European Securities and Markets Authority

# Strategy on Sustainable Finance

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# 1 Introduction

1. The European Union is one of the parties that adopted the Paris Agreement on climate change and the UN 2030 Agenda for Sustainable Development in 2015. The European Commission's Action Plan on Financing Sustainable Growth states that sustainability and the transition to a low-carbon, more resource-efficient and circular economy are key in ensuring the long-term competitiveness of the EU economy. It adds that the financial system has a key role to play in that transition by reorienting private capital to more sustainable investments, fostering more transparency and long-termism in the economy. ESMA has a key role in supporting this transition as outlined in its Strategic Orientation 2020-2022.

2. The financial markets are at a point of change as it can be observed that investor preferences are shifting towards an interest in financial products that incorporate environmental, social and governance (ESG) factors, which have increased rapidly over the last few years. Moreover, sustainability factors are increasingly affecting the risks, returns and value of investments. This changing environment has implications for ESMA's mission to enhance investor protection and promote stable and orderly financial markets.

3. In order to respond to these new challenges, and in line with the revised ESMA Regulation, which grants it additional responsibilities and tasks in relation to sustainable finance, ESMA will need to:

    a. take ESG factors into account across the range of its activities: Single Rulebook, Supervisory Convergence and Direct Supervision; and in particular

    b. monitor and assess ESG related market developments and monitor ESG related risks, as well as include environmental related systemic risk in its stress test scenarios (Risk Assessment activity).

4. The following sections indicate ESMA's strategy for taking into account sustainable business models and integrating ESG related factors across its four activities with the support of the Coordination Network on Sustainability (CNS), composed of experts from ESMA staff and the national competent authorities. It also indicates how ESMA will communicate with its key stakeholders in relation to ESG.

# 2 Single Rulebook

5. Objective: Integrating sustainability in the development of the single rulebook, whether that be on empowerments focused specifically on sustainable finance regulation or in the broader regulatory context, is an important task for ESMA which has already delivered a number of pieces of technical advice as required under the EU Sustainable Finance Action Plan.[1] ESMA's objectives of investor protection and orderly markets require a level playing field for investors, issuers and other market participants across the EU. The enhanced regulatory framework increases, through a single set of standards, transparency obligations and enhancement of due diligence processes on financial markets participants in relation to ESG. It should ensure that the risk of "greenwashing" is reduced and that investors are informed about, and can compare, the ESG credentials of their investments.

6. Methodology and deliverables: When developing Technical Standards or technical advice under specific empowerments received under financial regulations/directives (e.g. Disclosure Regulations), ESMA will ensure the integration of sustainability factors in an effective and proportionate manner. When developing Technical Standards outside the specific remit of sustainable finance, subject to the empowerment of the legislation, ESMA will consider sustainability factors where appropriate. This should ideally take place at the beginning of the process, for instance, during the Cost Benefit Assessment (CBA) phase or while drafting the discussion paper or consultation paper for the standards. Such consideration will also be applied to any existing technical standards that ESMA reviews and for which ESG factors might be relevant.

7. A key priority for 2020 will be the completion of the regulatory framework in relation to transparency obligations to be achieved through the disclosure requirements from the Regulation on sustainability-related disclosures in the financial services sector (the Disclosure Regulation). ESMA will work as part of the Joint Committee of the ESAs to produce the mandated technical standards, including those introduced through the amendment of the Disclosure Regulation via the proposed Regulation on the establishment of a framework to facilitate sustainable investment (the Taxonomy Regulation). Secondly, under the proposed Taxonomy Regulation, ESMA will have a role in the Sustainable Finance Platform. The Platform will develop and maintain the EU taxonomy and will monitor capital flows to sustainable finance. ESMA will endeavour to provide advice aimed at ensuring alignment and consistency with the financial regulation.

8. The Commission's "European Green Deal", published in December 2019, emphasises that the private sector will be key to financing the green transition. In the Green Deal, the Commission outlines its plans to strengthen the foundations for sustainable

[1] ESMA has already submitted technical advice to the European Commission on the integration of sustainability risks and factors into the Markets in Financial Instruments Directive II (MiFID II) and the Alternative Investment Fund Managers Directive (AIFMD) and the Undertakings in Collective Investment in Transferable Securities (UCITS) Directive (investment funds). Each of the European Supervisory Authorities has also submitted technical advice to the European Commission on undue short-term pressure on corporations from the financial sector..

investment, make it easier for investors and companies to identify sustainable investments, and to manage climate and environmental risks and integrate them into the financial system. In addition, they commit to presenting a renewed sustainable finance strategy in the latter part of 2020. ESMA is fully prepared to assist the Commission with the fulfilment of the Green Deal, in particular by providing advice on integration and consistency within the existing financial regulation. ESMA has already begun the analysis of current financial regulation to identify areas where the risk of "greenwashing" might arise. Risk analysis on this basis will continue and ESMA will endeavour to identify and pro-actively provide advice to the co-legislators on areas where new Level 1 and Level 2 measures may be necessary.

# 3 Supervisory Convergence

9. Objective: Ensuring the consistent, efficient and effective application of EU legislation and contributing to a common supervisory culture are key tasks for ESMA. Given the pervasiveness of ESG factors across different areas of legislation, building common approaches for incorporating ESG factors in the supervisory practices of National Competent Authorities (NCAs) will be a priority for ESMA's work in supervisory convergence.

10. The current picture at national level on sustainable finance is heterogeneous. While work has been done in the field of non-financial information reported by listed companies and some work has already been done in relation to elements related to Governance on product selling as part of ESMA's advice to the European Commission on integrating sustainability risks and factors in MiFID II, other areas have not yet been addressed. There are different starting points and ambitions at national level, as well as different levels of law with different possibilities of enforcement. In this context, there is the opportunity, as well as the imperative, to build a common supervisory culture proactively.

11. Methodology and deliverables: In this respect, four areas of intervention should be part of ESMA's strategy:

    a. Developing a mapping of local supervisory practices and requirements relating to ESG factors: the objective is to gain a better understanding of the current treatment of ESG factors and sustainable business under national legislation in the different European Economic Area (EEA) jurisdictions. In particular, it will be important to have an overview of: (i) the powers and competences of NCAs for the supervision of areas relating to ESG factors; (ii) the level of supervisory experience that NCAs have in dealing with ESG factors; (iii) the existence of any specific local requirements addressed at market participants requiring incorporation of ESG factors in business practices that are subject to supervision by NCAs; and (iv) the level of digitalisation of ESG related areas.

    b. Building awareness amongst NCAs around the impact of ESG factors: the objective is to ensure that NCAs get a shared understanding of how ESG factors impact market participants for the different areas of relevant EU legislation and improve NCAs' understanding how their supervisory roles should take into account sustainability. This is a necessary step to enable NCAs and ESMA to then discuss which specific aspects of the supervision of ESG factors need to be addressed. ESMA will organise training sessions focusing on the impact of ESG factors in topical areas. On an ongoing basis, when organising training events for NCAs, ESMA could consider the inclusion of ESG-focused modules so as to ensure that the ESG topics are regularly taken into account as part of a continuous learning process. In the medium-term ESG aspects can be included in relevant topical training sessions.

c. Promoting the discussion of cases studies and supervisory practices regarding ESG factors, with a focus on mitigating risks of greenwashing and preventing mis-selling practices or misrepresentations: the objective is to promote supervisory convergence by providing NCAs with the possibility to share their experience of ongoing supervision in this nascent area, as well as of enforcement cases[2] and practices where ESG factors are relevant. Depending on the extent to which ESG factors impact the different areas of legislation within ESMA's remit, such discussions can either take place in the context of existing working groups within ESMA or in dedicated groups[3], always interacting with the CNS.

d. Developing tools to foster supervisory convergence of EU law in the ESG area, with the focus on mitigating risk of greenwashing, preventing mis-selling practices or misrepresentations and fostering transparency and reliability in the reporting of non-financial information: the objective is to develop guidelines or supervisory briefings to harmonise the supervisory practices of NCAs both when: (i) selecting[4] the market participants, transactions and risks that are relevant from an ESG perspective; and (ii) when putting in place examination procedures aiming at identifying any areas of lack of compliance. The development of these tools is not necessarily intended to occur as a standalone exercise, but it may occur by incorporating considerations relating specifically to ESG aspects when updating existing supervisory convergence tools.

[2] The model could be the work of the European Enforcers Coordination Sessions (EECS) currently established within the CRSC where on a regular basis NCAs raise, discuss and reach convergence conclusions on enforcement cases relating to the accounting practices of European issuers.
[3] For example, in 2017, the CRSC has decided to establish a dedicated working group to address specifically the topic of enforcement of non-financial information pursuant to the Non-Financial Reporting Directive.
[4] For example, as part of the work to draft a Supervisory Briefing on the selection of issuers for the purpose of enforcement of financial statements, the CRSC is currently considering the possibility to include specific factors relating to ESG information.

# 4 Direct Supervision

12. Given the lack of reference to ESG factors or sustainability characteristics within the legal frameworks underpinning the entities under ESMA's direct supervision, the most relevant task in the short term will be the implementation of ESMA's Guidelines on disclosure practices for credit ratings[5]. The Guidelines require greater transparency from credit rating agencies around whether ESG factors are a key driver of a change to a credit rating. ESMA will consider these guidelines for the purposes of supervision from 2020.

13. In the context of its direct supervision role under Article 32 of the Benchmarks Regulation regarding third country administrators providing climate-related benchmarks and applying for recognition, ESMA will implement Regulation (EU) 2019/2089 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks[6] and the related delegated acts. The amending regulation creates new types of benchmark related to climate transition and enhances the disclosure requirements for all benchmarks (except interest rates and commodity benchmarks). ESMA will consider these provisions for the purposes of supervision from 2022.

14. Beyond this task, ESMA stands ready to support the European Commission with technical advice that draws on its supervisory experience, should there be a will to amend the underlying legal frameworks to take into account a greater role for ESG factors or sustainability characteristics. Equally, ESMA stands ready to accept new supervisory mandates, if requested, such as for example in relation to the European Green Bonds Standards.

[5] ESMA 33-9-320 Final Report Guidelines on Disclosure Requirements Applicable to Credit Ratings
[6] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.317.01.0017.01.ENG&toc=OJ:L:2019:317:TOC

# 5 Risk Assessment

15. Objective: Monitor market developments and identify risks related to sustainable finance. ESMA aims to identify trends and market changes as well as potential risks related to sustainable finance (e.g. risks related to green/ESG washing). The monitoring will be based on quantitative and qualitative indicators to be applied at EU level. The developed indicators can be shared with national competent authorities and be used to conduct country by country analysis.

16. Data: ESMA will seek to exploit regulatory data (e.g. from MiFID II and EMIR, as well as from securitisation) that can be used to monitor ESG-related market developments and risks. The monitoring will build on commercial data providers and public datasets, taking into account existing data gaps, limitations, methodological and definition issues. The taxonomy regulation (that will apply starting in 1H20) should eventually support an improvement in the quality and consistency of the data.

17. Methodology: The objective is to develop a comprehensive analytical framework including tools and indicators at EU level to analyse ESG factors as well as both financial risks stemming from climate change and transition costs for different entities within ESMA's remit. The framework will be broad-based and cover areas such as green bonds, social bonds, emission allowances, ESG ratings of EU investment funds, and climate-risk stress testing, and market efficiency in incentivising participants to support sustainable finance-related targets and goals. Issues that may threaten EU market integrity (e.g. greenwashing risk, illiquid/impaired markets) should be considered too. The framework will be developed and discussed together with NCAs, and, where feasible, a mapping of the available indicators at national level will be undertaken with a view to share methodologies and best practices in analysing ESG factors.

18. Deliverables:

    a. Development of indicators to monitor ESG market developments, taking into consideration, when feasible, already existing methodologies and tools.

    b. A dedicated chapter in the ESMA Report on Trends, Risks and Vulnerabilities (TRV), starting with TRV No. 1 2020 (expected publication: 1Q20). This chapter will include indicators related to green bonds, ESG investing (e.g. use of ESG-based indices) and emission allowance trading. As our analysis and monitoring of ESG-related developments and risks progresses, the coverage and depth of the analysis will increase, while future TRV editions will include dedicated articles.

    c. Launch of research workstream on sustainable finance aligned with ESMA policy priorities in this area.

d. Going forward, subject to data availability, more analysis will be done to analyse financial risks from climate change, including potentially climate-related stress testing in different market segments.

# 6 Outreach/Communication

19. Sustainable Finance is a new topic and requires a specific expertise mix that has not traditionally been found in financial market regulators. Equally, it is a transversal topic that cuts across all ESMA's existing activities. Communication on Sustainable Finance therefore needs to be a two-way exchange, with ESMA and the CNS seeking external expertise, as well as communicating on its planned work.

20. On an intra-institutional level, ESMA will continue to work jointly with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) under the auspices of the Joint Committee. It will also continue to engage with the European Environment Agency and the European Union Agency for Fundamental Rights, who have respectively the relevant environmental and social expertise.

21. Under currently envisaged plans ESMA should also participate in an EU Sustainable Finance Platform chaired by the European Commission. The platform would have a role in maintaining an EU Taxonomy of sustainable investments and would monitor capital flows. The participants on the platform will be made up of experts representing both the public sector and the private sector. ESMA will need to ensure it engages with key stakeholders on these shared tasks.

22. At the international level, IOSCO has been a forerunner in the work on sustainable finance. ESMA believes a relationship and cooperation with the IOSCO is important in ensuring the European framework is aligned with the international one.

# 7 Annex 1

## Indicative timeline for actions on Sustainable Finance

| Timeline | H1 2019 | H2 2019 | H1 2020 | H2 2020 | 2021 |
|---|---|---|---|---|---|
| Single rulebook | Delivery of advice on UCITS, AIFMD & MiFID | Delivery of advice on short-termism | Amendment of ESMA's TS procedures to include ESG factors | Expected delivery of first set of Disclosures RTS | Expected delivery of second set of Disclosures RTS |
| Supervisory Convergence | | Mapping of national supervisory practices | ESG training incorporated in ESMA training programme | | ESG factors mainstreamed into ESMA's topical training courses |
| Direct Supervision | | Delivery of advice on ESG factors in CRAs | Supervision of CRA ESG transparency | | |
| Risk Assessment | | | Dedicated Sustainable Finance TRV chapter | Mapping of national indicators | |
| Outreach | | | | Establish CWG | |