figures about ESMA staff as of 30 September 2023: total number of staff, gender balance, contract types and nationalities.

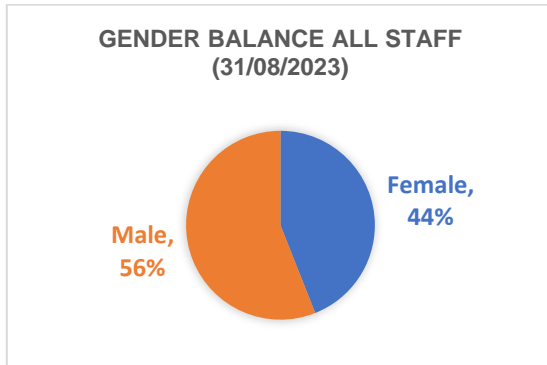
Number of staff

Years	Count of staff
2011	56
2012	83
2013	139
2014	153
2015	186
2016	204
2017	224
2018	231
2019	233
2020	250
2021	292
2022	317
2023	337

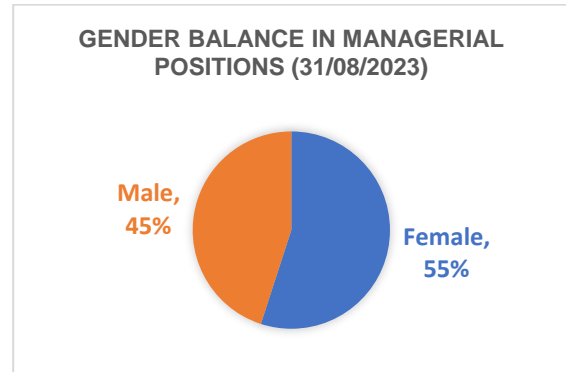
Staff per contract type

Contract type	Count of staff
Temporary Agents	229
Contract Agents	83
Seconded National Experts	25
Total	337

Gender balance of all staff



Gender balance in managerial positions



Staff by nationality

Nationality	Count of staff
AT	2
BE	5
BG	7
CZ	5
DE	27
DK	2
ES	18
FI	2
FR	83
GB	3
GR	26
HR	3
HU	7
IE	12
IT	68
LT	4
LV	4
MT	2
NL	12
NO	1
PL	10
PT	4
RO	18
SE	5
SI	2
SK	3
ZA	1
JP	1
Grand Total	337