

# 2020 Annual Work Programme - revised



## Contents

1	Foreword and general context	4
2	Mission statement	10
3	2020 planned resources	11
4	Work Programme 2020	12
4.1	New mandates	12
4.1.1	ESAs' Review	12
4.1.2	EMIR 2.2	15
4.1.3	Cross-border funds distribution	16
4.1.4	Investment Firms Framework (IFR)	16
4.1.5	Sustainable Finance	17
4.2	Promoting supervisory convergence	18
4.2.1	Post-Trading	18
4.2.2	Market Integrity	19
4.2.3	Secondary Markets	20
4.2.4	Investor Protection and Intermediaries	21
4.2.5	Investment Management	22
4.2.6	Market Data	24
4.2.7	Corporate Finance and Securitisation	24
4.2.8	Corporate Reporting	26
4.2.9	Horizontal supervisory convergence work and peer reviews	27
4.3	Assessing risks to investors, markets and financial stability	29
4.3.1	Financial Innovation and Product Risk Analysis	29
4.3.2	Risk Monitoring and Analysis	30
4.3.3	Data Management and statistics	31
4.4	Completing a single rulebook for EU financial markets	32
4.4.1	Post-Trading	32
4.4.2	Market Data	33
4.4.3	Investor Protection and Intermediaries	33
4.4.4	Secondary Markets	34
4.4.5	Market Integrity	35
4.4.6	Investment Management	35
4.4.7	Corporate Finance	36

4.4.8	Corporate Reporting	36
4.4.9	Policy activity to support our supervisory mandates	36
4.5	Directly supervising specific financial entities	38
4.5.1	Credit Rating Agencies	38
4.5.2	Trade Repositories under EMIR	39
4.5.3	Trade Repositories under SFTR	40
4.5.4	Securitisation repositories under Securitisation Regulation	41
4.5.5	Third-country CCP recognition	41
4.5.6	Third-country CSD recognition	42
4.6	ESMA as an organisation	43
4.6.1	UK withdrawal from the European Union and future relationship	43
4.6.2	Corporate Affairs	44
4.6.3	Legal	45
4.6.4	Human Resources	46
4.6.5	Finance and Procurement	46
4.6.6	Facility Management	47
4.6.7	Information and Communication Technologies	48
	Annex I. Planned delays to final regulatory outputs	49
	Annex II. Human Resources	51
	Annex III. Budget	52
	Annex IV. ESMA's Key Performance Indicators	53
	Annex V. Acronyms	56

# 1 Foreword and general context

The European Securities and Markets Authority (ESMA) was founded in 2011. In its initial set-up period up to 2015, its emphasis was on building a single rulebook for EU financial markets and on establishing itself as a credible direct supervisor. In accordance with ESMA's Strategic Orientation 2016-2020, ESMA has since shifted its focus increasingly onto its other two main activities: supervisory convergence and assessing risks.

In 2019, the European Council, Parliament and Commission reached a political agreement on the ESAs' Review, and on EMIR 2.2. Under the Capital Markets Union (CMU), Sustainable Finance, and Fintech Actions Plans, agreement was also reached on new tasks for ESMA on Cross-border funds distribution, on the Investment Firms Framework and on the Sustainable Finance Disclosure Regulation.

The amendment of ESMA's founding regulation will transform the role of ESMA with significant impacts on its governance, organisational structure and mission from 2020. ESMA will have an enhanced role in fields such as direct supervision, supervisory convergence, investor protection, relations with third countries, and technological innovation.

The second significant evolution concerns the adoption of EMIR 2.2 which will require ESMA to build capacities to implement a new regulatory framework, supervise Third Country Central Counterparties and increase its convergence role regarding EU CCPs.

Much of ESMA's attention in 2020 will therefore be on ensuring that these new responsibilities, and the governance and organisational changes they imply, are initiated and developed to the highest quality standard.

Strengthened by its new founding regulation, ESMA, along with the National Competent Authorities, will continue its focus on supervisory convergence, identifying areas for improved consistency of supervisory outcomes across the EU and deploying its toolbox for taking action. In particular, ESMA will continue to ensure standardised, high-quality data and will intensify work towards using its data and quantitative analysis across all its activities.

Although its impact is still uncertain, it is clear that the UK's decision to withdraw from the EU will have a significant impact upon the EU's financial markets. At the time of writing, the shape of the UK's future relationship to the EU is still unknown. While ESMA's objectives of investor protection, orderly markets and financial stability will not be changed by Brexit, ESMA may need to adapt some of its activities in 2020 to new developments regarding Brexit.

Given the new EU Parliament and new Commission, ESMA keeps some flexibility in its planned work programme in order to respond to potential new initiatives, such as those relating to the Capital Markets Union.

Finally, since March 2020, ESMA has reallocated significant resources away from its planned work into its response to the COVID-19 crisis. This work and the implications of this are further

described in this revised version of ESMA's 2020 annual work programme, which was adopted by ESMA's Board of Supervisors on 10 June 2020.

## **Key priorities for ESMA in 2020:**

2020 will be marked by the response to COVID-19, however ESMA needs also to implement the significant new mandates that were agreed by the co-legislators and which are bringing new tasks in all four main ESMA activities. The changes brought to ESMA by this new legislation is significant and responding to them will be a significant workload in 2020, as well as a key priority for ESMA. In addition to granting ESMA specific additional missions and powers, they will require ESMA to adapt its organisation and governance to integrate the changes coming from the revised legislation and prepare for the usage of its new powers

In addition, the decision of the UK to leave the European Union is changing financial markets in Europe and ESMA will continue to prioritise responding to the risks and challenges posed by Brexit. As the specific actions that may need to be taken are uncertain, this work could potentially have an impact on ESMA's other planned priorities.

### **ESMA's response to the COVID-19 crisis situation**

As an immediate response to the COVID-19 situation, until June, ESMA's focus has been on maintaining markets that are open and orderly and that allow prices to adjust and liquidity to be provided. To support this objective ESMA has worked with national competent authorities, as well as the EU institutions, to ensure supervisory convergence in the context of the crisis situation, to provide up-to-date market analysis and to ensure continued supervision of the entities it directly supervises. Looking forward to the remainder of 2020, ESMA will remain vigilant and will respond to any developments and to the continuing challenging environment.

In order to respond adequately to the repercussions of the COVID-19 situation on the financial markets, a full assessment of ESMA activities for 2020 was undertaken. Each activity in the originally planned 2020 annual work programme was evaluated and assessed against criteria of relevance for the market and urgency, as well as impact on stakeholders, and on that basis classified into high, medium or low priority. The result of that assessment is provided in this revised 2020 work programme, which includes the changes in relation to new items added as high priority and elements which are delayed or removed from the work programme.

### **Supervisory Convergence**

ESMA's 2020 priorities in its supervisory convergence activity will be to:

- 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;
- 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; and
- continue to work with the NCAs to ensure a coordinated European response to the COVID-19 crisis, in particular in the areas of short selling, transparency and reporting obligations.

### **Risk Assessment**

In the activity of assessing risks, ESMA's focus will be to ensure it makes good use of the data collected. ESMA's risk assessment draws on data and statistics sourced and managed through an integrated approach, ensuring high quality, efficient management, and an effective use, especially of the proprietary data that ESMA collects. ESMA will ensure that it continues to provide appropriate and timely risk assessments as part of the EU's response to the COVID-19 crisis.

### **Single Rulebook**

ESMA still has several regulatory tasks under the European Commission's action plans on the Capital Markets Union, Fintech, and Sustainable Finance. It will prioritise those areas of its single rulebook work that contribute to those action plans. In addition, the EMIR Review and the resulting EMIR Refit and EMIR 2.2 will require ESMA to develop several technical standards and technical advice. Finally, following the start of the work on the MiFID II/MIFIR and MAR review reports in 2019, ESMA will focus in 2020 on providing advice to the Commission covering key provisions of MiFID II/MiFIR and MAR.

As a response to the COVID-19 crisis, as part of the reprioritisation exercise, ESMA decided to prolong the consultation period for some consultations, in order to allow market participants to be able to provide responses while they had/have to also ensure business continuity plans (see also Annex I).

### **Direct Supervision**

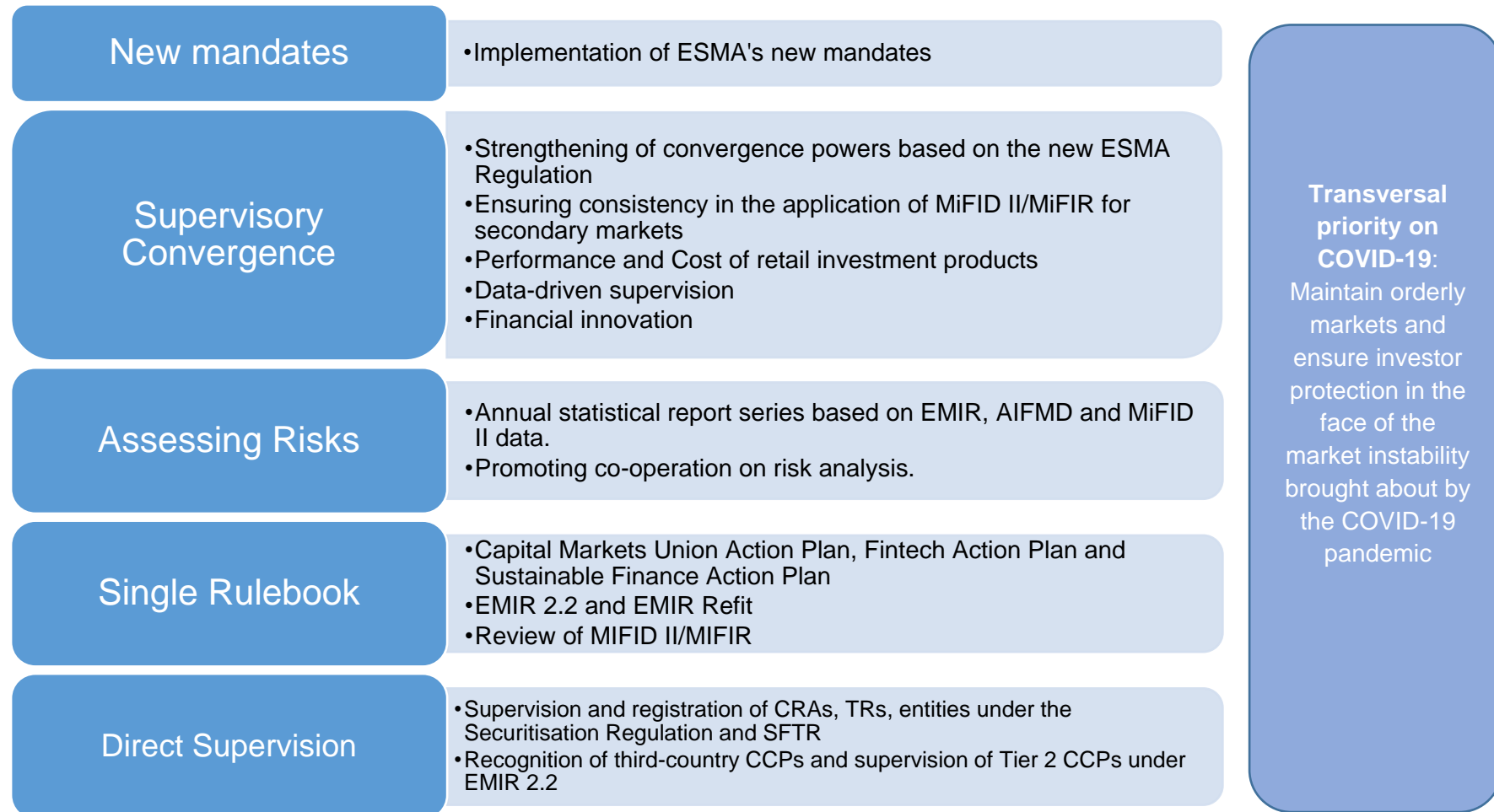
As a direct supervisor, ESMA will continue its registration and supervision of Credit Rating Agencies (CRAs), TRs under EMIR and SFTR, and Securitisation Repositories, as well as the recognition of third-country Central Counterparties (CCPs) and Central Securities Depositories (CSDs). In addition, supervisory activities regarding Tier 2 CCPs under EMIR 2.2 will commence.

ESMA will continue to focus its supervisory work on the rating processes, the IT processes, the governance, the internal controls and the information security, assessing potential risks identified in these areas.

In particular, ESMA will focus on engaging with credit rating agencies under its direct supervision to assess the impact of COVID-19 on their operations and to assess the possible impact of ratings actions.



## Diagram of key priorities for ESMA in 2020



## 2 Mission statement

ESMA's mission statement, objectives and the activities that deliver those objectives are described below:



### **3 2020 planned resources**

On 31 January 2019 ESMA provided a multi-annual 'Programming Document' to the EU institutions. This included a multi-annual work programme with financial and staffing outlook for 2021 and 2022, as well as a detailed annual work programme with a budget and staffing request for 2020. This budget was accepted at the end of 2019 and subsequently reviewed in mid-2020 (Annexes II and III).

The budget of 2020 reflects ESMA's 2016-2020 Strategic Orientation, which described a shift from focussing on single rulebook work to ESMA's other activities - notably supervisory convergence and risk assessment - which is gradually taking place over the period. In addition, the budget related to the ESAs' Review and EMIR 2.2, as well as the other newly approved legislations, were integrated into ESMA's 2020 budget request.

## 4 Work Programme 2020

This section provides details on the tasks to be undertaken under ESMA's activities in 2020.<sup>1</sup>

### 4.1 New mandates

In 2019 the Council of the EU and the European Parliament agreed on several additional mandates for ESMA.

#### 4.1.1 ESAs' Review

##### Key objectives

Ensure a successful implementation of the new mandates by:

- Operationalising the new tasks and powers, e.g. regarding technology and sustainability, amended governance arrangements, enhanced supervisory convergence tools and mandates that are included in the ESA Review legislation, applicable from 1 January 2020.
- Preparing the implementation of the new direct supervisory tasks and powers included in the ESA Review legislation, i.e. Benchmarks and Data Service Providers, which will come into force on 1 January 2022.

Following the political agreement reached in the EU legislative process in the first half of 2019 and the expected final adoption by the co-legislators in the second half of 2019 of the review of the Regulations founding the European Supervisory Authorities (ESAs) and in particular ESMA, one of the tasks of ESMA in 2020 will be to adapt its organisation and governance to integrate the changes coming from the revised legislation and prepare for the usage of its new powers.

The following paragraphs list the expected tasks related to the ESAs' Review in 2020:

##### Governance

The ESA Review legislation will have an important impact on the governance of ESMA. As of 2020 the Board of Supervisors will be able to set up peer review committees, establish specific committees for the Management Board, Breach of Union law and mediation and there will be increased transparency on conflicts of interest and professional secrecy. The Management Board will have a revised mandate through which it can, amongst others, set

<sup>1</sup> Budget and staff have not been allocated to the sub-activities, as Activity Based Budgeting (ABB) has not been implemented for the year of 2020.

up internal committees and co-ordination groups and give opinions and make proposals on matters to be decided by the Board of Supervisors. Changes will also be made to the SMSG, the Joint Committee (JC) of the ESAs, and the Board of Appeal. ESMA will adapt the rules of procedure of all those statutory bodies and implement them in 2020.

### **Supervisory Convergence**

As a result of the ESAs' Review, ESMA will enhance its existing supervisory convergence tools, such as peer reviews and Q&As.

In addition, ESMA will deploy new tools aiming at achieving supervisory convergence through a more co-ordinated supervision (and enforcement) of securities markets across all the Member States. This will include setting up Co-ordination Groups: in particular, ESMA will play a co-ordination role in relation to orders, transactions and activities with significant cross-borders effect. Moreover, having in mind current market developments and trends as well as identified key cross-border risks to its objectives, ESMA will prepare Union Strategic Supervisory Priorities for 2021. This will imply developing a comprehensive risk-based methodology to identify supervisory convergence issues and set reasoned priorities in addressing them. In future years, it will also start developing an EU supervisory handbook, which will set out best practices, methodologies and processes per area under ESMA's remit.

### **Investor protection**

As of the entry into force of the ESAs' Review legislative package, ESMA will receive additional mandates regarding investor protection, which include the co-ordination of mystery shopping, the development of retail risk indicators, and the collection, analysis and reporting on consumer trends. In 2020 ESMA will prepare for the implementation of those new mandates and start using them by the end of the year.

### **Equivalence**

ESMA will start implementing new tasks regarding equivalence assessments of third-country regulatory and supervisory frameworks. These tasks will include: (i) assisting the Commission in the preparation of equivalence decisions, (ii) monitoring and informing the European Parliament, Council and Commission on regulatory and supervisory developments in third countries regarding which an equivalence decision has been adopted, and (iii) contributing to united, common, consistent and effective representation of the Union's interest in international fora (IOSCO, FSB). In 2020 the report to the EU Institutions on International equivalence may have a reduced scope due to the need to reallocate resources to the response to the COVID-19 crisis.

### **Transversal topics**

Pursuant to the ESAs' Review legislative package, as of 2020, ESMA will further embed three topics in its activities:

**Technological innovation:** ESMA will take account of technological innovation in performing its tasks and contribute to a common European approach towards technological innovation. In addition, ESMA will promote information sharing among NCAs regarding cyber threats and contribute to a Union Financial Data Strategy.

**Sustainable finance:** ESMA will need to take into account risks related to environmental, social and governance related factors in performing its tasks. In addition, ESMA will provide guidance on how to embody sustainability considerations in relevant EU financial legislation and promote coherent implementation of these provisions.

**Proportionality:** In its activities, ESMA will further incorporate proportionality in all its actions, by taking into account the nature, scale and complexity of risks, business practices, business models and size of financial sector operators and markets. A committee will advise ESMA on this topic.

### **New direct supervisory tasks and powers**

Two new direct supervisory powers will start for ESMA on 1 January 2022. In 2020, ESMA will therefore start preparing for the implementation of those new powers.

**Benchmarks:** ESMA will prepare for the direct supervision of EU critical benchmarks and their administrators. In addition, ESMA will be responsible for the recognition of third-country benchmarks. As part of this work, ESMA will prepare the internal organisational structure, set up the required processes and systems, deliver five new RTS and ensure a proper transition of supervisory duties from NCAs to ESMA.

**Data Service Providers:** In 2022, ESMA will also have the supervisory powers to authorise and supervise different types of data service providers, i.e. Approved Publication Arrangements, Authorised Reporting Mechanisms and Consolidated Tape Providers. Preparation for these tasks began in 2019 and will continue into 2021. As part of this work, ESMA will prepare the internal organisational structure, set up the required processes and systems, deliver draft implementing and regulatory technical standards and ensure a proper transition of supervisory duties from NCAs to ESMA. The exact scope of the supervised entities will be further defined via level 2 legislation.

### **Main outputs**

- Governance: implementation of the new governance structure at the beginning of 2020, including policies, procedures and terms of reference reflecting the changes.
- Supervisory Convergence: revision of peer review methodologies; set-up of a web-based tool for the submission and publication of Q&As; revision of processes and procedures or the creation of new ones; set-up of the processes required for defining Union Strategic Supervisory Priorities; and set-up of Co-ordination Groups; and commence planning an EU supervisory handbook (development is moved to 2021).
- Investor protection: new risk indicators

- New direct supervisory mandates regarding Benchmarks and Data Service Providers: preparation of the internal organisational structure; set-up of the required processes and systems; delivery of ITS, RTS and other legal acts.
- Equivalence: Implementation of the enhanced competences regarding equivalence assessments and equivalence monitoring, including reporting to the EU Institutions (reduced scope), as well as broader activities in international fora as appropriate.

#### 4.1.2 EMIR 2.2

##### Key objective(s)

Ensure an efficient and effective implementation of the new supervisory and regulatory framework under EMIR 2.2 with regards to both EU and third-country CCPs and of the corresponding governance.

EMIR 2.2 changes how CCPs are regulated and supervised in the EU and introduces a greater role for ESMA with the corresponding new governance. In particular, it enhances the supervisory convergence work of ESMA with regards to EU CCPs and it enhances the recognition regime for third-country CCPs (TC-CCPs), in particular through the introduction of a new regime for what are called Tier 2 CCPs, i.e. TC-CCPs which are determined to be systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States.

ESMA started in 2019 to prepare and implement the new EMIR 2.2 framework and will continue to implement it throughout 2020.

First of all, ESMA's work with regards to EMIR 2.2 in 2020 will include regulatory work, such as the development, or amendment, of technical standards and technical advice as described in section 4.4.1, and the development of mandated guidelines to further specify the common procedures and methodologies for the supervisory review and evaluation process.

Secondly, it will also include significant supervisory convergence work with regards to EU CCPs that will be handled by the new CCP Supervisory Committee. The implementation and execution of the range of supervisory convergence responsibilities that have been introduced under the EMIR 2.2 text include for instance all the opinions to be developed following the consultations of NCAs on a range of supervisory topics and decisions, as well as the continued and enhanced co-ordination across all CCP colleges.

However, the bulk of the effort in 2020 and beyond will be to deal with the significant supervisory work related to the recognition and ongoing monitoring of TC-CCPs. Indeed, the scope and responsibilities of ESMA's work have been expanded under EMIR 2.2, as described in more details in section 4.4.5. In particular, this will include the tiering and the

assessment of comparable compliance for systemically important Tier 2 CCPs, as well as the ongoing monitoring of their impact on the EU markets.

In EMIR 2.2 a new governance underpinning the new regulatory framework is introduced, notably the set-up of a CCP Supervisory Committee. As recognised within the EMIR 2.2 legislative text and associated financial fiche, this will require an important increase of resources and to adapt the ESMA organisation accordingly. ESMA's TC-CCP activity will be funded by fees charged to TC-CCP applicants.

<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Finalisation of the new regulatory regime (i.e. level 2 measures) (some will be delayed to 2021 – see Annex I for revised deadlines)</li> <li>– Implementation of the new governance with the introduction of the CCP Supervisory Committee</li> <li>– Execution of enhanced supervisory convergence work through the use of opinions on a wide range of topics and continuing with the work in colleges, the peer review and the CCP Stress Test</li> <li>– Initiation of the new and expanded supervisory role with regards to TC-CCPs and in particular with regards to the Tier 2 CCP supervisory and regulatory regime for systematically important CCPs.</li> </ul>
---------------------	--

#### 4.1.3 Cross-border funds distribution

<b>Key objective(s)</b>	Ensure that the relevant Technical Standards are delivered within the deadline and the relevant IT tools (including central databases) are developed.
The agreed texts on the Commission's proposal on facilitating cross-border distribution of investment funds foresee various empowerments for ITS and central databases to be developed by ESMA including in relation to information to be communicated in connection with cross-border marketing activities by funds.	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– ITS setting-out standard forms, templates and procedures in relation to information contained in the central databases and other IT tools to be developed by ESMA.</li> </ul>

#### 4.1.4 Investment Firms Framework (IFR)

<b>Key objective(s)</b>	Ensure that the relevant Technical Standards are delivered to the Commission within the deadline.
-------------------------	---



ESMA will develop, or will co-operate with the EBA on the development, of Technical Standards and other legal acts required under the new prudential framework for investment firms. This includes required work on the changes to the third-country regime for the provision of investment services by third-country firms.

The new prudential framework for investment firms in the EU sets new rules and requirements with respect to capital, liquidity and regulatory reporting, as well as internal governance and remuneration.

#### Main outputs

- RTS/ITS and other legal acts related to the new prudential requirements for investment firms
- Advice to the EC on ESMA staffing needs arising from the third-country regime, as modified by the IFR.

### 4.1.5 Sustainable Finance

#### Key objective

Strengthen and improve the disclosure of information by manufacturers of sustainable financial products and financial advisors towards end-investors.

ESMA will develop, in the Joint Committee context, the Technical standards required by the new regulatory framework on the disclosure for sustainable investments (Sustainable Finance Disclosures Regulation).

Under the Benchmark Regulation, ESMA will contribute to the additional development of two categories of low-carbon benchmarks: an EU climate transition benchmark and an EU Paris-aligned benchmark.

ESMA will closely monitor and act, as required, upon the developments related to the Taxonomy legislative proposal as well as any new potential proposals to be made in the wider context of promoting sustainable investments in the Union.

#### Main outputs

- RTS/ITS, jointly with EBA and EIOPA, on the disclosure provisions for sustainable investments (to be delivered in January 2021, see Annex I)

## 4.2 Promoting supervisory convergence

ESMA takes an active role in building a common supervisory culture among NCAs to promote sound, efficient, and consistent supervision throughout the European Economic Area. Some of ESMA's planned guidelines have been delayed in order to allow sufficient time for response to consultations during the COVID-19 pandemic. The new deadlines are set out in Annex I.

### 4.2.1 Post-Trading

#### Key objectives

Provide guidance to market participants and NCAs on the application of EMIR and the CSD Regulation.

Contribute to the consistent application of EMIR by financial and non-financial counterparties, in particular following the changes introduced by the EMIR Refit text.

Ensure the consistent application of the new EMIR framework by CCPs and the convergence of supervisory practices of NCAs regarding CCPs, including by initiating, co-ordinating and conducting EU-wide CCP stress tests and peer reviews on CCP supervision.

The EMIR Review led in 2019 to the adoption of two sets of important amendments to EMIR: one set of amendments on the regulatory and supervisory regime for CCPs, also known as EMIR 2.2, and one set of amendments for the rest that is covered in EMIR, in particular with respect to the clearing obligation and the reporting obligation, also known as EMIR Refit.

ESMA will continue to monitor the consistent implementation of EMIR following the changes introduced under the EMIR Refit text, in particular with respect to the clearing obligation and the bilateral margin requirements. As of May 2020, ESMA has amended, with the EBA and EIOPA, risk mitigation techniques for non-centrally cleared OTC derivatives (bilateral margining), under EMIR, to incorporate a one-year deferral of the two implementation phases of the bilateral margining requirements. This work was undertaken as a response to the COVID-19 crisis. ESMA plans to produce an annual report on the supervisory measures and penalties imposed by NCAs regarding market participants' compliance with EMIR; although this report may be delayed due to resources being reallocated. In this new context ESMA will carry on completing the yearly EU-wide CCP stress test exercise and will also perform a yearly peer review on CCP supervision, although the latter will possibly be subject to slight delay. The further CPMI (Committee on Payments and Market Infrastructures)-IOSCO guidance for PFMI (Principles for financial market infrastructures) will continue to be incorporated in the EU framework for CCPs where necessary.

Furthermore, ESMA, in co-operation with NCAs, will launch mandatory peer reviews when required by the sectoral legislation, such as under EMIR and CSDR.

ESMA will monitor the level of internalised settlement based on the reports received by ESMA under Article 9 of CSDR, and the level of CSD settlement efficiency based on the reports sent to ESMA by the CSD competent authorities on a voluntary basis (prior to the entry into force of the CSDR settlement discipline regime). Additionally, the Authority will develop guidance and other supervisory convergence mechanisms related to CSDR requirements, in particular in relation to the settlement discipline regime (delivery may be delayed). Furthermore, ESMA will initiate its first peer review exercise on CSD supervision.

#### Main outputs

- Guidance on implementation of CCP requirements
- Execution and finalisation of annual EU-wide CCP stress test
- Preparation and execution of annual peer review on CCP supervision (may be slightly delayed)
- Guidance on EMIR implementation of the changes introduced under Refit (may be delayed)
- Annual report on the supervisory measures and penalties imposed by NCAs on market participants' compliance with EMIR (may be delayed)
- Guidelines on the common procedures and methodologies for the supervisory review and evaluation process for CCPs (see Annex I for revised deadline)
- Guidance on CSDR implementation, in particular in relation to the settlement discipline regime (may be delayed)
- Initiation of the first peer review on CSD supervision

### 4.2.2 Market Integrity

#### Key objectives

Improve supervisory convergence for the Market Abuse Regulation (MAR) implementation, including accepted market practices, and for the Short Selling Regulation (SSR).

Continue to implement EONIA and EURIBOR reforms following the recommendations of the working group on euro risk-free rates and improve supervisory convergence on the Benchmarks Regulation (BMR), including on the treatment of third countries, and Critical Benchmark colleges.

ESMA's market integrity activity will involve issuing guidelines, opinions, and providing guidance through Q&As. Such supervisory convergence work shall be based on ongoing exchanges of views among regulators. Those exchanges may take different forms, ranging from the analysis of certain questions posed by market participants to the sharing of views on specific cases addressed by national regulators.

In the area of benchmarks, ESMA will continue to promote coordinated action by NCAs, such as that undertaken regarding the timeliness of fulfilling external audit requirements for interest rate benchmark administrators and contributors to interest rate benchmarks. ESMA will also continue its participation in critical benchmark colleges to promote their efficient,

effective and consistent functioning. ESMA will continue to issue advice to NCAs for each third-country administrator applying for recognition. ESMA may also be required to issue opinions on the assessment by NCAs to designate benchmarks as critical at national level. ESMA will sign co-operation arrangements with third-country NCAs that are subject to a positive equivalence decision by the Commission under the BMR. ESMA will produce its annual report on sanctions and other administrative measures as required by the BMR (may be delayed if resources are needed for crisis response).

In the area of short selling, ESMA will continue to monitor the situation and will take measures, such as issuing opinions on short selling bans or coordination on notification thresholds, as it did during the COVID-19 crisis.

Following the ESAs' Review package, ESMA will, by 1 January 2022, become the competent authority concerning all EU critical benchmarks and third-country administrators recognised in the EU. In order to be ready for these new supervisory tasks, ESMA will start in 2020 its internal preparation for the direct supervision of critical benchmarks and recognised administrators by setting the proper internal procedures and systems. The procedures will cover, inter-alia, the functioning of colleges of supervisors of critical benchmarks that ESMA will chair, while new analytical tools will have to be developed in order to identify possible EU critical benchmarks and gauge the degree of use of third-country benchmarks in the Union. In the context of the Euro Risk-Free Rates Working Group<sup>2</sup>, ESMA will also continue steering industry efforts in the transition to risk-free rates and in particular to introduce fall-back clauses in legacy contracts and financial instruments to increase their contractual robustness. The main focus in 2020 will be the adoption of fall-back clauses in contracts and instruments referencing EURIBOR, as well as the development of a liquid derivative market referencing to €STR.

#### Main outputs

- Q&As, advice and supervisory briefings on MAR, BMR and SSR (may be with some delay)
- Potential Opinions on MAR Accepted Market Practices
- Ongoing activities in colleges of critical benchmarks
- Opinion on NCAs short selling ban and statements related to COVID-19 crisis response

### 4.2.3 Secondary Markets

#### Key objective

Promote consistent application of MiFID II and MiFIR requirements and further develop a common understanding of arising supervisory

<sup>2</sup>Website of the EUR RFR WG:

[https://www.ecb.europa.eu/paym/initiatives/interest\\_rate\\_benchmarks/WG\\_euro\\_risk-free\\_rates/html/index.en.html](https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html)

	<p>challenges in the area of secondary markets, identified as a continued priority for ESMA's convergence activities.</p> <p>ESMA will continue promoting the convergent application of MiFID II across the EU based on regular exchanges of views among competent authorities, including the sharing of practices and experiences on specific supervisory issues and cases. ESMA will follow-up on supervisory guidance in areas where different practices across the EU have been detected, e.g. on pre-trade transparency requirements for commodity derivatives, and might consider similar measures in other areas, e.g. the obligation to provide market data free of charge 15 minutes after publication (this work is delayed to be delivered in early 2021). Furthermore, additional work may be carried out to ensure supervisory convergence concerning the relocation of trading venues and data reporting service providers from the UK to the EU27.</p> <p>ESMA has various reporting and monitoring tasks under MiFID II/MiFIR. These activities include monitoring the implementation of the tick size regime, issuing annual reports on the use of pre-trade transparency waivers and deferred publication arrangements and in the context of the trading obligation for derivatives.</p> <p>In response to the COVID-19 crisis, and as of June 2020, ESMA has published a number of statements on MiFID II / MiFIR and will continue to monitor the situation, issuing further statements if required.</p> <p>ESMA will continue issuing opinions on pre-trade transparency waivers and position limits, as well as contributing to the smooth operation of the IT systems developed in the context of MiFID II/MiFIR (Double Volume Cap, Financial Instruments Transparency System). Within the available resources, ESMA will continue its work on improving data quality.</p> <p>ESMA will continue its assessments of third-country trading venues for post-trade transparency and position limit purposes.</p>
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Q&amp;As, Guidelines and ESMA opinions</li> <li>– Opinions on position limits and on pre-trade transparency waivers</li> <li>– Annual reports on transparency waivers, on the use of deferred publication arrangements, on the trading obligation for derivatives</li> <li>– Statements on MiFID II / MiFIR in the context of the COVID-19 crisis response</li> </ul>

#### 4.2.4 Investor Protection and Intermediaries

<b>Key objective</b>	<p>Ensure consistent application of MiFID II and MiFIR requirements and co-ordination between NCAs in the area of investor protection and intermediaries, in line with the identification of supervisory convergence</p>
----------------------	--

	as a continued priority for ESMA's activities in the area of investor protection.
	<p>ESMA will continue its focus on the consistent application of MiFID II/MiFIR, by developing supervisory convergence tools concerning authorisation and supervision of investment firms, amongst others in relation to conduct of business and organisational requirements, including aspects related to sustainable finance. This will include Q&amp;As, guidelines and supervisory briefings on MiFID II / MiFIR (including reviewing MiFID I guidelines) on topics such as costs and charges and product governance. ESMA will also facilitate common supervisory activity on suitability (including the element of costs as part of the suitability assessment), on which NCAs will agree to conduct a supervisory activity in 2020, but its finalisation will be delayed to the end of the year. The purpose is to learn from each other's experiences and to compare the results found by individual NCAs. ESMA will also facilitate mutual understanding and common approaches on the application and supervision of relevant MiFID II / MiFIR requirements through initiatives such as real case discussions, trainings and workshops among NCAs.</p> <p>In response to the COVID-19 crisis, and as of June 2020, ESMA has published a number of statements on MiFID II / MiFIR and will continue to monitor the situation and will issue more statements if required. ESMA will also work to improve supervisory co-ordination on entities/groups with cross-border activities (i.e. cross-border provision of investment services/distribution of consumer products). In this context, should concrete cases with a cross-border dimension involving more than two NCAs and raising investor protection concerns arise, ESMA will establish ad-hoc groups to deal with these.</p> <p>Additionally, ESMA will continue assessing any need to exercise product intervention powers (own ESMA interventions and assessment of national measures) and will co-ordinate any subsequent workstream (co-ordination of NCAs, review and renewals).</p> <p>Moreover, it will also contribute to the management of any issues arising from third-country firms' activities.</p>
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Q&amp;As Guidelines, supervisory briefings, Opinions and Statements on MiFID II/MiFIR</li> <li>– Decisions and opinions on own or national product intervention measures</li> <li>– Workshops and training sessions on MiFID II/MiFIR topics (may be delayed)</li> <li>– Statements on MiFID II / MiFIR in the context of the COVID-19 crisis response on, e.g. call taping, best execution</li> </ul>

#### 4.2.5 Investment Management

<b>Key objectives</b>	Achieve greater convergence and consistency of NCAs' supervisory approaches and practices in relation to the EU legislation on investment
-----------------------	---

management, with a particular focus on the cost and performance of retail investment products.

Contribute to improving financial stability through ESMA's fund stress simulation framework and guidelines on stress test scenarios.

ESMA promotes supervisory convergence of NCAs' practices by developing Q&As on AIFMD/UCITS, issuing and reviewing guidelines and making use of other supervisory convergence tools concerning investment management matters. ESMA will also facilitate mutual understanding and common approaches on the application and supervision of the relevant sectoral requirements through initiatives such as facilitating discussions among NCAs on supervisory cases with cross-border relevance. A specific area of focus will be liquidity management in UCITS in order to assess whether there might be a mismatch between the redemption policies and liquidity profiles of some UCITS which may reveal non-compliance with the applicable UCITS rules.

In this context, ESMA will also facilitate common supervisory action on liquidity management by UCITS on which NCAs will agree to conduct a supervisory activity in 2020. This has been slightly delayed to the first quarter of 2021.

ESMA will keep focusing on stress testing, although it will not update its 2019 guidelines establishing common reference parameters of the stress test scenarios MMFs or managers of MMFs should include in their stress tests. The decision not to update the guidelines is based on the fact that the 2020 crisis context already gives a stressed scenario to rely on. Furthermore, updating the guidelines would be operationally burdensome for ESMA, ESRB and the market participants. ESMA will however continue to use its fund stress simulation framework to assess the resilience of the EU fund industry and identify potential vulnerabilities in funds.

In other responses to the COVID-19 crisis, ESMA continue to promote a coordinated risk-based approach by NCAs to their supervision of fund managers' compliance with their periodic reporting obligations and use of liquidity management tools in line with the ESRB's recommendations.

In 2020, ESMA will also carry out follow-up work building on the findings in its first Annual Statistical Report on the cost and performance of retail investment products to bring consistency in NCAs' supervision and enforcement around cost and performance. This will include continuing co-ordination of NCAs' work in the area of closet indexing and ensuring supervisory convergence in relation to the different practices across NCAs regarding performance fee structures as well as the circumstances in which performance fees can be paid.

Should concrete cases with a cross-border dimension involving more than two NCAs and raising investor protection concerns arise, ESMA will establish ad-hoc groups to deal with these.



<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Delivery of the MMF database and register</li> <li>– Update of guidance on MMF stress testing (2019 scenarios may be used)</li> <li>– Guidance on performance fees</li> <li>– Guidance on leverage under AIFMD (delayed to end 2020, see Annex I)</li> <li>– Annual report on UCITS sanctions (may be delayed)</li> <li>– Q&amp;As, Guidelines, opinions and other convergence tools relating to the investment management legislation</li> <li>– Activities related to COVID-19 crisis response</li> </ul>
---------------------	--

#### 4.2.6 Market Data

<b>Key objective</b>	<p>Implement the Data Strategy following the enactment of the SFTR, EMIR and MiFIR reporting regimes. Identified as a continued priority for supervisory convergence, ESMA will continue giving attention to the quality of reported data, as a precondition to data driven supervision.</p> <p>ESMA will work on the implementation of the data strategy and supervisory convergence work, in particular on the enhancement of data quality for the different reporting regimes under its mandate (AIFMD, MMF, Prospectus, EMIR, SFTR, MiFIR/MiFID II, MAR). In the context of Data Quality Action Plans (DQAPs), ESMA will foster convergence and commonly agreed actions to improve the quality and usability of data for several reporting regimes in the interest of, among others, facilitating data-driven supervision.</p> <p>Also, as a response to the COVID-19 crisis, ESMA will continue to work towards convergent action on Securities Finance Transactions Regulation (SFTR), such as the action it took in early 2020 by issuing statements on coordinated supervisory action on the application of SFTR backloading.</p> <p>Additionally, ESMA will further support the implementation of SFTR as a new reporting regime (e.g. Guidelines on Portability and Position Calculation).</p> <p>Finally, ESMA will continue its active contribution to the international work for the development and implementation of data standards and identifiers (e.g. LEI, UTI, UPI and CDE).</p>
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Guidelines on SFTR positions and portability</li> <li>– Review, enhancements and implementation of DQAPs</li> <li>– Q&amp;As and opinions on EMIR/MiFIR/SFTR/AIFMD data requirements</li> </ul>

#### 4.2.7 Corporate Finance and Securitisation

<b>Key objective</b>	<p>Enhance the level of convergence with a particular focus on the development of guidance to address new elements of the Prospectus</p>
----------------------	--



Regulation (PR) and greater convergence of NCA practices. In addition, ESMA aims to undertake convergence work in the area of major holdings, as well as facilitate the exchange of experience in the areas of corporate governance and takeover bids.

In 2020 ESMA will complete the review of the existing Level 3 guidance in the prospectus area, by issuing draft guidelines, and issuing new or reviewing existing Q&As where necessary under the Prospectus Directive. This work is delayed to the second half of 2020.

Moreover, ESMA will organise discussions of 'real' cases in the area of Prospectus aiming at promoting convergence of supervisory practices among competent authorities and ensuring that the provisions of the Prospectus Regulation are implemented in a harmonised manner across the EU.

ESMA will also aim to undertake supervisory convergence activities in the area of major holdings and conduct additional work on takeover bids and corporate governance.

Lastly, ESMA intends to launch the new Prospectus Register by the end of 2020. The new Prospectus Register will provide the public with a single entry-point to all prospectuses published in the EU and will include a wide set of data to facilitate their classification and analysis. On this basis, ESMA will be able to publish a more comprehensive report on prospectus activity, with clear benefits in terms of its ability to monitor supervisory practices and drive convergence.

### **Securitisation**

ESMA will monitor the consistent implementation of the Securitisation Regulation in particular of the delegated acts once adopted by the Commission and consider whether any need for guidance will be necessary. ESMA will also monitor the Union securitisation market on a comprehensive basis and where appropriate, apply its temporary intervention powers and apply potential adjustments to the data completeness thresholds to be applied by securitisation repositories to the securitisation disclosure templates (see Annex I for revised deadline). In addition, ESMA will continue to publish Q&As to provide clarifications on Level 2 measures related to its remit, such as on the simple, transparent and standardised (STS) securitisations notification or disclosure templates.

ESMA will contribute to the securitisation committee established within the Joint Committee of the ESAs (whose mandate includes assessing practical issues that could arise with regard to STS securitisations and preventing divergent approaches in the implementation of the STS requirements) and also assist the JC of the ESAs in the report to be produced in this area by 1 January 2021. The report will include the implementation of the STS requirements, material risks that may have materialised, due diligence, transparency and risk retention.

ESMA will also facilitate co-operation between competent authorities (CAs) and in case of disagreement among CAs regarding potential infringements on STS notifications, apply its mediation power.

#### Main outputs

- Update of the existing Level 3 guidance in the prospectus area and publication of the new Q&As (as necessary, slight delay to late 2020)
- Discussion of real cases from the prospectus supervision
- Go-live of the Prospectus register (delayed to end 2020)
- Additional guidance (Q&As and guidelines) in securitisation area, depending on needs

### 4.2.8 Corporate Reporting

#### Key objective

Strengthen supervisory convergence in the area of supervision and enforcement of financial and non-financial information with a particular focus on issues related to alternative performance measures, sustainable finance and the European Single Electronic Format.

ESMA will continue to foster supervisory convergence on supervision and enforcement of financial and non-financial information, as well as to prepare common enforcement priorities on an annual basis. Additionally, in the area of enforcement of financial information, ESMA will continue to organise meetings of the European Enforcers Co-ordination Session (EECS).

In response to the COVID-19 crisis ESMA will continue to conduct necessary supervisory convergence work such as the already issued public statements related to the application of IFRS 9- Financial instruments, financial reporting deadlines for issuers, Alternative Performance Measures and reflecting the effects of COVID-19 in half-yearly financial statements of listed issuers.

ESMA will also follow up on issues identified in the study of the implementation of its Guidelines on alternative performance measures (APM).

Considering the increasing relevance of sustainability issues (including environmental, social and governance factors), ESMA will continue to closely monitor the developments in this area, to engage with stakeholders and to promote the creation of a common supervisory culture with regards to non-financial reporting, although the decision on a specific supervisory tool will not be taken in 2020.

ESMA will also actively monitor the implementation of the requirements related to the European Single Electronic Format (ESEF) and consider if there is a need to provide further assistance to market participants. In addition, ESMA will support NCAs in the preparation of future supervisory activities relating to, and leveraging on, electronic reports, to ensure the

highest possible convergence across all EU jurisdictions in the application of the ESEF Regulation by issuers and in its supervision by NCAs.

ESMA will also engage with representatives of European audit oversight bodies in order to increase the co-operation between accounting and auditing supervision activities.

#### Main outputs

- Statement on the annual common enforcement priorities for 2020 year-end and monitoring of the implementation of the priorities for 2019
- One extract of selected enforcement decisions
- Report on an accounting topic
- Statements on supervisory measures or implementation by issuers related to COVID-19 crisis response

### 4.2.9 Horizontal supervisory convergence work and peer reviews

#### Key objective

Continue to make full use of its supervisory convergence toolkit and increase its effectiveness and impact in particular by exploring how to strengthen its convergence powers under the new ESMA Regulation. Beyond more traditional convergence activities and with a view to building a common European supervisory culture, further dialogue among supervisors and enforcement specialists will be encouraged. ESMA will also use peer reviews to assess the convergence reached in the application of EU rules and supervisory practices.

ESMA will pursue the objective of increasing the effectiveness and impact of its supervisory convergence tools and actions. This will include continuing the existing enhanced dialogue with NCAs' supervisors to facilitate the identification of convergence issues and supervisory best practices, as well as fostering consistency and effectiveness in the choice of tools. In the context of the new ESMA Regulation, implementation work will be done both on the new convergence tools, such as the Union Strategic Supervisory Priorities and the use of Co-ordination Groups, and on the enhancement of existing tools, such as peer reviews and Q&As.

ESMA is committed to bringing together lead supervisors from NCAs to exchange views on strategic and topical supervisory issues. In the Brexit context, ESMA will carry on monitoring relocations to the EU27 until six months after the UK's withdrawal from the EU to foster a common approach in handling the authorisation requests.

ESMA actively engages in addressing potential shortcomings in the supervisory overview NCAs may have post Brexit. As individual NCAs alone may not be in the position to fully monitor the activities of major relocating financial entities, in particular investment firms, ESMA will provide a framework for NCAs to facilitate the setting up of voluntary colleges in the interest of even closer co-operation.

ESMA will foster closer collaborative relationships amongst enforcement specialists to facilitate co-operation in cross-border enforcement investigations. The objective is to share and develop best practices in key areas, including the determination of financial penalties as well as to share practical enforcement investigation skills and techniques such as investigative interviewing skills.

In terms of peer reviews, depending upon the evolving context, a review will be undertaken on NCAs' handling of relocation to the EU27 in the context of the UK's withdrawal from the EU. It will look into NCAs' authorisation of relocating firms and will also consider NCAs' supervisory steps to address any shortcomings identified at the authorisation stage.

In addition, it is envisaged to launch a peer review on NCAs' supervision of cross-border activities of investment firms. Moreover, ESMA will follow up on issues and shortcomings that were identified in previous peer reviews, notably on the peer review of ESMA's Guidelines on enforcement of financial information.

#### Main outputs

- Build common supervisory approach on NCAs' handling of Brexit relocation and beyond
- Facilitate the set-up of voluntary supervisory colleges for large third-country groups offering financial services in the EU through different entities operating from different Member States, without a parent company established in the EU
- Build closer collaborative relationships amongst enforcement specialists in NCAs through exchange of views, to facilitate co-operation in cross-border enforcement investigations
- Peer review on NCAs' handling of relocation to EU27 in the context of the UK's withdrawal from the EU (delayed as linked to Brexit end of transition period, dependent upon evolving context), follow-up peer reviews (some delayed to 2021)

## 4.3 Assessing risks to investors, markets and financial stability

In undertaking risk assessments, ESMA monitors and assesses market developments and new financial activities in its remit. The risk assessments are carried out with a view to supporting the Authority's objectives of promoting investor protection, orderly markets, and financial stability.

### 4.3.1 Financial Innovation and Product Risk Analysis

<b>Key objectives</b>	<p>Identify opportunities and risks related to financial innovation and systematically monitor retail investor trends.</p> <p>Achieve a co-ordinated approach to the regulation and supervisory treatment of new or innovative financial activities and provide advice to the EU institutions, market participants and consumers.</p> <p>Ensure a convergent approach to the identification of areas where product intervention powers provided by MiFIR could be used.</p>
<p>In 2020, ESMA will continue monitoring financial activities and retail investor trends, with a particular focus on financial innovation. The ESMA monitoring framework is designed to ensure that financial innovation does not undermine the core objectives of investor protection, financial stability and orderly markets. To prioritise which financial innovations require deeper analysis and potential responses, e.g. to possible market failure, ESMA has developed the financial innovation scoreboard: a methodology based on quantitative and qualitative assessment. Key analytical areas are fintech, crypto-assets, tokenisation, crowdfunding, artificial intelligence, machine learning, ESG indicators and technology risk, including outsourcing to cloud providers and cyber resilience. The monitoring also helps ESMA to play a proactive role in gathering the necessary market intelligence, collecting data and developing retail risk metrics, systematically reviewing consumer trends, included monitoring cost and performance of retail investor products in the EU. This allows for the timely identification of potential causes of consumer and investor harm that will guide the Authority in identifying product risks and determining when and where ESMA will employ its own product intervention powers or other measures at its disposal. The Financial Innovation and Product Risk Analysis supports ESMA's supervisory convergence activities on innovation issues and are aimed to build a common approach and exchange of expertise at EU level in the area of financial innovation concentrating on ICOs, crypto-assets, innovative FinTech business models, innovations hubs and regulatory sandboxes. Building on its monitoring of financial innovation in the EU, ESMA contributes to the co-ordination of innovation facilitators (European Forum of Innovation Facilitators), in co-operation with the Commission and the other ESAs.</p>	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Ongoing monitoring of retail investor trends, financial activities and innovation, including Fintech</li> <li>– Ongoing market intelligence gathering and data collection</li> <li>– Ongoing development of retail risk indicators</li> </ul>

	<ul style="list-style-type: none"> <li>– Ongoing trend and risk monitoring (TRV)</li> <li>– Annual Statistical Reports on cost and past performance of EU long-term retail investment products, on AIFMD, on EMIR and on MiFID II (may be delayed by up to three months)</li> <li>– Co-ordination of supervisory convergence follow-up on innovation issues</li> <li>– Contribution to financial innovation and retail investors workstreams at international level (FSB, IOSCO)</li> <li>– Guidelines on outsourcing to cloud service providers</li> </ul>
--	---

### 4.3.2 Risk Monitoring and Analysis

<b>Key objective</b>	Identify financial market risks and report on these risks to the relevant institutions.
<p>ESMA will monitor and analyse markets developments, particularly through its Trends, Risks and Vulnerabilities (TRV) reports and its Risk Dashboard (RD), and supported by its Annual Statistical Report series in light of its objectives of promoting financial stability, orderly markets and investor protection. The risk monitoring and analyses contribute to core ESMA activities, including regulatory impact assessments and topical studies for single rulebook measures, stress testing methods and analysis as well as risk metrics for supervisory convergence work. In 2020, ESMA will continue to provide up to date analysis of market movements and developments across Member States with specific updates to its risk assessment in light of the COVID-19 pandemic.</p> <p>Importantly, ESMA's risk assessment draws on data and statistics sourced and managed through an integrated approach, ensuring high quality, efficient management, and an effective use, especially of the proprietary data ESMA collects. As part of this integrated approach we have established an Annual Statistical Report series on EU derivatives markets based on EMIR data, EU alternative fund markets based on AIFMD data, and EU securities markets based on MiFID II data; these reports may be slightly delayed compared to initially planned. These reports complement ESMA's ongoing market monitoring through its TRV reports and RD and provide risk indicators available for use at ESMA level as well as by NCA supervisors with the aim of promoting supervisory convergence and data-driven, evidence-based entity supervision.</p> <p>On the basis of its sectoral risk assessments for the EU, ESMA will contribute to the European systemic risk analysis by performing in-depth research and monitoring work – alongside the European Systemic Risk Board (ESRB), the JC – and to international risk monitoring undertaken by the International Organization of Securities Commission (IOSCO); including participating in IOSCO's work on COVID-19.</p>	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Risk monitoring (TRVs and RDs)</li> <li>– Annual statistical report series (EU derivatives markets based on EMIR data, EU alternative fund markets based on AIFMD)</li> </ul>

	<p>data, EU securities markets based on MiFID II data) (may be delayed)</p> <ul style="list-style-type: none"> <li>– In-depth research / thematic analysis (topics depend upon wider context at the time and within available resources)</li> <li>– Contributions to risk monitoring by EU and international bodies (ESRB, ESA JC, IOSCO, FSB).</li> </ul>
--	--

### 4.3.3 Data Management and statistics

<b>Key objective</b>	<p>Operate the data reporting IT system and perform data management and statistical analyses in order to support ESMA's activities by improving data quality, integration and usability in close co-ordination with NCAs.</p> <p>In order to provide market participants, regulators and the general public with information, ESMA maintains and operates more than 20 IT systems that it has built in response to legislative mandates. They include databases with data reported from authorised and registered entities, stemming from different regulations (e.g. MiFIR, UCITS, MAR, CSDR, EMIR, AIFMD, SFTS, Prospectus Regulation, STS Securitisation Regulation and MMF Regulations), as well as prospectus, sanctions, and short selling exempted shares registers.</p> <p>ESMA's work on data management and statistical analysis will focus on ensuring usability and use of the data to support all ESMA activities and those from NCAs and other stakeholders. This is achieved through supporting the entities that shall report data to ESMA, developing and applying data processes and statistical analyses to improve the quality of data and contribute to its enhancement, and processing internal and commercial data and statistical reports.</p> <p>The data management and statistics support all of ESMA's activities. These support activities are achieved through both regular operations on the data as well as thematic analytical project support policy and risk assessment activities.</p> <p>Data management activities will also cover the implementation of the ESMA Data Strategy, with focus on the quality of the data available to ESMA, NCAs and the public, and remedial actions in co-ordination with NCAs. To achieve these objectives, ESMA's efforts will be directed towards improving the integration of regulatory data and increasing its technical and staff capacities for the analysis of large and complex sets of data.</p>
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Data processes to support policy, supervisory and supervisory convergence activity</li> <li>– Ongoing data quality analysis</li> <li>– Processing of internal and commercial data and statistical generation to support ESMA and NCA activities</li> <li>– Maintenance of ESMA's databases and IT systems</li> </ul>



## 4.4 Completing a single rulebook for EU financial markets

ESMA's single rulebook work refers to the technical standards and technical advices that ESMA has been mandated to draft by the relevant legislation. In addition, ESMA periodically reviews its technical standards and supports the review of EU financial regulation. Some of ESMA's planned single rulebook work has been delayed in order to allow sufficient time for response to consultations during the COVID-19 pandemic. The new deadlines are set out in Annex I.

### 4.4.1 Post-Trading

#### Key objectives

Contribute to the set-up of a regulatory and supervisory regime for CCPs, by providing technical advice for delegated acts and developing technical standards under EMIR 2.2.

Update the regulatory regime for OTC derivatives by developing technical advice and technical standards under EMIR Refit.

Develop the relevant reports on post trading matters regarding the applicable regulatory framework (e.g. EMIR and CSDR).

The EMIR Review has led in 2019 to the adoption of two sets of important amendments to EMIR, one on the regulatory and supervisory regime for CCPs, also known as EMIR 2.2, and the other covering in particular the clearing obligation and the reporting obligation, also known as EMIR Refit. ESMA has already started work in 2019 to implement these changes and had planned to finish in 2020, however the deadlines for some RTS have been revised (see Annex I).

A decisive step for their implementation is the completion of the regulatory framework on the basis of the finalisation of a number of Level 2 measures. Specifically, with regards to CCPs and EMIR 2.2, this includes amending the technical advice on rules for imposing fines or periodic penalty payments for CCPs, the RTS specifying the information that a CCP shall provide ESMA in its application for recognition, the RTS specifying the conditions under which the Union currencies are to be considered as the most relevant currencies, the RTS specifying the conditions under which additional services or activities that a CCP wishes to extend its business to are not covered by the initial authorisation and therefore require an extension of authorisation, and the RTS specifying the conditions under which changes to the models and parameters are significant changes. With respect to EMIR Refit, this includes work detailed in the Market data section below, but also technical advice on the FRANDT (fair, reasonable and non-discriminatory) terms, as well as co-operation with the EBA and EIOPA on the development of the draft RTS on the validation of model changes.

ESMA may change or update the Clearing Obligation RTS, depending on market developments, new clearing offers or changes to the perimeter of the EU current clearing services offers. ESMA will review the post-trading related technical standards where some



amendments may be needed, for instance the RTS on CCP requirements with respect to the anti-procyclicality requirements.

ESMA will also develop reports on post-trading matters, such as certain reports for the CSDR review, as well as reports mandated under EMIR Refit (for instance on the clearing obligation and Pension Scheme Arrangements, on the periodical review of the clearing thresholds and on post-trading risk reduction services). Some of the deadlines have been revised and are available in Annex I.

#### Main outputs

- Develop technical standards and technical advice following the EMIR Review (see Annex I for revised deadlines)
- Amend post trading related technical standards where necessary
- Reports to the European Commission for the CSDR review or reports mandated under EMIR Refit (see Annex I for revised deadlines)

### 4.4.2 Market Data

#### Key objectives

Contribute to the finalisation of EMIR REFIT implementing measures by drafting the related RTS and ITS on reporting to trade repositories.

ESMA will review reporting and other related requirements in the context of EMIR REFIT. When doing so, it will consider provisions of the Technical Guidance on harmonisation of OTC derivatives data elements developed by CPMI-IOSCO and will leverage on the established data quality framework under SFTR.

#### Main outputs

- Draft RTS and ITS on reporting to trade repositories under EMIR REFIT.

### 4.4.3 Investor Protection and Intermediaries

#### Key objective

Contribute to the development of a single rulebook in the area related to investment firms, the provision of investment services and the application of the third-country firm regime.

ESMA will assist the European Commission in the work on the reports required under MiFID II (MiFID II review), it will co-operate with the Commission in the assessment of the application of its key requirements and in developing or amending/reviewing MiFID II Level 1 and Level 2 provisions on investor protection and intermediaries (including by reviewing ESMA RTS/ITS or by providing technical advice to the Commission when needed).

ESMA also has a role in the implementation of the MiFIR third-country regime for the provision of investment services, both directly (e.g. co-operation agreements with supervisors of

equivalent third countries; exercise of powers in relation to third-country firms registered in the relevant ESMA register) and indirectly (e.g. possible support to the European Commission's equivalence assessment).

#### Main outputs

- MiFID II reports (Article 90 MiFID II) (may be delayed)/ Development of new Technical standards and review of best execution TS / Advice to the Commission on MiFID II/MiFIR
- Co-operation arrangements with relevant third-country authorities
- Support on equivalence assessments of third-country regimes (dependent upon Commission timing)

### 4.4.4 Secondary Markets

#### Key objectives

Contribute to the review of MiFID II / MiFIR by providing expertise and market intelligence and making recommendations regarding possible amendments.

Ensure that the RTS and ITS further specifying MiFID II/MiFIR deliver on their objectives and propose amendments to the relevant Regulations if and where necessary.

Following the start of the work on the MiFID review reports in 2019 covering the consolidated tape for equity instruments and the development of costs for pre- and post-trade market data, ESMA will focus in 2020 on providing advice to the Commission covering key provisions of MiFID II/MiFIR, such as the pre- and post-trade transparency regime, the double volume cap, the SI regime, algorithmic trading, the trading obligation for derivatives, SME growth markets, the functioning of organised trading facilities (OTFs) and the impact of MiFID II on commodity derivatives markets; some deadlines have been revised and are available at Annex I. The review process will also take into account the impact of the UK's withdrawal from the EU and assess the need to adjust the legislative framework.

ESMA will also continue monitoring and reviewing RTS/ITS, in particular in the context of Brexit, and may propose amendments to RTS/ITS as appropriate. Particular attention will be given to RTS 2 (transparency for bonds, derivatives and other asset classes).

A major second workstream could constitute the appointment of a consolidated tape for equity instruments.

#### Main outputs

- Reports on MiFID II/MiFIR review reports (some delays, see Annex I);
- Potential amendment of RTS 2.
- Possible launch of a procedure for appointing a consolidated tape.

#### 4.4.5 Market Integrity

<b>Key objectives</b>	Finalise the technical advice on MAR Review and develop MAR draft technical standards as a result of the approval of the proposed Regulation as regards the promotion of the use of SME Growth Markets.
<p>ESMA will continue working on its technical advice on MAR, thus contributing to the Report that the European Commission will draft on the application of MAR. In parallel, ESMA will also deliver its response to the European Parliament (EP) Resolution on multiple withholding tax (WHT) reclaim schemes.</p> <p>In addition, on the basis of the amendments to MAR brought by the proposed Regulation concerning the promotion of the SME Growth Markets, in 2020 ESMA will develop RTS concerning accepted market practices and ITS on the format of alleviated insider lists.</p> <p>ESMA will develop RTS and some delegated acts on benchmarks in the context of the review of the ESAs' and ESMA's new responsibilities.</p>	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– Technical advice to the Commission on MAR application and response to EP on WHT reclaim schemes (deadlines have been revised, see Annex I)</li> <li>– Draft RTS and ITS to be developed in the framework of the SME Growth Markets promotion Regulation</li> <li>– Draft RTS on benchmarks to be developed in the framework of the ESAs' Review Regulation.</li> </ul>

#### 4.4.6 Investment Management

<b>Key objective</b>	Contribution to the reviews of the PRIIPs Regulation, the UCITS Directive and AIFMD by developing the relevant regulatory and implementing Technical Standards and Technical Advice within the deadline.
<p>The Commission's review of the PRIIPs Regulation will give rise to additional work within the Joint Committee. This will lead to a revision of the PRIIPs technical standards after the consultation of the European Commission.</p> <p>Similarly, starting from 2020 there may be additional work for ESMA as a result of the upcoming reviews by the Commission of the UCITS Directive and AIFMD. Due to the need to reallocate resources to addressing the COVID-19 crisis, work on the AIFMD review may be delayed.</p>	
<b>Main output</b>	<ul style="list-style-type: none"> <li>– Revised RTS under PRIIPs</li> <li>– (Potential) Technical advice on the investment management legislation (mainly UCITS Directive and AIFMD) (may be delayed)</li> </ul>

#### 4.4.7 Corporate Finance

<b>Key objective</b>	Complete the single rulebook on Prospectus Regulation by delivering technical advice and, potentially, technical standards.
ESMA has been tasked with delivering technical advice on general equivalence criteria under the Prospectus Regulation. In view of COVID-19 impact on resource, ESMA will not consider the potential development of draft regulatory or implementing technical standards.	
<b>Main outputs</b>	– Technical advice

#### 4.4.8 Corporate Reporting

<b>Key objective</b>	Contribute to the set-up of high-quality accounting standards through providing enforcers' views on new pronouncements and endorsement advice.
<p>ESMA contributes actively to the accounting standard setting and endorsement in the EU through its observership at the EFRAG Supervisory Board and Technical Expert Group. In addition, ESMA contributes to the International Accounting Standards Board (IASB) in charge of developing those global standards, including the IFRS Advisory Council and the IFRS Taxonomy Consultative Group (ITCG).</p> <p>It also undertakes single rulebook work in the audit area by providing views on relevant International Standards on Auditing (ISA) and by participating in the Committee of European Audit Oversight Bodies (CEAOB), where ESMA chairs the subgroup of International Adequacy and Equivalence.</p>	
<b>Main output</b>	– Technical positions on new IFRS pronouncements and amendments

#### 4.4.9 Policy activity to support our supervisory mandates<sup>3</sup>

<b>Key objective</b>	Continue to contribute to the establishment of a robust regulatory framework under the Credit Rating Agency Regulation and provide support to ESMA's supervisory activities.
----------------------	--

---

<sup>3</sup> Policy work to support ESMA's supervisory mandates is funded by fees charged to the supervised entities; however these functions are performed independently within ESMA and so are presented separately in this work programme.

## Credit Rating Agencies

ESMA will maintain an active role in ensuring the implementation of the CRA Regulation supports ESMA's objectives of investor protection and financial stability by reacting to new trends or supervisory concerns. This includes continuous monitoring of the results of the implementation of the RTS/ITS with the possibility of proposing amendments to ensure they remain fit for purpose and developing new Guidelines or Q&As where necessary to support the consistent application of CRAR. ESMA will continue to assist the European Commission in its ongoing work to promote sustainable finance in the field of credit rating agencies including any possible legislative proposals.

ESMA will continue performing assessments of third-country regulatory frameworks for endorsement as needed. ESMA stands ready to provide Technical Advice to the European Commission on the equivalence of third countries, should the Commission request this.

ESMA will continue co-operating with EBA and EIOPA to provide a mapping to newly registered External Credit Assessment Institutions (ECAIs) as well as monitor the mapping already provided to the previous ones in order to promote a consistent implementation of Capital Requirements Regulation (CRR) and Solvency II Directive across the EU.

### Main output

- Revised RTSs and provide additional guidance for CRAs (see Annex I)

## 4.5 Directly supervising specific financial entities

ESMA has direct supervisory powers in three areas: Credit Rating Agencies, Trade Repositories and Securitisation Repositories. In addition, it recognises CCPs and third-country CSDs.

### 4.5.1 Credit Rating Agencies

#### Key objective

Following registration, address key risks to the objective that credit ratings in the EU be independent, objective and of adequate quality by conducting timely supervisory activities with a lasting impact. Requesting remediation at individual CRA level, and finally, adopting effective enforcement actions where ESMA identifies breaches of the CRA Regulation.

ESMA has adopted a risk-based approach to supervision of CRAs. ESMA will prioritise risks to be addressed in 2020 and address them through its supervisory activities. In 2020 ESMA expects to continue focusing its supervisory activities on the effectiveness of internal control system and the impact of new technologies on the business, operational and organisational arrangements of supervised firms. ESMA expects to conduct supervisory work on areas such as:

- Rating Process, including the independence of the rating process,
- Methodology Development and Validation,
- Governance, including the effectiveness of the Board, and
- Internal Controls, including segregation of duties and the effectiveness of internal control functions, IT Process and Systems and Information Security including cybersecurity.

ESMA will continue to monitor, identify and address new risks posed by industry and capital markets developments, such as those stemming from the COVID-19 crisis. As a result of its day-to-day supervision and specific investigations, including on-site inspections, ESMA will request CRAs to adopt remedial actions, where areas of concern have been identified.

ESMA will assess registration applications under the CRA Regulation and conducting perimeter monitoring activities.

As a response to the COVID-19 crisis, ESMA will continue to engage 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 will continue to closely monitor CRAs' rating actions through enhanced data analytics to assess the possible impact of ratings actions on financial stability.

As a result of the above and given the constraints on inspection activities, ESMA will diminish some of its other activities which represent a lesser risk.

Where breaches of the regulation have been identified, ESMA will adopt effective enforcement actions, that could range from the issuance of public notices to the withdrawal of registration and imposition of fines.

ESMA will engage and co-operate with relevant stakeholders such as the European Central Bank (ECB), and other regulatory and supervisory bodies at international level, for instance, through its active participation in the International Supervisory Colleges for global CRAs.

#### Main outputs

- Engagement with individual CRAs, investigations, thematic reports and letters addressed to CRAs identifying risks and requesting remediation in alignment with key supervisory priorities
- Timely assessment of registration applications
- Enforcement files
- Supervision and monitoring in response to the COVID-19 crisis

### 4.5.2 Trade Repositories under EMIR

#### Key objective

Following registration, address key risks to the objective of enhancing the quality (integrity, confidentiality and availability) of TR data by conducting timely supervisory activities with lasting impact. Requesting remediation at individual TR level, and finally, adopt effective enforcement actions where ESMA identifies breaches of EMIR.

ESMA has adopted a risk-based approach to the supervision of TRs. ESMA will prioritise risks to be addressed in 2020 and address them through its supervisory activities. In 2020, ESMA's main supervisory objective on TRs will continue to be the enhancement of the quality of data reported to TRs under EMIR. ESMA expects to focus its supervisory activities on:

- a) Data Quality, including report generation and the implementation of the Data Quality Action Plan,
- b) Access by Competent Authorities, including access filtering criteria,
- c) Information Security Risk Project (the scope has been revised down for 2020 in view of efforts needed for the COVID-19 monitoring).
- d) Governance, including the effectiveness of the Board,

- e) Internal Controls, including the segregation of duties and the effectiveness of the control functions, and

In the context of the COVID-19 crisis, ESMA will continue to focus on supervision of the data capabilities of trade repositories as the number of messages increase.

As a result of its day-to-day supervision and specific investigations, including on-site inspections, ESMA will request TRs to adopt remedial actions, where areas of concern have been identified.

ESMA will assess registration applications under EMIR.

Where breaches of the regulation have been identified, ESMA will adopt effective enforcement actions, that could range from the issuance of public notices to the withdrawal of registration and imposition of fines.

ESMA will engage and co-operate with relevant stakeholders such as NCAs, the ECB, ESRB, and other regulatory and supervisory bodies at EU and third-country level.

#### Main outputs

- Engagement with individual TRs, investigations, thematic reports and letters addressed to TRs identifying risks and requesting remediation in alignment with key supervisory priorities
- Timely assessment of registration applications
- Enforcement files

### 4.5.3 Trade Repositories under SFTR

#### Key objective

Following the registration of EU firms providing SFT reporting services in 2019, effectively identify and address key risks to the objective that SFT data is of good quality by conducting timely supervisory activities with lasting impact. Requesting remediation at individual TR level, and finally, adopting effective enforcement actions where ESMA identifies breaches of SFTR.

ESMA would have registered and started supervising TRs that will report under SFTR in 2019. As with Trade Repository supervision under EMIR, ESMA will apply a risk-based approach to the supervision of the SFT data reporting. ESMA expects that its supervisory work will initially focus on identifying shortcomings to data quality and verifying operational separation. ESMA expects that it will, in 2020, collect sufficient information from TRs providing SFT reporting so as to further calibrate its risk framework and identify further periodic information it may need in order to effectively monitor compliance with SFTR.



As a result of its day-to-day supervision and specific investigations, including on-site inspections, ESMA will request TRs to adopt remedial actions, where areas of concern have been identified.

ESMA will assess registration applications under SFTR.

Where breaches of the regulation have been identified, ESMA will adopt effective enforcement actions that could range from the issuance of public notices to the withdrawal of registration and imposition of fines.

ESMA will engage and co-operate with relevant stakeholders such as NCAs, the ECB, ESRB, and other regulatory and supervisory bodies at EU and third-country level.

#### Main outputs

- Timely assessment of registration applications
- Engagement with individual TRs registered under SFTR, thematic reports and letters addressed to TRs identifying risks and requesting remediation in alignment with key supervisory priorities
- Enforcement files

### 4.5.4 Securitisation repositories under Securitisation Regulation

#### Key objective

Register new entrants, if they meet all regulatory standards under the Securitisation Regulation. Effective identification of risks to the objective that securitisation repositories' data be of good quality. Timely and lasting impact supervisory activities at individual SR level.

ESMA will register the securitisation repositories (SR) and will set up the framework for their ongoing supervision. ESMA will start using the supervisory toolkit to address the key 2020 risks and priorities, including ongoing monitoring, investigations and on-site inspections.

#### Main outputs

- Timely assessment of registration applications
- SR risk assessment framework
- Engagement with individual SRs, letters addressed to SRs identifying risks and requesting remediation in alignment with key supervisory priorities

### 4.5.5 Third-country CCP recognition

#### Key objective

Recognition of third-country CCPs providing clearing services in the Union.

Under the current version of EMIR, ESMA has direct responsibilities regarding the recognition of third-country CCPs providing clearing services within the Union. The EMIR regulatory and supervisory framework for TC-CCPs and corresponding powers for ESMA will be expanded with amendments introduced through EMIR 2.2.

In 2020, ESMA will continue implementing its new range of supervisory responsibilities under the EMIR 2.2 framework with respect to TC CCPs, while at the same time ensuring continuity in its risk monitoring and recognition responsibilities. Specifically, ESMA will continue its TC-CCP work which includes the monitoring of compliance with recognition conditions by third-country CCPs, taking new recognition decisions and the review of **existing ones, but it will at the same time expand this work as described in section 4.1.2.**

In the context of the COVID-19 crisis, ESMA will continue to focus on ensuring financial stability through closely monitoring CCPs through active involvement of the CCP Supervisory Committee, particularly focussing on avoiding the cliff-edge effects of Brexit with respect to UK CCPs.

#### Main outputs

- Recognition decisions for third-country CCPs
- Ongoing monitoring of compliance with third-country CCPs recognition conditions

### 4.5.6 Third-country CSD recognition

#### Key objective

Recognition of third-country CSDs and periodic monitoring of compliance

Under CSDR, ESMA has direct responsibilities regarding the recognition of third-country CSDs providing notary or central maintenance services in relation to financial instruments constituted under the law of a Member State or establishing a branch in a Member State. This activity includes periodic monitoring of the compliance with recognition conditions by third-country CSDs on the basis of information received from the responsible third-country authorities and granting of new recognition decisions.

#### Main outputs

- Recognition decisions for CSDs
- Periodic monitoring of compliance with recognition conditions

## 4.6 ESMA as an organisation

### 4.6.1 UK withdrawal from the European Union and future relationship

<b>Key objective</b>	Provide strategic lead, co-ordination and consistency across all Brexit-related workstreams within ESMA's remit and preparing for all possible scenarios.
<p>The decision by the UK to leave the European Union is changing financial markets in Europe and will have very important impact on ESMA's work in the years to come. Brexit is presenting important risks and challenges for ESMA and NCAs, as well as financial firms, investors and consumers.</p> <p>With the outcome of the political negotiations still unclear at the time of the publication of this document, the impact of Brexit in 2020 on ESMA's operations, work programme and set up cannot be granularly formulated but it should be mentioned that it will potentially have a major impact on the availability of resources for the priorities identified in the working programme.</p> <p>The impact of Brexit on ESMA as an organisation requires strong internal co-ordination to prepare and adapt to the changes in ESMA's external environment, as well as communication with institutional and market stakeholders on relevant issues arising out of the Brexit negotiations and/or market developments.</p> <p>Following the possible departure of the UK, 2020 will require significant work to manage the relationship between the EU27 and the UK in the field of financial services, which will be a source of risk and opportunity. In a no-deal Brexit scenario, ESMA will focus on ensuring the immediate risks and issues are managed. In the scenario where a withdrawal agreement is in place, at the request of the European Commission, ESMA will engage with the EU equivalence process. This will involve ESMA providing input in the adoption of equivalence decisions on the UK, the ongoing monitoring of those decisions, and ensuring appropriate supervisory convergence within the EU.</p>	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– ESMA work to ensure appropriate regulatory and supervisory coverage of third-country entities post-Brexit.</li> <li>– Ensure risk assessment and relevant mitigation across all Brexit-related workstreams, including on ESMA as an organisation</li> <li>– Regular communication with market participants and other stakeholders, including close co-ordination and co-operation with relevant EU institutions and bodies</li> </ul>

## 4.6.2 Corporate Affairs

Key objective(s)	Provide support to ESMA in the area of stakeholder relations, communication, governance, strategic planning and reporting; risk management, assurance and accountability.
<p>ESMA's corporate affairs activity includes providing active support to the whole organisation through the following ongoing tasks:</p> <p><b>Relationship with the European Union Institutions, international organisations and other EU and non-EU regulators:</b> Co-ordinating, advising and ensuring cross-organisational coherence on inter-institutional relationships and ensuring liaison with the other ESAs, the ECB, as well as relations with third-country regulatory bodies and international organisations (IOSCO, FSB). This includes co-ordinating ESMA's representation at the Financial Services Committee (FSC) and the Economic and Financial Committee (EFC). In 2020, emphasis will be placed on engaging with the new Commission and new Parliament.</p> <p><b>Governance:</b> Providing support to the Board of Supervisors and the Management Board, in particular considering the changes to ESMA's governance that the ESAs' Review and EMIR 2.2 will bring, as well as continuing to support the Joint Committee, and the Board of Appeal, assisting internal governance bodies and providing support to senior management.</p> <p><b>Engagement with stakeholders:</b> providing support to the ESMA Securities and Markets Stakeholders Group, including as regards its set-up due to the ESMA Review, as well as to ESMA's broader stakeholder outreach activities and priorities.</p> <p><b>Communications:</b> Leading on external communications including preparation of key messages, media relations, advising and preparing for external speaking events and management of internal and external communication channels including intranet, website and social media.</p> <p><b>Planning and Reporting:</b> Producing strategic, multi-annual and annual work plans and reporting to the Management Board and the public on their execution using performance indicators. Planned work is kept under continuous review and prioritisation based on developments.</p> <p><b>Internal Controls:</b> Ensuring that ESMA's policies, procedures and applicable laws and regulations are complied with; that risks are appropriately and continuously identified and managed; that high-quality control processes, policies and procedures are developed and maintained; and that there are controls around the protection of assets and information.</p>	
Main outputs	<ul style="list-style-type: none"> <li>– 2019 Annual Report</li> <li>– 2019 Joint Committee Annual Report</li> <li>– 2021-2023 Programming Document</li> <li>– 2021 Annual Work Programme</li> </ul>

- 2021 Joint Committee Annual Work Programme
- 2021 Annual risk assessment and work plan

#### 4.6.3 Legal

##### Key objectives

Enhance the legal drafting and soundness of legal acts adopted by ESMA.

Provide clarity on the Authority's legal toolbox, including Q&As, and easy access to all applicable acts elaborated by ESMA.

Promote good administrative behaviour throughout the organisation, handle complaints and requests for access to documents efficiently, ensure compliance with data protection and ethical rules.

Identify potential breaches of Union law, with investigations and recommendations as appropriate.

Represent ESMA before the Board of Appeal and the Court of Justice

Legal advice fosters sound and consistent interpretation of applicable legal or regulatory provisions falling under ESMA's remit. A particular attention will be given in 2020 in advising on the implementation of the legislative reforms impacting ESMA's missions and powers (e.g. ESA Review, EMIR 2.2, etc).

Legal reviews are necessary to ensure the legal quality and soundness of ESMA contributions to the single rulebook and to supervisory convergence, as well as its supervisory decisions. While formal sign-offs are provided for technical standards only, and will continue to be provided, enhanced guidance on drafting guidelines as well as, resource permitting, legal reviews of guidelines and other convergence tools will be promoted. Specific training sessions are also provided internally.

As a maturing and growing organisation, it is important to ensure that ethics and integrity rules are well-known and adhered to, in particular through induction sessions for newcomers. Similarly, compliance with the Data Protection Regulation through accurate and up-to-date records, an exhaustive public register and easily accessible privacy statements should be promoted. Last, ESMA should be able to rely more and more on internal legal expertise for all transversal support functions, while seeking external legal advice where lack of specific expertise or of available resources so require.

ESMA will continue to upgrade the user-friendliness of the applicable legal framework on its website, through ongoing updates of the lists of Technical Standards (TSs) and Guidelines (GLs), as well as through the expansion of its interactive Single Rulebook setting these TSs, GLs as well as Q&As into the context of sectoral directives and regulations in ESMA's remit. Specific care will be given in 2020 to promoting an enhanced framework for Q&As.

Efforts will also be made to enhance our complaints handling process through secure channels of communication for lodging complaints and while seeking more targeted input

from stakeholders: this should allow ESMA to improve the ratio of admissible versus non admissible complaints, to proactively seek clarification from NCAs on their national framework and practices should serious indications of possible breaches of Union law be communicated to ESMA, and ultimately to help ensure consistent application of Union law through breach of Union law investigations and recommendations, when justified.

#### Main outputs

- Legal sign-off of Technical Standards
- Handling complaints/appeals/actions against ESMA
- Updating tool listing Technical Standards and Guidelines
- Rolling out the Interactive Single Rule Book
- Publishing a complete public register of ESMA processing operations involving personal data

### 4.6.4 Human Resources

#### Key objective

Deliver HR services, enabling ESMA to attract, deploy and retain the talents required to achieve its objectives, and ensuring efficient HR administration while at the same time fulfilling the regulatory requirements of an EU authority.

The Human Resources function will continue to support ESMA staff in their development and HR needs and recruit new staff when necessary. Recruitment will be a particularly important activity in 2020 as ESMA will need to recruit a significant number of new staff members linked to ESMA's new powers and responsibilities (e.g. linked to ESAs' Review or EMIR 2.2). ESMA's ability to recruit in 2020 has been impacted by the response to the COVID-19 pandemic. Recruitment and induction of new staff is still taking place with physical distancing, but it is likely that the overall rate at the end of the year will be lower than planned. In addition, various initiatives have been launched to ensure communication and follow-up with existing staff. In parallel, the key new project planned for 2020 for delivery in 2021 is the implementation of Sysper, the HR system of the European Commission.

#### Main outputs

- Recruitment/induction of new staff (at a lower rate than initially planned)
- Training and development of staff

### 4.6.5 Finance and Procurement

#### Key objective

Further aligning the financial and procurement function to the ESMA strategy by continuing to enhance the underlying processes.

Overall, it is estimated that no less than 2,000 payments, 400 recovery orders and 1,500 contracts and procurement procedures will be processed by ESMA in 2020 to ensure the smooth functioning of the Authority.

In 2020, ESMA has to achieve some important milestones, namely the preparation and set up of the revised revenue structure with new fee sources stemming from amongst others the EMIR 2.2 and the ESAs' Review legislations. Therefore, an upgrade of the Activity-Based Management system will be needed to cope with the upcoming increased revenue and sub-activity complexity.

#### Main outputs

- Processing payments and reimbursements
- Budget management and issuing recovery orders for revenue collection
- Procuring goods and services
- Review of the Activity-Based Management process

### 4.6.6 Facility Management

#### Key objective

Provide proactive and effective support to ESMA by ensuring the smooth running of the facilities of the Authority and the acquisition of goods and services, in accordance with the EU public procurement rules and procedures. Ensure the health and safety of ESMA staff and visitors.

The particular areas of focus in 2020 will be the consolidation of the move to the new premises and the adaptation of all our service contracts, as well as instructions and working procedures to adapt ESMA to work in its new building. ESMA's ability to finalise installation in the new premises has been impacted by the physical distancing measures put in place as a response to the COVID-19 pandemic; finalisation is now likely to be in 2021.

Additional projects such as the finalisation of the process to get ESMA certified as an EMAS (EU Eco-Management and Audit Scheme) organisation will continue but may be delayed due to responses being redeployed to respond to the COVID-19 crisis.

Finally, ESMA has also had considerable preparation work to ensure that the premises are suitable for working while maintaining physical distancing in the context of the COVID-19 pandemic.

#### Main outputs

- Finalisation of the installation in the new premises (this will be delayed as the premises have been closed for part of 2020)
- Revision of the Mission management tool (cancelled)
- Facility Management support

#### 4.6.7 Information and Communication Technologies

<b>Key objective</b>	Provide effective and proactive ICT support to staff and manage ESMA's ICT resources in a flexible and efficient way.
<p>Maintenance and lifecycle upgrade of ICT digital workplace tools such as computers, mobile, and printing devices, office automation, mail &amp; calendar, unified communications and collaborations tools. In 2020, the capacity for remote working has been enhanced to allow full remote working by staff, as well as decision-making by governance bodies via conferencing facilities.</p> <p>Provide support to internal and external users of ESMA systems.</p>	
<b>Main outputs</b>	<ul style="list-style-type: none"> <li>– ICT digital workplace tools delivery, supported by communication, change management and user support processes.</li> </ul>



## Annex I. Planned delays to final regulatory outputs

ESMA has extended several consultations in order to allow sufficient time for response during the COVID-19 pandemic. This has resulted in the following projected delays to final regulatory outputs.

Policy area	Output	Initial end date	Revised end date
Investment Management (4.2.5)	Guidelines on leverage	Q3 2020	Q4 2020
Sustainable Finance (4.1.5)	JC Final Report on draft RTS on ESG disclosure and taxonomy	Q4 2020	Q1 2021
Credit Rating Agencies (4.4.9)	Guidelines on Internal controls for CRAs	Q3 (July) 2020	Q3 (September) 2020
Securitisation (4.2.7)	Securitisation Repositories Data Completeness and Consistency Thresholds (adjustments to securitisation disclosure templates)	Q2 2020	Q3 2020
Secondary Markets (4.4.4)	MiFID II annual report on waivers and deferrals	Q3 2020	Q4 2020
	MiFID II review report on algo trading	Q4 2020	Q1 2021
	MiFID II review report on OTF Report	Q4 2020	Q1 2021
	Reasonable Commercial Basis (RCB) guidelines	Q1 2021	Q2 2021
Post-Trading (4.4.1)	Post trade risk reduction services Report	Q3 2020	Q4 2020

Policy area	Output	Initial end date	Revised end date
Market Integrity (4.4.5)	EMIR Refit report on highly liquid instruments	Q3 2020	Q1 2021
	Technical advice to the Commission on MAR application – MAR Review	Q2 2020	Q3 2020
	ESMA's response to the European Parliament Resolution 2018/2900 of 29 November 2018 on multiple withholding tax (WHT) reclaim schemes	Q2 2020	Q3 2020
Market Integrity (4.2.2)	Guidelines on delayed disclosure of inside information with respect to supervisory review and evaluation process (SREP) information communicated to credit institutions by prudential supervisors	Q4 BoS	Q2 2021
EMIR 2.2 (4.4.1)	EMIR 2.2 RTSs on the definition of extension of activities or services (Art 15) and on significant changes to risk models and parameters	Q4 2020	Q1 2021
EMIR 2.2 (4.2.1)	EMIR 2.2 RTS on information in application for recognition	Q4 2020	Q1 2021
	EMIR 2.2 Guidelines on the on the supervisory review and evaluation process	Q4 2020	Q1 2021

## Annex II. Human Resources

The following tables replicate ESMA's 2020 budget at the date of 28 May 2020:

2020 draft Establishment Plan			
AD 16	2		
AD 15	3	AST 11	
AD 14	-	AST 10	
AD 13	3	AST 9	
AD 12	11	AST 8	2
AD 11	16	AST 7	3
AD 10	28	AST 6	2
AD 9	45	AST 5	2
AD 8	41	AST 4	1
AD 7	30	AST 3	
AD 6	19	AST 2	
AD 5	11	AST 1	
AD total	209	AST total	10
<b>GRAND TOTAL</b>		<b>219</b>	

Contract Agents	2020 draft estimate
Function Group IV	49
Function Group III	32
Function Group II	
Function Group I	
<b>Total</b>	<b>81</b>

Seconded National Experts	2020 draft estimate
<b>Total</b>	<b>32</b>

## Annex III. Budget

The following tables includes the 2020 budget as approved by ESMA Board of Supervisors on 28 May 2020 (e.g. amendment n.1 of 2020 budget). An additional budget amendment may occur in the course of 2020.

REVENUE	EUR
Revenue from fees	13,383,007
EU contribution	17,639,880
Contribution from National Competent Authorities	24,004,816
Participation charges for ESMA Conference	0
Contribution for delegated tasks	333,615
<b>TOTAL REVENUE</b>	<b>55 361 318</b>

EXPENDITURE	EUR
Staff expenditure	33,525,318
Infrastructure and administrative expenditure	7,881,000
Operating expenditure	11,505,000
Delegated tasks	2,450,000
<b>TOTAL EXPENDITURE</b>	<b>55 361 318</b>

## Annex IV. ESMA's Key Performance Indicators

ESMA has defined a list of Key Performance Indicators that are reported to the Management Board. ESMA's work programme in 2020 will be measured against these indicators.

Activity	Key Performance Indicator
Promoting supervisory convergence	Main achievements in priority areas for convergence work as identified in the Annual Work Programme. Key achievements (i.e. key projects, topics dealt with), as well as continued measurement of % planned vs. delivered convergence work.
	Impact of Union Supervisory Priorities [under new ESMAR]. Precise indicator to be developed based on the information that NCAs will provide to ESMA on how their activities took into account the priorities.
	Reported compliance rate with GLs. Number of instances, NCAs with highest numbers of non-compliance, GLs with highest numbers of non-compliance, action undertaken to foster compliance.
	Peer reviews & follow-ups. 12 months after publication, proactive status update by NCAs on % of recommendations implemented.
	% of IT systems delivered compared to planned.
	% budget execution of IT Work Programme.
	Number of new harmonised data requirement/number of standardised reporting requirement.
	Number of maintained IT systems.
Assessing risks to investors, markets and financial stability	Risk monitoring reports delivered against work plan, incl. ESMA TRVs, ESMA RDs, ESA JC Risk Reports, ESMA Annual Statistical Reports. Measure: Absolute number of reports delivered against nominal annual target).
	Number of risk issues analysed, incl. vulnerabilities articles, Impact Assessments, Stress Test contributions, ESMA Economic Reports, ESMA Working Papers, other relevant analyses.

Activity	Key Performance Indicator
	Measure: Absolute number of reports delivered against nominal annual target.
	Coverage of ESMA databases under central data management. Measure: Number of databases managed centrally in % of all ESMA datasets.
	Level of data system coverage and quality reached. Measure: Yoy % change of composite indicator of data coverage and quality metrics, to be developed.
Completing a single rulebook for EU financial markets	Percentage of technical standards reviewed.
Direct supervision of specific financial entities	Percentage of engagement with firms split by High Risk and Non-High Risk Firms.
	Number of investigations/pre-enforcement cases split by High Risk and Non-High Risk Firms.
	Percentage of risk scenarios which triggered a supervisory action and resulted in a drop in the risk following the action.
	The time a firm takes to proceed to remedial actions following ESMA's supervisory action.
	Percentage of withdrawals of applications for registration triggered by firms realising their unreadiness to be registered following discussions where ESMA raised concerns about the application and asked for improvements
	Number of cases meeting the time designated for the overall enforcement process.
Organisational implications	Budget management measures: Rate of implementation of Commitment Appropriations Rate of cancellation of Payment Appropriations Rate of payments executed within legal/contractual deadlines
	Human Resource measures: Average vacancy rate Staff turnover rate Staff satisfaction survey
	Percentage of completion of the activities of the Annual Work Programme.

Activity	Key Performance Indicator
	Rate of external and accepted internal audit recommendations.

## Annex V. Acronyms

AIFMD	Alternative Investment Fund Managers Directive
APM	Alternative performance measures
BMR	Benchmarks Regulation
CCP	Central Counterparty
CEAOB	Committee of European Audit Oversight Bodies
CMU	Capital Markets Union
CPMI	Committee on Payments and Market Infrastructures
CRA	Credit Rating Agency
CRR	Capital Requirements Regulation
DQAP	Data Quality Action Plan
EBA	European Banking Authority
ECAIs	External Credit Assessment Institutions
ECB	European Central Bank
ESAs	European Supervisory Authorities
EECS	European Enforcers Co-ordination Session
EFRAG	European Financial Reporting Advisory Group
EIOPA	European Insurance and Occupational Pensions Authority
ELTIF	European Long-term Investment Funds
EMIR	European Market Infrastructure Regulation
ESEF	European Single Electronic Format
ESG	Environmental, Social and Governance
ESRB	European Systemic Risk Board
ESRB	European Systemic Risk Board
EuSEF	European Social Entrepreneurship Funds



EuVECA	European Venture Capital Funds
FSB	Financial Stability Board
FTE	Full Time Equivalent
HFT	High-Frequency Trading
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
IIO	Independent Investigation Officer
IOSCO	International Organization of Securities Commissions
ITS	Implementing Technical Standard
JC	Joint Committee
LEI	Legal Entity Identifier
MAR	Market Abuse Regulation
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MMFs	Money Market Funds
MMFR	Money Market Funds Regulation
NCA	National Competent Authority
NPL	Non-Performing Loans
PRIIPs	Regulations on Packaged Retail and Insurance-based Investment Products
RTS	Regulatory Technical Standards
SFTR	Securities Financing Transactions Regulation
SR	Securitisation Regulation
SSR	Short Selling Regulation
TR	Trade Repository
TS	Technical Standard



UCITS

Undertakings for Collective Investment in Transferable Securities