



Annex to the Statement
by Steven Maijoor, Chair of ESMA
to the ECON hearing, 12 October 2019

**Facts and figures
from 16 October 2019 to 12 October 2020**

ESMA enhances investor protection and promotes stable and orderly financial markets through

- (1) developing a single rulebook for EU financial markets;
- (2) supervising certain financial entities;
- (3) promoting supervisory convergence; and
- (4) assessing risks to investors and financial stability.

1. Developing a single rulebook for EU financial markets

In relation to ESMA's statutory objective of building a single rulebook for the EU and ensuring its effective implementation, the Authority has undertaken the following work since 16 October 2019:

- **15 draft Technical Standards (TS)** including draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS):
 - 2 RTS under CSDR on the date of entry into force of the CSD settlement regime;
 - 5 RTS under the Benchmarks Regulation on the governance arrangements of administrators, the methodology of a benchmark, the reporting of infringements, the mandatory administration of a critical benchmark and the compliance statement;
 - 1 RTS and 2 ITSs on the provision of investment services and activities in the Union by third-country firms under MiFID II and MiFIR;
 - 1 RTS on the 2020 update of the taxonomy to be used for the ESEF;
 - 1 RTS on the functioning of CCP colleges under EMIR;
 - 1 ITS on the main indices and recognised exchanges under CRR;
 - 1 RTS on amendments to the non-equity transparency regime under MiFIR; and

- 1 Joint Committee RTS on amendments to the bilateral margin requirements under EMIR.

- **9 Technical Advice (TA):**
 - 3 TAs on tiering criteria, comparable compliance and fees under EMIR 2.2;
 - 1 TA on the effects of product intervention measures under MiFIR;
 - 1 TA on the impact of the inducements and costs and charges disclosure requirements under MiFID II;
 - 1 TA on the Rules of Procedure on Penalties to be imposed on TC CCPs, TRs and CRAs;
 - 1 TA on the commercial terms for providing clearing services under EMIR (FRANDT);
 - 1 TA on weekly position reports under MiFID II; and
 - 1 TA on authorisation and recognition fees under BMR.

In addition, ESMA published several reports during this period, including a report on C6 energy derivatives and EMIR obligations and an EMIR Refit report on aligning clearing and trading obligations.

Following consultations, ESMA also published a number of reports as part of a MiFID II/MiFIR review, respectively covering the (1) the MiFIR transparency regime for equity instruments, (2) the pre-trade transparency obligations applicable to systematic internalisers in non-equity instruments, (3) the cost of market data and consolidated tape for equity instruments and (4) position limits and position management for commodity derivatives. Moreover, ESMA launched three further consultations on the MiFID review on SME growth markets, the functioning of organised trading facilities (OTFs) and reference data and transaction reporting. ESMA also conducted a survey on the quality of OTC-post-trade data following the aforementioned MiFIR review report on the cost of market data. ESMA conducted survey on OTFs and algo trading in the context of the MiFID reviews on these topics.

ESMA also issued a review report following a public consultation on the Market Abuse Regulation and a call for evidence on the effects of product intervention measures regarding CFDs and binary options on market participants and clients.

ESMA provided responses to four European Commission consultations, respectively covering



questions on the Benchmarks Regulation, the review of the Non-Financial Reporting Directive, the Digital Finance Strategy, the Renewed Sustainable Finance Strategy and the establishment of an EU Green Bond Standard.

Moreover, ESMA published its report relating to ESMA's advice concerning undue short-term pressure on corporations from the financial sector. The report presents ESMA's findings on potential undue short-term pressures in securities markets and recommendations for actions in specific areas.

ESMA also issued a letter to the European Commission providing suggestions for revisions in the context of the AIFMD review.

Finally, ESMA also published its Final Report on cum/ex, cum/cum and withholding tax reclaim schemes following the adoption by the European Parliament of the Resolution 2018/2900 (RSP) of 29 November 2018, requesting the European Securities and Markets Authority (ESMA) to conduct an inquiry into dividend arbitrage, Cum/Ex and Cum/Cum schemes.

2. Direct supervision of financial entities by ESMA

ESMA is responsible for the supervision of Trade Repositories (TRs) and Credit Rating Agencies (CRAs). Now that the EC Delegated Acts under EMIR 2.2 have entered into force, and that the Chair and two Independent Members of the CCP Supervisory Committee are appointed, ESMA will also start supervising Tier 2 Third-country CCPs (Tier 2 TC-CCPs).

- **Supervision of TRs under EMIR**

- During this period ESMA registered no new TRs under EMIR. In the first half of 2020 CME Group took the strategic decision to wind down most of its regulatory reporting services, including the two EU TRs of the Group: NEX Abide Trade Repository AB (NATR) and CME European Trade Repository (CMETR). As a consequence, ESMA withdrew the registration of NATR in July 2020 and will revoke the EMIR licence of CMETR once the relevant wind down process is concluded. The total number of TRs currently registered by ESMA is 7. In addition to the wind down of CMETR this number will decrease in the coming months also due to the end of the Brexit transition period and the consequent withdrawal of the registrations of the UK-based TRs.
- There are more than 50 EU regulatory authorities that have access to at least one TR as of October 2020. They include National Competent Authorities (NCAs), national central banks, ESRB, ECB, EIOPA, ACER and ESMA.
- As of October 2020, the TRACE infrastructure (launched in Aug 2016) facilitates data access for 37 NCAs through a single platform.

- Since the EMIR reporting start date back in 2014, the TR industry has collected more than 100 billion derivatives reports in total.
 - For the last 3 months, there has been on average more than 80 million trade reports submitted each day to TRs.
 - In line with its 2020 work programme, since October 2019, ESMA has continued to work on its main supervisory priorities of TR data quality and data access by authorities, TR business continuity planning, IT process and system reliability and information security through day-to-day supervision, thematic reviews and individual investigations.
 - Finally, ESMA has also referred one new enforcement case to an independent investigating officer (IIO).
- **Supervision of TRs under the Securities Financing Transactions (SFT) Regulation**
 - Under the SFT Regulation, relevant registered TRs collect from counterparties reports with the details of SFTs and provide access to this data for the respective regulatory authorities.
 - ESMA has approved the extension of registrations of four TRs already registered under EMIR to include SFT reporting.
 - Reporting obligations, that were to come into effect in April 2020, were postponed to 13 July in the COVID-19 context. On 13 July, all four TRs opened their systems and began receiving and processing SFT data submitted by reporting firms.
 - ESMA established and will start implementing its supervisory framework under SFTR with a specific focus on data quality and follow-up on potential risks that have been identified during the registration process.
 - ESMA has also extended its existing TRACE system, currently used under EMIR, to enable the authorities to submit data requests and retrieve the relevant data from the TRs through a single access point.
 - **Supervision of CRAs**
 - Since October 2019, one CRA had its registration voluntarily withdrawn.
 - ESMA now supervises 27 CRAs and four certified CRAs. During the period no new CRAs were registered. The number of registered CRAs will decrease in the coming

months due to the end of the Brexit transition period and the consequent withdrawal of the registrations of the UK-based TRs.

- In line with its 2020 work programme, since October 2019, ESMA has continued to work on the risks identified in CRAs' outstanding credit ratings, the quality of the rating process and cybersecurity. More specifically ESMA has worked on:
 - A Thematic report into the process that CRAs follow in assigning credit ratings on Collateralised Loan Obligations (CLO). The report provides an overview of CLO rating practices and identifies the main supervisory concerns, and medium-term risks, in this asset class which include CRAs' internal organisation, their interactions with CLO issuers, operational risks, commercial influence on the rating process and the need for proper analysis of CLOs. ESMA has also individually shared with the big 3 CRAs its expectations with regard to compliance of their CLO rating process and methodologies with the CRA Regulation; and
 - A call for evidence on Credit Rating Information and Data that aims to map the principal activities (regulatory and otherwise) undertaken by various types of users of credit ratings. For each activity (e.g. risk management, market research, regulatory reporting), ESMA aims to identify users' specific rating data needs (e.g. format, frequency, scope, downloadability etc) and how these needs correspond with the information currently provided on the European Rating Platform and on CRAs' public websites.
- ESMA reprioritised some of its activities due to the unexpected monitoring activity that had to be taken regarding the impact of COVID-19 on CRAs and credit ratings. Indeed, as a response to the COVID-19 crisis, ESMA has increased its engagement with CRAs to assess the impact of COVID-19 on their operations, focussing on business continuity and adherence to key requirements of the CRA Regulation. In addition, ESMA has closely monitored CRAs' rating actions through enhanced data analytics to assess the possible impact of ratings actions on financial stability.
- **Common areas of supervision across CRAs and TRs**
 - Brexit has continued to be a key area of focus for ESMA during 2020 despite COVID-19. Since 31 January 2020, ESMA has continued to monitor the contingency plans implemented by CRAs and TRs ahead of the end of the transition period.
 - ESMA has also published its Follow-up Thematic Report on fees charged by CRAs and TRs, which is aimed at enhancing the CRA and TR industries' standards in the areas of transparency to customers, cost monitoring and fee setting processes.

- Finally, ESMA has worked on the operationalisation of BWISE (a new risk assessment and workflow tool) for the supervision of CRAs and TRs.

- **Sanctions**

- Sanction on SCOPE Ratings: A fine of 640K EUR was imposed and a public notice adopted for breaches by SCOPE Ratings of the Credit Rating Agencies Regulation (CRAR) in relation to the systematic application of its 2015 Covered Bonds Methodology and its revision (adoption 28 May 2020, publication on 4 June 2020). SCOPE Ratings has lodged an appeal on 28 August 2020 before the joint Board of Appeal of the ESAs.

- **Recognition of third-country Central Counterparties (CCPs)**

Since September 2013, 54 third-country CCPs (TC-CCPs) have applied to ESMA for recognition under EMIR.

Following the equivalence decisions for 14 third countries taken so far by the European Commission, a total of 35 CCPs established in the jurisdictions corresponding to the countries covered by the scope of these equivalence decisions are currently recognised by ESMA. Most recently, on 28 September, ESMA announced that the three UK CCPs that were conditionally recognised as a preventive measure in case of a no-deal Brexit scenario in view of their systemic importance in the financial system, will be recognised on 1 January 2021, after the European Commission has adopted a temporary equivalence decision covering UK CCPs.

In addition, ESMA has been implementing the changes introduced by EMIR 2.2 in terms of responsibilities, scope of activity and governance. This has involved both a regulatory aspect (namely the technical advice on tiering, comparable compliance and fees finalized this year), but also adapting the organisation to its enhanced role including the establishment of the CCP Supervisory Committee.

3. Promoting supervisory convergence

As part of the ESMA Strategic Orientation 2016-2020, ESMA significantly increased its activities in the area of supervisory convergence to ensure a consistent application of EU regulation in the Single Market and to foster a common supervisory culture. ESMA laid out the following supervisory convergence priorities for 2020:

- Implement its strengthened convergence and co-ordination powers under the new founding regulation and foster exchanges on supervisory and enforcement matters;
- Detect and handle issues that emerge in the application of the MiFID II/MiFIR framework

for secondary markets and investor protection, together with developing a common understanding of arising supervisory challenges;

- Invest high efforts in achieving a common interpretation of rules, bringing consistency in National Competent Authorities (NCAs) supervision and enforcement around investor protection, including cost and performance looked at from a transversal perspective;
- Continue giving attention to the quality of reported data, as a precondition to data-driven supervision, through action plans, methodologies, having also regard to the outcome of the EMIR data quality peer review; and
- Monitor market developments to drive ESMA's convergence initiatives for financial innovation concentrating on regulation and supervision of ICOs and crypto assets, innovative FinTech business models, national innovation hubs and regulatory sandboxes, cyber security and cyber resilience.

ESMA has supported supervisory convergence, among others, by issuing Guidelines, Opinions, Questions and Answers (Q&As), fostering discussion of concrete supervisory cases, conducting peer reviews and organising workshops or training sessions. In addition, ESMA has worked on the implementation of its new or enhanced convergence tools arising from the ESAs' Review, such as Q&As, Peer Reviews, and Union Strategic Supervisory Priorities.

In the context of COVID-19, ESMA has:

- Under the Short Selling Regulation:
 - Issued the first ESMA decision on lower thresholds for reporting net short positions that was renewed in June and in September;
 - Issued Opinions on emergency measures taken by the CNMV (2), CONSOB (1), AMF (2), FSMA (2), HCMC (2) and FMA (2) (i.e. 11 opinions);
- Under MiFID/MiFIR:
 - Issued a statement on the MiFID II requirements on the recording of telephone conversations under Article 16(7) of MiFID II;
 - Issued a statement on the publication of reports by execution venues and firms as required under RTS 27 and 28;
 - Issued a statement regarding firms' MiFID II conduct of business obligations in the context of increasing retail investor activity and on the application of the tick size regime for systematic internalisers;

- Issued a statement on the application of the open access regime to exchange traded derivatives;
- Under the Transparency Directive:
 - Issued a statement on accounting implications and calculation of credit losses under IFRS 9;
 - Made a statement on publication deadlines under the Transparency Directive
 - Issued a statement with recommendations to provide transparency on COVID-19 effects in 2020 half-yearly and other interim financial reports;
- Under the Benchmarks Regulation:
 - Issued a statement on coordinated action on benchmarks' external audit requirements;
- In the investment management area:
 - Reinforced its ongoing coordination role, including by collecting frequent data from NCAs on the use of liquidity management tools by asset managers;
 - Issued a statement on deadlines for the publication of yearly and half-yearly periodic reports by fund managers under the UCITS Directive, the AIFMD, the EuSEF Regulation and the EuVECA Regulation;
 - Issued a statement on the application of article 35 of the MMF Regulation (on the prohibition for MMFs to receive direct or indirect financial support from third parties);
 - Issued a statement on the update of the Guidelines on MMF stress tests.

Furthermore, ESMA published a statement on the continued applicability of Q&As published under the old Prospectus Directive.

As foreseen in its Annual Work Programme, ESMA has also issued:

- **9 sets of Guidelines:**
 - 1 set of Guidelines on internal controls in Credit Rating Agencies;
 - 1 set of Guidelines on standardised procedures and messaging protocols under CSDR;

- 1 set of Guidelines on reporting under SFTR (incl. reporting instructions and validation rules);
- 1 set of Guidelines on written agreements for CCP colleges under EMIR;
- 1 set of Guidelines on performance fees in UCITS and certain types of AIFs;
- 1 set of Guidelines on disclosure requirements under the Prospectus Regulation;
- 1 set of revised Guidelines on the compliance function under MiFID II/MiFIR;
- 1 set of Guidelines on securitisation repositories data completeness and consistency thresholds; and
- 1 set of Guidelines on portability of information between securitisation repositories under the securitisation regulation.

ESMA has also published a consultation paper on Guidelines on leverage under art. 25 AIFMD and amendments to Guidelines on Enforcement of Financial Information as well as on the review, together with EBA, of the joint Guidelines on the suitability of management bodies under CRD and MiFID II.

Pursuant to Article 16(4) of the ESMA Regulation, ESMA has to inform the European Parliament, the Council and the Commission of the Guidelines and Recommendations that have been issued, stating which competent authority has not complied with them. ESMA also outlines how it intends to ensure that the competent authority concerned follows its recommendations and Guidelines in the future. To meet this objective, ESMA has continued publishing on its website compliance tables for each set of Guidelines, as well as an overview table of all of them, showing all of the notifications of compliance, non-compliance, or intention to comply.

For all Guidelines issued by ESMA since its inception, there are currently 21 instances (2%) in which an NCA has declared non-compliance with a set of Guidelines (compared to 20 instances in October 2019). The slight increase over the last twelve months is due to an update received from one NCA in which they stated their non-compliance with the ESMA *Guidelines on the exemption for market making activities and primary market operations under the Short-Selling Regulation*.

ESMA's tools like Opinions, Advice, Decisions, No-action letters, Peer Reviews, Questions and Answers and Supervisory briefings are useful tools ESMA uses on a regular basis. During the reporting period, ESMA issued:

- **274 Opinions, Advice and Decisions, No-action letters:**
 - Over 240 Opinions under MiFID on individual pre-trade transparency waivers;

- 1 Opinion under MiFID on the general application of pre-trade transparency waivers;
- 1 Opinion under MiFID on frequent batch auctions;
- 20 Opinions under MiFID on position limits for commodity derivatives;
- 1 updated Opinion under MiFID on ancillary activity calculations;
- 1 Opinion under MAR on a CONSOB Accepted Market Practice;
- 4 Opinions on NCA proposed product intervention measures: (2 related to CFDs (1 on the Norwegian and Hungarian measures, respectively) and 2 relating to Binary Options (1 on the Norwegian and Hungarian measures, respectively))
- 4 Advices under BMR on recognition applications; and
- 1 No-action letter including 2 opinions under BMR on climate related benchmarks.
- **67 Questions and Answers (Q&As):**
 - 17 Q&As under MiFID II/MiFIR;
 - 1 Q&A under AIFMD;
 - 3 Q&As under EMIR;
 - 5 Q&As under CSDR;
 - 1 Q&A under ESMA's Guidelines on alternative performance measures;
 - 4 Q&As under the Prospectus Regulation;
 - 3 Q&As under BMR;
 - 1 Q&A on the conduct of annual and semi-annual reviews of credit ratings under CRAR; and
 - 32 Q&As under the Securitisation Regulation.
- **Supervisory briefings:**
 - Supervisory briefing on the transmission of information to ESMA under CSDR;

- Supervisory briefing on the implementation of requirements on the processing of personal data under MAR;
 - Supervisory briefing on compliance with the MiFIR pre-trade transparency requirements in commodity derivatives;
 - Supervisory briefings on selection methods and on examination procedures relating to the enforcement of financial information;
 - Supervisory briefing on the supervision of costs in UCITS and AIFs;
 - Supervisory briefing on supervision of funds' costs providing the basis for harmonised NCAs' supervision on cost of funds products;
 - Supervisory briefing on BMR recognition applications; and
 - In the context of the LEI Supervisory Briefing, an assessment report on the applications this briefing.
- **Peer reviews**
 - In October 2019, ESMA published its final report on the peer review into supervisory actions aiming to enhance the quality of data reported under EMIR. The report assessed the supervisory practices of six NCAs (Cyprus, France, Germany, Ireland, the Netherlands and the UK). ESMA, too, was included as part of the peer review, as it has an important role to play in improving data quality as the supervisor of TRs. The peer review assessed the following three areas: the general supervisory approach to EMIR data quality, the integration of EMIR into the overall supervisory approach, and the assessment of and analysis of EMIR data.

This peer review presented a mixed picture of the six NCAs in each of the three assessment areas. The peer review identified that some NCAs have progressed further in terms of their supervisory journey to enhance the quality of data reported under EMIR. The peer review identified ESMA as performing well in each assessment area. To encourage all NCAs and to further improve supervisory actions to improve data quality, the peer review identified a range of short and long-term supervisory and policy initiatives to achieve this objective. In addition, the report lists the good practices that were encountered.
 - In December 2019, ESMA published the peer review report on how NCAs handle suspicious transactions and order reports (STORs) under MAR. The ESMA peer review assessed all 31 EEA NCAs in six areas 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, but it also identified areas for improvement and called for strengthened supervision. For example, ESMA recommends that NCAs should ensure that all financial players subject to the STOR requirements, including wholesale market participants such as asset managers, are complying with the STOR requirements. In addition, NCAs should enhance their focus on suspected non-reporting/poor reporting of STORs including, where appropriate, enforcing and sanctioning non-compliance.

- In July 2020, ESMA has decided to launch a fast track peer review in the context of the Wirecard case to assess the supervisory response in the financial reporting area by BaFin, the central competent authority, and by FREP, the authority responsible for examining whether information referred to in the Transparency Directive is drawn up in accordance with the relevant reporting framework. The ongoing assessment focuses on the application of the 2014 Guidelines on the Enforcement of Financial Information by BaFin and FREP in performing the supervisory activities in relation to the Wirecard case. The Peer Review Committee aims at finalising the peer review report by the end of October. The peer review is performed in the form of a fast track peer review under the ESMA Peer Review Methodology, as updated following the adoption of the revised ESMA Regulation.

Other key supervisory convergence actions:

- **UK's withdrawal from the European Union**

- The preparation for the UK's withdrawal from the European Union has been a topic of utmost importance to ESMA for the past few years. This has been particularly the case this past year, as preparations were continuously adapted to the uncertainty of the situation and the date of Brexit being postponed three times.
- ESMA continued to take actions to ensure the readiness of financial market participants through surveys of EU NCAs, frequent communication with the EU NCAs and with the UK FCA, and updates of its communication to market participants.
- ESMA's Supervisory Coordination Network, set up in June 2017, finalised its work this year. To recall, the Network was made up of senior representatives of NCAs and had the objective to enhance mutual understanding through information exchange, sharing of good practices and discussions of key issues arising from relocation of firms, notably investment firms, asset managers and trading venues, in the scope of the UK's withdrawal from the EU. The network held discussions of concrete real-life cases between members, proactively promoting supervisory convergence among NCAs. As of end September 2020, the SCN has discussed

more than 240 cases and nearly 150 follow-ups to these cases.

- Furthermore, ESMA contributed to new tasks such as assisting the European Commission in its equivalence assessment of the UK's regulatory and supervisory frameworks in various areas.
- In addition, ESMA reconfirmed the validity of the MoU on consultation, cooperation and exchange of information between ESMA and the UK FCA, and of the MMoU between EEA NCAs and the UK FCA, which will take effect after the end of the transition period.
- ESMA's IT systems are also being prepared for the end of the transition period.
- **Implementing a structured approach to risk and problem identification ensuring more coordinated and consistent supervision in the EU**
 - Steps were taken to implement a new framework of structured risk and problem identification and foster a common EU risk-based and outcome-focused supervisory culture with the aim of achieving more consistent supervision and similar outcomes across the EU.
 - Reinforced dialogue and cooperation among NCAs' supervisors and enforcement specialists were encouraged. Further to the successful experience in 2019, ESMA brought together NCAs' lead supervisors to exchange views on efficient practices, expectations and challenges in the design of risk-based supervision, particularly as regards the elements of market coverage, governance and transparency. At another occasion, the exchanges focused on challenges posed by conducting supervision during the COVID-19 confinement, on how to carry out supervisory activities in an effective manner under a teleworking environment.
 - A framework was put in place for reinforced supervisory cooperation of EU NCAs in the post-Brexit context, called "Voluntary Supervisory Colleges (VSC)" with inaugural meetings taking place end 2019/early 2020.
- **Interactive Single Rulebook**
 - During 2020 ESMA has expanded the Interactive Single Rulebook (ISBR), available on the ESMA's website, to include an ISRB on CSDR, on BMR, on SFTR and on the Transparency Directive. This adds to the previously published interactive versions of the UCITS Directive, the CRA Regulation, MiFID II and MiFIR. The ISRB is designed as an online tool allowing a comprehensive overview of, and an easy access to, all level 2 and level 3 measures adopted in relation to a given level 1 text. The objective is to facilitate the consistent application of the EU single rulebook in the securities markets area.

- **Mediation, breach of Union law (BUL) and complaints handling**
 - ESMA has not been involved in formal procedures on binding mediation under Article 19 of the ESMA Regulation in the last year.
 - ESMA monitors and assesses complaints received within the breach of Union law framework (Article 17 of ESMA Regulation). ESMA received 166 new complaints between 16 October 2019 and 11 September 2020.
 - During this period, ESMA closed 137 complaints which were considered inadmissible and 4 admissible complaints.
 - Regarding the admissible complaints, ESMA sent, in 2020, 3 requests for information to national competent authorities under Article 35 of the ESMA Regulation.

- **Other actions**
 - ESMA published reports on:
 - EMIR penalties and supervisory measures;
 - CCP membership criteria and due diligence following Nasdaq default; and
 - the use of Alternative Performance Measures and on the compliance with ESMA's APM Guidelines;
 - Also published were ESMA's annual reports on:
 - accepted market practices under MAR;
 - sanctions under MAR;
 - waivers and deferrals under MiFIR;
 - sanctions and measures imposed under MiFID II;
 - sanctions under the UCITS Directive.
 - ESMA organised two workshops gathering representatives from NCAs to discuss supervisory issues in the investment management sector, namely on the following topics: (i) closet indexing and (ii) sanctions.

- ESMA also developed an AIFMD Data Quality Engagement Framework.
- ESMA continued to systematically assess the quality of FIRDS and TREM data in accordance with the applicable Data quality methodologies and delivered to the Board the semi-annual reports on FIRDS and the annual report on TREM. Reports, among others, specified data quality issues identified during the given period and actions undertaken by the competent authorities to address those issues.
- As regards the new references to mystery shopping in the ESMA Regulation, an approach to a two-phase implementation was developed.
- ESMA continued to update the register of administrators of benchmarks and 3rd country benchmarks. The register includes all the EU and 3rd country administrators who have been authorised, registered, or recognised in the EU by the relevant EU National Competent Authority and the related 3rd country benchmarks that can be used in the Union.
- ESMA continued to maintain up to date the register on Standard, Transparent and Simple (STS) securitisation, which as of yet contains 347 entries. For a securitisation to be designated as an “STS” securitisation, originators and sponsors are required to notify ESMA that the transaction complies with each STS requirement and explain how.
- ESMA published a Public Statement on European common enforcement priorities for 2019 annual financial reports, covering IFRS financial statements as well as disclosure in non-financial statements and on alternative performance measures.
- In January, ESMA launched a common supervisory action on UCITS liquidity management. Under this common supervisory action, NCAs are simultaneously carrying out an assessment of whether market participants in their jurisdictions adhere to the relevant rules in their day-to-day business. This is being done on the basis of a common methodology developed jointly. Its first stage involves NCAs requesting quantitative data from a large majority of the UCITS managers based in their respective Member States. The second stage involves a more in-depth supervisory analysis of a sample of UCITS managers and UCITS.
- In February, ESMA launched a common supervisory action on suitability under MiFID II. This action will allow ESMA and NCAs to gauge the progress made by intermediaries in the application of this key requirement. It will also help in the analysis of whether, and how, the costs of investment products are taken into account by firms when recommending such a product to a client.
- In April, ESMA concluded its common supervisory action on appropriateness under

MiFID II. 24 NCAs participated and follow-up work in areas where divergences emerged is ongoing through the possible development of guidelines in this area.

- ESMA, together with the other ESAs, conducted a survey on the exchange of information on fit and proper tests among NCAs across the various sectors.
- ESMA assessed and published two lists of third-country trading venues for the purpose of post-trade transparency and position limits.
- Finally, ESMA organised, between October 2019 and September 2020: 8 training sessions, gathering 646 participants from NCAs on topics such as MiFID II/MiFIR, UCITS, AIFMD, Market Abuse. This was a lower number than planned, due to Covid-19 constraints. ESMA has also offered about 400 e-learning courses for about 200 users.

4. Assessing risks to investors and financial stability

Over the last 12 months, ESMA has:

- issued 2 reports on Trends, Risks and Vulnerabilities (TRV) in the EU, including in-depth topical analyses of the following areas: model risk in CLO ratings, interconnectedness in the EU fund industry, first evidence on the impacts of the MiFID II research unbundling provisions, the cost and performance of potential closet indexing funds, short-termism pressures in financial markets, implications of Big Tech companies for financial markets, risk exposures of EU funds to potential bond downgrades;
- published 2 Risk Dashboards, featuring a clear and intuitive categorisation of risk levels for (retail) investors and other stakeholders to better understand risks they might be exposed to, based on sophisticated, state-of-the-art risk metrics;
- published 1 Risk Dashboard update in April 2020 to take account of the financial market impacts of the Covid-19 pandemic;
- issued its second Annual Statistical Reports on EU Derivatives Markets, EU Alternative Investment Fund Markets and the Performance and Cost of retail investment products;
- monitored regularly market developments and industry trends related to the UK leaving the EU;
- monitored, on an ongoing basis, COVID-19 market impacts, and in particular, of CCPs' resilience, fund liquidity and valuation issues, risks around potential rating downgrades and settlement fails. In particular, ESMA set-up and collected daily reporting by EU CCPs, EU CSDs and NCAs on key metric to monitor and analyse the operational resilience of

EU CCPs and CSDs;

- published a report on the markets impact of circuit breakers;
- published a report on closet indexing indicators and investor outcomes;
- executed MiFID and MiFIR publications (DVCAP, Equity Annual and Transparency) as planned; and
- published the final report relating to its third EU-wide CCP stress test exercise. This exercise focused, in addition to the credit and liquidity elements, also a new component of the concentration stress. The results confirmed the overall resilience of EU CCPs to multiple shocks.

5. ESMA's role in the field of international cooperation

This past year, ESMA has, as part of its remit, worked extensively with IOSCO in its position as an observer to the IOSCO Board as well as a member and observer to certain IOSCO Committees and Sub-Groups.

In the COVID-19 crisis context in particular, ESMA has regularly participated in IOSCO Board meetings, and took on a leadership role within the structures of IOSCO's Financial Stability Engagement Group (FSEG). In parallel, ESMA also continued participating in some of the Financial Stability Board's (FSB's) work, including its Committee on Assessment of Vulnerabilities (SCAV) and Steering Committee on Non-Bank Financial Intermediation. In all these groups, ESMA led IOSCO FSEG and SCAV work on procyclical effects of credit ratings, incl. the potential mechanistic reliance on ratings.

ESMA's own international work has continued to see its focus on equivalence assessments and developing and concluding cooperation agreements. In particular, an MoU was concluded with Singapore's MAS and Australian's ASIC for the supervision of benchmarks administrators. In addition, in this context, ESMA actively participated in IOSCO's report on application of deference and equivalence tools and developing "Good practices for processes on deference".

ESMA is actively involved in various international fora, including CPMI-IOSCO and FSB, in the adoption and promotion of the global reporting identifiers (e.g. LEI, UPI, UTI) as well as development of the global reporting standards (e.g. ISO 20022 messages on the Critical Data Elements for OTC derivatives reporting). Moreover, ESMA is heavily engaged in the process of transforming the Regulatory Oversight Committee for the Global Legal Entity Identifier System into the Regulatory Oversight Committee for the Global Legal Entity Identifier System and Governance of Certain Other Global Data Identifiers and Elements.

Furthermore, as an organisation responsible for the development of regulations affecting the EU's



financial markets and for the supervision of key market participants, ESMA is closely involved in day to day cooperation with its regulatory and supervisory counterparts in third country jurisdictions.

In addition, the IOSCO-ESMA Administrative Arrangement, designed for the transfer of personal data between EEA and non-EEA financial authorities, as required under the EU General Data Protection Regulation (GDPR), now brings together 50 signatories.

The entry into force of the ESAs' review in January of this year has also brought new mandates to ESMA in terms of equivalence monitoring. In this context, ESMA has developed an approach to equivalence monitoring for the years to come. It is also namely in this context that ESMA has reactivated its International Relations Network, which will be used to coordinate various European positions on the international regulatory developments where appropriate.

6. ESMA as an organisation:

- **Implementation of the ESAs' Review**

Following the entry into force of the revised ESMA Regulation on 1 January 2020 (as the result of the ESAs' Review), ESMA has integrated the consideration of sustainability and proportionality in all of its activities.

In particular, in February 2020 ESMA published its Strategy on Sustainable Finance. The strategy sets out how ESMA will place sustainability at the core of its activities by embedding Environmental, Social, and Governance (ESG) factors in its work.

In addition, ESMA established its Advisory Committee on Proportionality (ACP). The role of this committee is to advise ESMA on how its actions and measures should take into account specific differences prevailing in the relevant financial market sector.

- **Conflict of interests and independence**

In 2020 ESMA has updated its Conflict of Interests and Ethics (CoI) Policy for Staff by introducing a few amendments to it. In particular, the new CoI Policy was extended to cover the Chair as well as the two independent members of the new CCP Supervisory Committee established under EMIR.

Finally, in view of the recommendations of the EU Ombudsman addressed to EBA in relation to the enquiry into its former Executive Director's move to a finance lobby group AFME, ESMA is reviewing these recommendations and whether and how ESMA should change its current policies and practices.

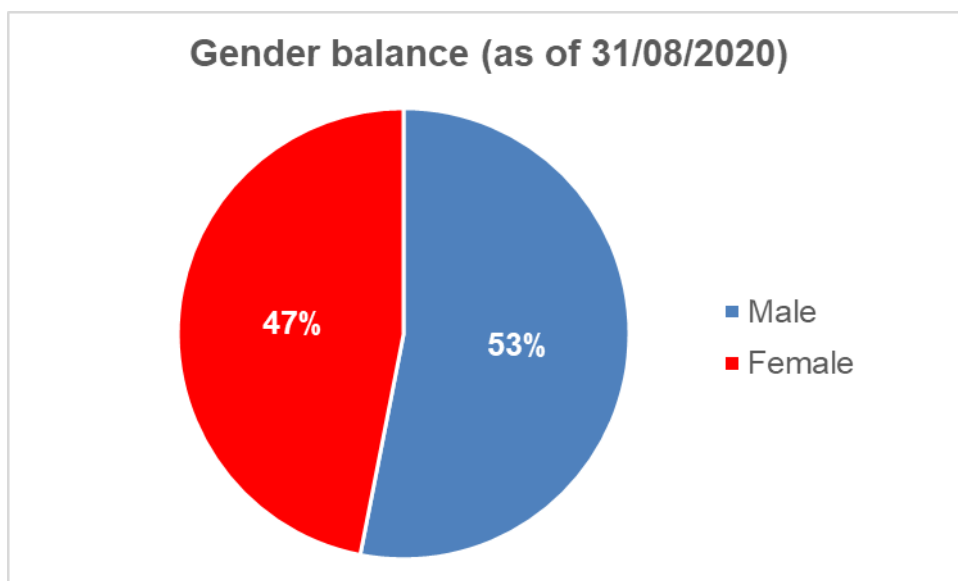
- **Number of staff**

Years	Number of staff
2011	56
2012	83
2015	139
2014	153
2015	186
2016	204
2017	224
2018	231
2019	233
2020*	243

(*number of Staff as of 31/08/2020)

- **Staff per type (status on 31/08/2020):**

	Total staff
TA	163
CA	69
SNE	11
Total	243



- **Staff by nationality (status on 31/08/2020):**

Country	Nr of staff
AT	2
BE	5
BG	5
CZ	3
DE	17
DK	2
ES	11
FR	66
GB	8
GR	17
HU	6
IE	8
IT	47
LT	2
LV	2
MT	1
NL	9
NO	1
PL	9
PT	2
RO	13
SE	5
SK	2
Total	243