



European Securities and
Markets Authority

2021 Annual Work Programme



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1 Foreword and general context

The European Securities and Markets Authority's (ESMA) work programme for 2021 is established against the background of a changing landscape for ESMA, including movement of the regulatory cycle towards supervision and enforcement and a continued need to develop European Union (EU) capital markets, reinforced by the fact that the largest capital market has left the EU.

For 2021, ESMA sets out its planned activities to respond to the challenges faced by the EU, its citizens and capital markets, including developing a large retail investor base to support the CMU, promoting sustainable finance and long-term oriented markets, dealing with the opportunities and risks posed by digitalisation, strengthening the EU's role in global capital markets and ensuring a proportionate approach to regulation.

The amendment of ESMA's founding Regulation (the ESAs' Review) has transformed its role with significant impact on its governance, organisational structure and mission from 2020. ESMA now has an enhanced role in fields such as direct supervision, supervisory convergence, investor protection, relations with third countries, sustainability and technological innovation.

Following 2020, a year of preparing for and operationalising these new tasks and powers, in the year of 2021 ESMA's focus will largely be on the actual execution of the tasks corresponding to these new responsibilities. In addition, in 2021, ESMA will be preparing for its new direct supervision mandates of Benchmarks and Data Service Providers that will begin in 2022.

The amended European Market Infrastructure Regulation (EMIR 2.2) enhances the supervisory convergence work of ESMA with regards to EU CCPs and provides for a supervisory regime for third-country CCPs (TC-CCPs), in particular for those of systemic importance for the financial stability of the Union or its Member States.

As of the beginning of 2021, once the UK's transition out of the EU has been concluded, the EU financial markets landscape will have changed significantly. The impact of this on the provision of financial services in the EU will continue to present a number of challenges, and ESMA will continue to address these issues.

Finally, ESMA's 2020 work programme has been highly impacted by the COVID-19 pandemic. This has caused several of the year's deliverables to be delayed to 2021 and, at the time of writing, the actions required for the ongoing response to the pandemic in 2021 are still to be developed.

Key priorities for ESMA in 2021:

ESMA continues to implement its strategic orientation for 2020-2022¹, by taking into account the legislative amendments completing the review of the ESAs, which increase the focus on supervisory convergence, give a higher profile to investor protection and entrust the direct supervision of certain benchmarks and data service providers to ESMA. At the same time, there have been other legislative changes impacting ESMA, such as the introduction of EMIR 2.2, and the new Investment Firms Regime. One of the results of these changes is that ESMA will become the direct supervisor of certain systemically relevant third country CCPs.

Transversal Themes

Across all activities, ESMA will be prepared to assist with new initiatives resulting from the European Commission's Capital Markets Union (CMU) action plan, renewed sustainable finance strategy, and new digital finance strategy and fintech action plan.

ESMA considers the development of the Capital Markets Union as one of its strategic priorities in order to finance the economy and ensure economic growth, job creation and to speed up the recovery. In this respect, ESMA is ready to provide its support to the Commission's CMU action plan, where appropriate and necessary.

Given the pervasiveness of ESG factors across different areas of legislation, building common approaches for incorporating ESG factors in NCAs' supervisory practices will be a priority for ESMA's work on supervisory convergence. To this effect ESMA will produce a roadmap for supervisory convergence in sustainable finance, building on the sustainable finance strategy it published in 2020.

In addition, ESMA will have an important role, among others, in the implementation of the Regulation on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 (taxonomy regulation). This includes in particular the support to the work for the preparation of the delegated acts and its role in the Platform on Sustainable Finance. ESMA will also assist the Commission with new initiatives resulting from the renewed sustainable finance strategy in the context of the recovery, to be adopted by the Commission by the end of the year.

Financial technology is rapidly impacting markets. ESMA believes that technology can contribute to well-functioning financial markets and investor protection. In addition, the revised ESA regulation requires ESMA to consider technological innovation and innovative business models when performing its duties. ESMA will therefore continue its work on financial innovation by continuing its actions under the European Commission's FinTech Action Plan and by contributing to the Digital Finance Package.

¹ [ESMA22-106-1942 ESMA Strategic Orientation 2020-22](#)

Supervisory Convergence

ESMA's 2021 supervisory convergence priorities will be to build an EU common risk-based and outcome-focused supervisory culture. Actions will be prioritised through enhanced supervisory risk identification and data collection allowing to focus on those areas that could pose a high risk or problem for investor protection, financial stability and orderly functioning of EU financial markets.

ESMA will continue to foster convergence in the areas of liquidity risks in funds and the use of liquidity management tools by funds, following the work done in this area in 2020 in the context of COVID-19. It will also maintain a focus on performance and cost of retail investment products, in particular in the funds area.

ESMA will also foster convergence and commonly agreed actions to improve the quality and usability of data across the various reporting regimes. In addition, ESMA will foster convergence in supervision over ESG reporting and usage of ESG data by capital market participants.

In addition, ESMA will contribute to the consistent implementation and application of EMIR, in particular following the changes introduced by EMIR Refit and EMIR 2.2 legislation.

In 2021, ESMA expects to work on peer reviews on supervision of cross-border activities of investment firms, NCAs' handling of relocation to the EU27 in the context of the UK's withdrawal from the EU, supervision of CCPs, supervision of CSDs, and on the scrutiny and approval procedures of prospectuses. The peer review work plan is described in section 3.1.11.

Risk Assessment

In 2021, in the risk assessment area, ESMA will focus on integrating the new focus on financial innovation and ESG into our risk analysis.

It will also focus on data for risk-based supervision, in particular in support of ESMA's new supervisory mandates, and to support policy and convergence work.

Finally ESMA will continue to monitor the impact on markets of the (post) COVID-19 pandemic and following the end of the UK's transition period, intervening when necessary in support of investor protection, orderly markets and financial stability.

Single Rulebook

As part of a programme of regular post-implementation reviews of laws and technical standards, contribute to the legislative reviews of MiFID and AIFMD and assess whether changes to the rulebook are needed to develop the Capital Markets Union, enhance the attractiveness of EU capital markets, and/or to promote sustainable finance or proportionality.

Following the review of EMIR and the changes introduced under EMIR Refit, review technical standards where necessary. Depending on market developments, these reviews may be in the area of clearing thresholds and the clearing obligation.

Direct Supervision

Under its direct supervision activity, in 2021, ESMA will focus on third country central counterparty supervision as critical financial market infrastructures under EMIR 2.2.

In addition, ESMA will prepare for new supervisory mandates regarding Benchmarks and Data Service Providers, as well as continuing direct supervision in the areas of Credit Rating Agencies, Trade Repositories and Securitisation Repositories.



2 2021 planned resources

On 31 January 2020 ESMA provided a multi-annual 'Programming Document' to the EU institutions. This included a multi-annual work programme with financial and staffing outlook for 2022 and 2023, as well as a detailed annual work programme with a budget and staffing request for 2021. ESMA's resources for 2021 will become final once the EU budget as a whole is decided upon at the end of 2020.

The budget of 2021 reflects ESMA's 2020-2022 Strategic Orientation and includes the ESMA responses to the COVID-19 pandemic, where relevant.

Additional information on ESMA's planned budget and staffing levels for 2021 is included in Annexes I and II.

3 Work Programme 2021

This section provides details on the tasks to be undertaken under ESMA's activities in 2021.²

3.1 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 Union. The ESAs' Review has also given ESMA an enhanced role and additional tools to promote supervisory convergence from 2020; these are described further below.

3.1.1 Central Counterparties

Key objectives

Ensure a consistent implementation of:

- the EMIR regulatory framework for EU CCPs through the newly created CCP Supervisory Committee, including for instance the issuance of opinions following the consultations of NCAs on a range of supervisory topics and decisions, as well as the continued and enhanced co-ordination across EU NCAs and;
- the CCP Recovery and Resolution Regulation once adopted including for instance the issuance of Guidelines.

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. It enhances the supervisory convergence work of ESMA with regards to EU CCPs.

In 2019 and 2020, ESMA was preparing for and implementing the new EMIR 2.2 framework. From 2021, the bulk of ESMA's CCP activity will be centred around supervisory convergence work related to EU CCPs. In order to do this, ESMA will develop opinions following the consultations of NCAs on a range of supervisory topics and decisions. In addition, ESMA has the obligation to run an annual peer review on EU-CCPs (see also the specific section on peer reviews in Section 3.1.11), as well as running stress tests, and co-ordinating across all CCP colleges. Finally, ESMA expects to produce guidance and Q&As in this area.

The CCP Recovery and Resolution Regulation sets up an EU framework for the orderly recovery and resolution of CCPs. It is in trialogue and is meant to be adopted by the end of 2020. One of its versions envisages, amongst others, that ESMA issues Guidelines on both

² 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.

recovery (e.g. guidelines on scenarios for recovery plans) and resolution matters (e.g. Guidelines on the conditions under which a CCP is failing or likely to fail).

Main outputs

- Opinions on a wide range of topics;
- Coordination across colleges;
- Annual peer reviews (see section 3.1.11);
- CCP Stress Tests;
- Guidelines and Q&As under EMIR 2.2 and under CCP Recovery and Resolution Regulation (if adopted);
- Procedures corresponding to this enhanced EU supervisory convergence framework.

3.1.2 Market Integrity

Key objectives

Ensure consistent application of critical areas of the Market Abuse Regulation in line with the recommendations included in the MAR review final report.

Ensure consistent application of the Short Selling Regulation by providing guidance to market participants.

As part of ESMA's regular supervisory convergence work regarding market integrity, but also considering the outcome of the MAR review, ESMA will produce different outputs, such as Guidelines, Q&As and supervisory briefings on MAR and SSR.

In particular, ESMA is planning to review the existing Guidelines on delayed disclosure under MAR to cover the information conveyed to issuers that are also financial institutions in the SSM Supervisory Review and Evaluation Process. Within this objective, ESMA is planning to address the disclosure of draft and tentative information and is intending to provide guidance on the inside nature of the information contained in the Pillar 2 Capital Requirements and Capital Guidance.

In addition, ESMA will foster the regular exchanges of supervisory experiences amongst regulators. Furthermore, ESMA will issue opinions on proposed MAR accepted market practices (either new ones or regular revisions of the existing ones) and/or proposed SSR restrictions on short-selling and creation of net short positions.

In relation to SSR, ESMA will aim at improving supervisory convergence by clarifying the scope of application of the SSR obligations and prohibitions.

Additionally, if the reviews of MAR and SSR will bring legislative amendments, ESMA may need to revise the current guidance (mostly issued through Q&As and guidelines) and adapt it to the new regulatory framework.

ESMA will also pay attention to the consistency in the interpretation of MAR and other pieces of EU legislation such as the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), including ongoing exchanges with the Agency for the Cooperation of Energy Regulators (ACER) and national regulators of wholesale energy markets, the new Capital Requirements Directive and Regulation and the Banking Recovery and Resolution Directive.

Main outputs

- Guidelines, Q&As, opinions and supervisory briefings on MAR and SSR;
- Opinions on MAR Accepted Market Practices;
- Opinions on national restrictions on short selling under SSR, if required.

3.1.3 Data Reporting

Key objective

Improve the quality of reported data, identified as a continued priority for supervisory convergence and as a precondition to data driven risk-based supervision, by implementing ESMA's Data Strategy following the enactment of the SFTR, EMIR Refit, AIFMD, MMF, Prospectus, MAR and MiFIR reporting regimes.

ESMA will work on the implementation of ESMA's 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 Refit, SFTR, MiFIR/MiFID II, MAR). In the context of Data Quality Action Plans (DQAPs) and within Data Quality Engagement Frameworks (DQEFs), ESMA will foster convergence, application of the commonly agreed actions and develop consistent methodologies to improve the quality and usability of data across various reporting regimes in the interest of, among others, facilitating data-driven supervision. It will focus on developing and establishing a common approach to data quality where the supervision is regular, pro-active, thorough, comprehensive, advanced and well-established.

The report on the peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR³ outlined a series of recommendations with regard to the potential short- and long-term supervisory actions pertaining to EMIR and extendable to other reporting regimes. In line with the supervisory and policy recommendation to improve data quality that were identified in the report, NCAs and ESMA will, among others, explore the delegation to ESMA some tasks related to EMIR as well as other reporting regimes' data

Main outputs

- Guidelines on EMIR Refit and revised validation rules;

³ https://www.esma.europa.eu/sites/default/files/library/esma42-111-4895_emir_data_quality_peer_review.pdf

- Guidelines on SFTR requirements;
- Review, enhancements and implementation of DQAPs; and
- Q&As and opinions on EMIR Refit/MiFIR/SFTR/AIFMD data requirements.

3.1.4 Post-Trading

Key objectives

Monitor and contribute to the consistent implementation and application of EMIR (in particular following the changes introduced by the EMIR Refit text) and of CSDR, in particular through the development of reports and by providing guidance to market participants and NCAs.

The EMIR Review led in 2019 to the adoption of two sets of important amendments to EMIR, one of which concerning, in particular, the clearing obligation and the reporting obligation, also known as EMIR Refit (for details on reporting requirement, please check the market data section).

ESMA will continue to monitor the consistent implementation of EMIR regarding clearing and bilateral margining requirements, including the changes introduced under the EMIR Refit text, and provide guidance where necessary. Notably, ESMA will produce an annual report on the supervisory measures and penalties imposed by NCAs regarding market participants' compliance with EMIR, covering also how NCAs prepared for and supervised the implementation by counterparties of the new regulatory requirements introduced by the EMIR review.

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, ESMA will develop guidance and other supervisory convergence mechanisms related to CSDR requirements, in particular in relation to the settlement discipline regime. Furthermore, ESMA will report to the Commission on various aspects of CSDR implementation and launch its first peer review exercise on the supervision of CSDs providing cross-border services or participating in interoperable links (see also the specific section on peer reviews in Section 3.1.11).

Main outputs

- Guidance on EMIR implementation regarding the clearing obligation and the bilateral margining requirements;
- Guidance on EMIR implementation of the changes introduced under Refit;
- Annual Report on supervisory measures and penalties under EMIR;
- Guidance on CSDR implementation, in particular in relation to the settlement discipline regime;

- Annual reports to the Commission on various aspects of CSDR implementation.

3.1.5 Investment Management

Key objective

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 improving investor protection and financial stability through ESMA's work on funds' liquidity.

ESMA will 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 and organising workshops with NCAs. In this context, ESMA will facilitate common supervisory actions (CSA): the planned 2020 work on liquidity management by UCITS will continue in 2021, in addition a CSA on the topic of costs and fees will be launched in 2021. ESMA will also keep facilitating exchanges of information with NCAs for supervisory convergence purposes. It will build on the experience gained in 2020 through its convergence work on liquidity risks in funds and the use of liquidity management tools by funds in the context of the COVID-19 crisis to assess whether any further convergence work is deserved in this area.

ESMA will continue promoting supervisory convergence of NCAs' practices by issuing and reviewing guidelines, supervisory briefings and Q&As and making use of other supervisory convergence tools concerning investment management matters. In particular, in the context of the Regulation on facilitating cross-border distribution of collective investment undertakings (Regulation (EU) 2019/1156), it will issue guidelines on the application of the requirements for marketing communications and prepare its first report on marketing requirements and marketing communications. ESMA will also publish its annual reports on UCITS and AIFMD sanctions.

ESMA will keep focusing on stress testing, in particular by updating its guidelines on MMF stress testing taking into account the latest market developments. ESMA will also continue to use its fund stress simulation framework to assess the resilience of the EU fund industry and identify potential vulnerabilities in funds.

In line with its convergence priority, ESMA will carry out follow-up work on the cost and performance of retail investment products to bring consistency to NCAs' supervision and enforcement around cost and performance. This will include ensuring proper implementation of the convergence tools it adopted in 2020 (guidance on performance fees and supervisory briefing on the supervision of costs) and possibly continuing coordination of NCAs' work in the area of closet indexing. In this respect, the above mentioned 2021 CSA on costs and fees is expected to represent a major area of focus to increase convergence in the supervision of costs in UCITS and AIFs, including securities lending fees and costs.

ESMA's supervisory convergence work in 2020 put a thematic focus on the authorisation and supervision of ESG funds. This involved the exchange of practical knowledge and experiences amongst supervisors on supervisory cases and new risks, trends and challenges in this area. This work will continue in 2021.

ESMA will also aim at improving its ability to reach out to investors' representatives to receive direct feedback and input.

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.

Additional co-operation agreements may be negotiated with new third countries.

Main outputs

- Update of guidelines on MMF stress testing;
- Guidelines on marketing communications;
- Report on marketing requirements and communications;
- Annual reports on UCITS and AIFMD sanctions;
- Workshops with NCAs on investment management matters;
- AIFMD co-operation arrangements with relevant third-country authorities;
- Common Supervisory Action;
- Supervisory briefings, opinions, statements and Q&As.

3.1.6 Investor Protection and Intermediaries

Key objective

Ensure consistent application of MiFID II and MiFIR requirements and co-ordination between NCAs in the area of investor protection and intermediaries (including cross-border activities), in line with the identification of supervisory convergence as a continued priority for ESMA's activities in the area of investor protection.

ESMA will continue focusing 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, organisational requirements and sustainable finance. This will include Q&As, guidelines and supervisory briefings on MiFID II/MiFIR (including reviewing MiFID I guidelines) on topics such as costs and charges and product governance. In this context, ESMA will also facilitate common supervisory actions (CSA) on suitability (including the element of cost as part of the suitability assessment), on which NCAs will start to conduct a CSA in 2020 that will continue in 2021, in addition to the topics that will be identified for the CSA 2021.

Additional activities will arise from the ESAs' Review in the area of consumer protection (such as coordination of mystery shopping activities by NCAs). 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. ESMA will aim at improving its ability to reach out to investors' representatives to receive direct feedback and input.

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. More in general on firms' cross-border services under MiFID II, ESMA will continue coordinating activities to strengthen convergence on supervision in this area.

Additionally, ESMA will continue assessing any need to exercise product intervention powers (own ESMA interventions and assessment of national measures) and will coordinate any subsequent workstream (co-ordination of NCAs, review and renewals). Moreover, it will also contribute to the management of any issues arising from the monitoring of third country firms' activities.

Main outputs

- Workshops and training sessions on MiFID II/MiFIR topics
- Common Supervisory Action;
- On firms' cross-border services, possible review of RTS/ITS on passporting or advice to the EC on any needed legal changes or review of ESMA MiFID II registers;
- Decisions on ESMA product intervention (PI) measures and opinions on national PI measures; and
- Guidelines, supervisory briefings, opinions, statements and Q&As on MiFID II/MiFIR.

3.1.7 Secondary Markets

Key objective

Promote consistent application of MiFID II and MiFIR requirements and further develop a common understanding on arising supervisory challenges in the area of secondary markets, identified as a continued priority for ESMA's convergence activities.

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 and might issue further guidance in other areas.

Following the submission of the first MiFID review reports to the Commission, ESMA will be working on several follow-up measures to address divergent approaches identified. ESMA intends to deliver in 2021 guidelines clarifying its expectations on how trading venues, APAs and SIs should comply with the obligation to provide market data on a reasonable commercial basis (RCB), including the requirement to make data available free of charge 15 minutes after publication (Art. 13(1) MiFIR. Moreover, ESMA will continue its preparatory

work towards the potential establishment of a consolidated tape (CT), and in particular at improving the quality of OTC-data.

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 monitoring the implementation of position limits set.

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 (DVC), Financial Instruments Transparency System).

Main outputs	<ul style="list-style-type: none"> – Opinions on position limits and on pre-trade transparency waivers; – Guidelines on the obligation to provide market data on an RCB; – Assessment of third-country trading venues for transparency and position limit purposes; – Annual reports on transparency waivers and on the use of deferred publication arrangements; – Q&As, Guidelines and ESMA opinions.
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3.1.8 Corporate Finance

Key objective	Strengthen the level of supervisory convergence and facilitate the exchange of experience in the areas within the remit of the Corporate Finance Standing Committee (CFSC), namely prospectus, notifications of major holdings, corporate governance and takeover bids.
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ESMA will continue its supervisory convergence work in the area of prospectus with a focus on providing guidance on the application of the Prospectus Regulation. In addition to continuing to publish Q&As, ESMA will revise the existing supervisory briefing regarding certain elements of the Prospectus Directive to align it with the Prospectus Regulation and to update it for new developments in the area of prospectus supervision.

ESMA will also continue discussions of real cases in the areas of prospectus and takeovers with a view to promoting the convergence of supervisory practices among NCAs and ensuring that the provisions of the Prospectus Regulation and the Takeover Bids Directive are implemented in a harmonised manner across the EU. Furthermore, in the takeover area, ESMA might engage in the review of the 2014 White List on acting in concert.

ESMA expects to begin the mandatory peer review relating to the scrutiny and approval procedures of prospectuses by NCAs that is foreseen in the Prospectus Regulation in 2021 (see also the specific section on peer reviews in Section 3.1.11).

ESMA will also undertake work on transparency in order to enhance supervisory convergence in the area of major holdings. Regarding corporate governance, work will be undertaken to improve the convergence of national practices under the revised Shareholder Rights Directive, taking ESG-related factors into particular account.

Finally, in order to further harmonise supervisory practices, ESMA will seek to identify NCA needs and will consider organising targeted trainings for NCA staff.

Main outputs

- Discussions of ‘real’ cases with NCAs;
- Potential update of the ESMA White List on acting in concert;
- Update of the existing supervisory briefing regarding certain elements of the Prospectus Directive and in relation to the outcome of the discussions of ‘real’ cases;
- Q&As in the prospectus area.

3.1.9 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.

In the area of enforcement of financial information, ESMA will continue to organise meetings of the European Enforcers Coordination Session (EECS) where discussion of real cases are taking place in order to ensure a common supervisory response, some of which are subject to publication.

Following the amendments to the Guidelines on enforcement of financial information (GLEFI) in 2020 (and related supervisory briefings), ESMA will actively promote and support their timely application by NCAs as of 1 January 2022 before monitoring their application once effective. In addition, ESMA will consider any required follow-up actions coming from the outcome of the 2020 fast track peer review launched at the invitation of the European Commission following the Wirecard scandal.

Considering non-financial reporting by issuers and Alternative performance measures (APMs), ESMA will continue to closely monitor the developments in this area and foster common supervisory approaches. This might entail developing specific guidance for the supervision and enforcement of non-financial information as well as developing Q&As in the area of APMs to be applied by financial market participants.

ESMA will also actively monitor the application by issuers of the requirements related to the European Single Electronic Format (ESEF), publish updates to support material whenever relevant and consider if there is a need to provide new guidance to market participants. In

addition, ESMA will support NCAs in supervisory activities relating to, and leveraging on, electronic reports.

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

- Annual report on enforcement activities in 2020;
- Statement on the annual common enforcement priorities for 2021 year-end and monitoring of the implementation of the priorities for 2020;
- Extract of selected enforcement decisions;
- Reports on accounting topics;
- 2021 ESEF XBRL Taxonomy files;
- 2021 ESEF Conformance Suite;
- Additional guidance (Q&As) on ESMA Guidelines on APMs, depending on needs.

3.1.10 Horizontal supervisory convergence work

Key objectives

Promote a common EU risk-based and outcome-focused supervisory and enforcement culture, foster similar outcomes through reinforced dialogue and cooperation among NCAs' supervisors and enforcement specialists, select appropriate convergence tools to risks and problems identified.

Coordinate supervisory action by issuing Union Strategic Supervisory Priorities and promoting the coordination of NCAs' supervisory activity.

Increase knowledge on NCAs' market context, organisation, resources and independence.

Structured risk and problem identification ensuring a more coordinated and consistent supervision in the EU

To foster risk-based and outcome-focused supervisory convergence using a data-driven approach, ESMA – together with the NCAs – will more proactively identify risks and problems having a potential impact in the EU on investor protection, orderly functioning of markets or financial stability. In particular, ESMA will follow a consistent and structured framework based on an annual risk/problem identification exercise through qualitative and quantitative information from various sources.

Foster NCAs' risk and problem-driven approach to supervision ensuring effective outcomes as well as practical supervisory experience sharing

ESMA will make use of the Senior Supervisors Forum (the SSF) in the risk and problem identification process to provide its strategic direction, input and advice on how to address risks and problems that affect investors and markets in the EU.

In the aim of promoting a common EU risk-based and outcome-focused supervisory and enforcement culture, ESMA is committed to bringing together supervisors from NCAs to exchange views on strategic and topical supervisory issues. ESMA will foster a risk-based and problem-driven approach to supervision by NCAs that will encourage more effective outcomes, as well as on other supervisory methods as needed. ESMA will increase knowledge on NCAs' market context, organisation, resources, independence.

Through its Enforcement Network, ESMA will continue to foster closer collaborative relationships amongst enforcement specialists to facilitate cross-border investigations and encourage early discussions on enforcement cases. The Network will continue to share practical experiences as well as developing best practices in key areas such as enforcement tools, efficient ways to progress investigations and publication of enforcement outcomes. The ultimate objective is to ensure that similar infringements of Union law lead to similar enforcement outcomes, including as regards financial penalties and publication.

Union Strategic Supervisory Priorities & Coordination of NCAs' supervisory activities

Following the changes brought forward as part of the ESA review, ESMA will identify up to two Union strategic supervisory priorities that NCAs shall take into account when drawing up their annual work programmes. ESMA will, in a structured manner, monitor NCAs progress in this regard and undertake appropriate follow-up work.

ESMA also aim to promote coordination of NCAs' supervisory activity to address identified risks and problems. ESMA will ensure effective response to cross-border issues as needs arise.

ESMA will continue to foster sharing of supervisory information through the Voluntary Supervisory Colleges (VSCs) framework. The VSCs will continue to be practical and flexible tools to enhance the supervision of groups of financial market participants operating in the EU by exchanging information between participating NCAs, promoting best practices, reducing supervisory fragmentation and ensuring a joined-up supervisory approach to complex structures and business models.

ESMA will deploy new tools such as co-ordination groups if the need arises aiming at achieving a more co-ordinated supervision of securities markets across all the Member States.

Enhance available convergence tools

To enhance and consolidate the available convergence tools, ESMA will update its framework for convergence tools and work on the development of an EU supervisory handbook including setting out supervisory best practices and high-quality methodologies and processes. ESMA will continue to evolve its existing tools, such as guidelines, supervisory briefings and Q&As

and put in place a web-based IT tool to implement the provisions of the revised ESMA Regulation for Q&As. This should allow for enhanced transparency to market participants on the Q&A process.

Building on the revised peer review framework, ESMA will carry out a number of peer reviews as set out in the two-year workplan included in section 3.1.11. In this context, ESMA will also follow up on issues and shortcomings that were identified in previous peer reviews.

Main outputs	<ul style="list-style-type: none"> – Develop a structured approach for risk-based convergence, including the Risk identification exercise; – Set Union Strategic Supervisory Priorities and monitor their implementation; – Develop the Union Supervisory Handbook; – Coordinate the Senior Supervisors Forum and the Enforcement Network; – Update of the Framework for Convergence Tools; – IT tool for handling Q&As.
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3.1.11 Peer Review Work Programme 2021-2022

Under the revised ESMA Regulation, ESMA prepares a peer review work plan for the coming two years, which shall constitute a separate part of the annual work programme.

Peer reviews are an important tool for supervisory convergence. These exercises focus on achieving an equally high level of supervisory outcomes and on promoting investor protection, orderly markets or financial stability through convergence in the EU. ESMA performs two types of peer reviews: discretionary peer reviews and mandatory peer reviews. Discretionary peer reviews are exercises performed on ESMA’s own initiative, whereas mandatory peer reviews are required by sectoral EU legislation. ESMA also follows up on the recommendations made in the context of previous peer reviews.

This section provides details on the peer reviews to be undertaken in 2021 and 2022.

ESMA retains flexibility on the discretionary peer reviews listed below, so to better frame their scope as most appropriate closer to their starting date, or to replace the topics in case more pertinent matters arise in view of developing risks or problems. Such adjustments will be disclosed in ESMA’s 2022 Annual Work Programme.

Discretionary and mandatory peer reviews

Key objective(s)	Foster an equally high level of supervisory outcomes and promote investor protection, orderly markets or financial stability through convergence in the EU.
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In 2021 ESMA expects to conduct and possibly conclude three peer reviews planned under the 2020 Annual Work Programme, namely a peer review on NCAs' supervision of cross-border activities of investment firms, a peer review on NCAs' handling of relocation to the EU27 in the context of the UK's withdrawal from the EU, and a peer review on the supervision of CCPs focusing on liquidity stress tests.

In addition, ESMA expects to launch in 2021 and in 2022 the following peer reviews:

Mandatory Peer Reviews

CSD peer review

In 2021, ESMA intends to launch its first peer review on the supervision of CSDs providing cross-border services or participating in interoperable links. This peer review is mandated by CSDR requiring that, at least every three years, after consulting the members of the European System of Central Banks (ESCB), ESMA carries out a peer review on the supervision of CSDs which make use of the freedom to provide services in another Member State or to participate in an interoperable link.

Prospectus scrutiny and approval peer review

In 2021, ESMA will launch a peer review on the scrutiny and approval procedures of prospectuses. This peer review is mandated by the Prospectus Regulation, requiring that ESMA organises and conducts at least one peer review of the scrutiny and approval procedures of competent authorities, including notifications of approval between competent authorities. The peer review shall also assess the impact of different approaches with regard to scrutiny and approval by competent authorities on issuers' ability to raise capital in the EU. The report on the peer review shall be published by 21 July 2022. In carrying out this peer review, ESMA will build on the experience of the 2016 peer review on the prospectus approval process.

CCP annual peer reviews

In 2021 and in 2022, ESMA will carry out yearly peer reviews on the supervision of CCPs. These peer reviews are mandated under EMIR, requiring that to further strengthen consistency in supervisory outcomes, ESMA conducts every year a peer review of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs. In 2021, the annual CCPs supervision peer review is expected to focus on due diligence of clearing members. In 2022, the annual CCPs supervision peer review is expected to focus on concentration risk.

Implementation of the securitisation STS criteria peer review

In 2022, ESMA will carry out a peer review on the implementation of the STS criteria for asset-backed commercial paper ABCP (transaction and programme level) and non-ABCP

securitisation. This peer review is mandated by the Securitisation Regulation requiring that ESMA carries it out three years from the date of application of the Regulation.

Discretionary peer reviews

Supervision of depositary obligations peer review

In 2022, ESMA expects to carry out a discretionary peer review on the depositary obligations under the UCITS Directive and AIFMD. The peer review would focus on the oversight and safekeeping functions of depositaries, which play a key role for the protection of investors.

Trading Venues – Provision of market data (pre- and post-trade transparency) by trading venues

ESMA will continue carrying out work to promote the consistent application of MiFID II and MiFIR requirements and further develop a common understanding of arising supervisory challenges in the area of secondary markets. In this context, ESMA expects to carry out in 2022 a discretionary peer review on NCAs' supervision of Trading Venues. The exact scope of this peer review will be defined closer to its starting date but it is expected to focus on the provision and the cost of market data.

Fast-track peer reviews

In addition to the above peer reviews and in case of urgency or unforeseen events, when a peer review is considered the appropriate tool, ESMA may also decide to carry out a fast track peer review as a flexible alternative to standard peer reviews.

Main outputs	<p>In 2021, ESMA expects to report on:</p> <ul style="list-style-type: none"> – Peer review on NCAs' supervision of cross-border activities of investment firms; and – Peer review on CCP liquidity stress tests. <p>In 2022, ESMA expects to report on:</p> <ul style="list-style-type: none"> – Peer review on NCAs' handling of relocation to EU27 in the context of the UK's withdrawal from the EU; – CSDs supervision peer review; – Peer review on prospectus scrutiny and approval; – Peer review on the implementation of STS criteria; and – Peer review on CCP due diligence by clearing members. <p>ESMA will report in 2023 on other peer reviews launched in the course of 2022 but not completed in the same year.</p>
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Follow up to previous peer reviews

Key objective(s)	Assess the adequacy and effectiveness of the actions undertaken by NCAs in response to the follow up measures of a peer review.
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In 2021 and 2022, ESMA expects to follow up on the following peer reviews conducted between 2017 and 2019:

- Peer Review on the Guidelines on the Enforcement of Financial Information;
- Peer Review on Certain Aspects of the Compliance Function under MiFID I;
- Peer Review on the Guidelines on ETFs and other UCITS issues;
- Peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR; and
- Peer review on the collection and use of STORs under MAR as a source of information in market abuse investigations.

Main outputs

In 2021 and 2022, ESMA expects to report on the follow-up to:

- Peer Review on the Guidelines on the Enforcement of Financial Information.
- Peer Review on the Guidelines on ETFs and other UCITS issues.
- Peer Review on Certain Aspects of the Compliance Function under MiFID I; and
- Peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR.

ESMA will report in 2023 on other follow-ups launched in the course of 2022 but not completed in the same year.

3.2 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.

3.2.1 Financial Innovation and Product Risk Analysis

Key objectives

Identify opportunities and risks related to financial innovation and systematically monitor retail investor trends and ESG market developments.

Achieve a co-ordinated approach to the regulation and supervisory treatment of new or innovative financial activities and technological innovation and provide advice to the EU institutions, market participants or consumers.

Work to ensure a convergent approach to the identification of areas where product intervention powers provided by MiFIR could be used.

In 2021, ESMA will continue monitoring financial activities and retail investor trends, with a particular focus on financial and technological innovation and on ESG developments. ESMA’s 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, ESMA has developed the financial innovation scoreboard: a methodology based on quantitative and qualitative assessment. Key analytical areas are fintech, crypto-assets, suptech/regtech, artificial intelligence, machine learning, ESG developments and technology risk, including outsourcing to cloud providers and cyber resilience.

The monitoring also helps ESMA play a proactive role in gathering the necessary market intelligence, collecting data and developing retail risk metrics, systematically reviewing product-related consumer trends, including monitoring cost and performance of retail investor products in the EU and ESG trends. This allows 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 analysis work on financial and technological innovation, product risk, retail investors and ESG development supports ESMA’s supervisory convergence activities as well as ESMA’s risk assessment mandate.

ESMA will continue to contribute to the European Forum for Innovation Facilitators (EFIF) together with EBA and EIOPA. The EFIF was launched by the European Commission in April 2019 and has been established to promote coordination and cooperation among national innovation facilitators to foster the scaling up of innovation in the EU financial sector and to promote a common response to new technologies

Outputs

- Ongoing monitoring of product-related retail investor trends, financial activities and innovation, including Fintech;
- Ongoing market intelligence gathering and data collection;
- Ongoing development of product-related retail risk indicators;
- Ongoing development of ESG indicators;
- Coordination of supervisory convergence follow-up on financial and technological innovation issues; and
- Contribution to financial innovation, retail investors and ESG workstreams at international level (FSB, IOSCO).

3.2.2 Risk Monitoring and Analysis

Key objective

Identify financial market risks and report on these risks to the relevant institutions.

ESMA monitors and analyses 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.

Importantly, ESMA risk assessment draws on data and statistics sourced and managed through an integrated approach, ensuring high quality, efficient management, and an effective use of (especially) 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, cost and past performance of EU long-term retail investment products, EU securities markets based on MiFID II data, and EU Credit Rating markets based on CRA data. These reports complement ESMA's ongoing market monitoring 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.

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), other European Supervisory Authorities (ESAs), and Joint Committee (JC) – and will also contribute to international risk monitoring undertaken by the International Organization of Securities Commission (IOSCO) and Financial Stability Board (FSB).

Analytical activities are carried out as a horizontal function in ESMA, with data and analyses being contributed to a wide range of projects in support of ESMA's activities in the areas of regulation, supervision, supervisory convergence as well as ESMA's risk assessment mandate. As described in section 3.1.10, side analytical activities also specifically support ESMA's supervisory convergence risk identification (the Supervisory Convergence Heatmap) as well as data-driven supervisory and supervisory convergence activities. The work that is

undertaken by ESMA staff is conducted in close cooperation with NCAs as well as expert consultative working groups. Ultimately, the contribution and results of ESMA's risk assessment work feed into the ESMA's outputs, whether in the form of publications or other actions.

Main outputs

- Risk monitoring (TRVs and RDs);
- Annual statistical report series (EU derivatives markets based on EMIR data, EU alternative fund markets based on AIFMD data, EU securities markets based on MiFID II data, EU Credit Rating markets based on CRA data; cost and past performance of EU long-term retail investment products);
- Monitoring and analysis retail investor trends;
- In-depth research / thematic analysis (based on specific ad-hoc needs);
- Contributions to risk monitoring by EU and international bodies (ESRB, ESA JC, IOSCO, FSB).

3.2.3 Data Management and Statistics

Key objective

Operate the data reporting IT systems and perform data management and statistical analyses in order to support ESMA's activities, in particular focussing on improving data quality, integration and usability, in close co-ordination with NCAs.

In order to provide market participants, regulators and the general public with information, ESMA maintains and operates over 20 IT systems that it has built in response to legislative mandates. In 2021, ESMA will have an enriched dataset with sources from the previously established framework - MiFID II/MiFIR, AIFMD, EMIR, UCITS, MAR, CSDR, SFTR, Credit Rating Agencies (RADAR) – as well as regulatory data from future or reviewed frameworks such as the Prospectus, STS Securitisation, and MMF Regulations, and from third-country CCPs. In 2021, ESMA will also need to prepare for forthcoming data from Data Reporting Service Providers (DRSP), information on cross border distributed funds and transaction data.

ESMA's data management and statistics work supports all four ESMA activities: i) Supervisory Convergence by promoting similar reporting practices across jurisdictions, defining IT systems, ensuring data quality, computing indicators, and providing supporting evidence; ii) Single Rulebook by contributing to the definition of reporting regimes; iii) Risk Assessment by providing the statistics to perform this task; and iv) Direct Supervision by supporting the analysis of the data provided by CRAs and TRs to ESMA.

In 2021 ESMA and NCAs will design and implement data quality action plans on AIFMD, MMFR, Prospectus, MiFIR/MiFID II. Emphasis will be placed on ensuring data usability to support all ESMA activities and those of NCAs and other stakeholders. This will be achieved by supporting the entities that 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 both internal and commercial data and statistical reports. ESMA's new supervisory mandates for securitisation repositories, data reporting service providers, and benchmark administrators will require the setup of data driven analyses. In support of the single rulebook, ESMA will contribute to the design of reporting regimes, such as through the AIFMD Review process.

Finally, efforts will be directed to finalise the implementation of ESMA's Data Strategy. Actions in 2021 will include the combination of data to support analysis, the development of supervisory methodologies for data analysis and quality monitoring, and the enhancement of data analytical systems.

Main outputs

- Maintenance of ESMA's databases and IT systems;
- Data processes to support policy, risk assessment, supervisory convergence and direct supervision activities;
- Ongoing and new data quality analysis to support the data action plans executed in coordination with NCAs and those relevant for ESMA direct supervision;
- Maintenance of comprehensive dashboard on data quality for main datasets reported to ESMA;
- Processing of internal and commercial data and statistical generation to support ESMA and NCA activities.

3.3 Completing a single rulebook for EU financial markets

ESMA's single rulebook work refers to the technical standards and technical advice that ESMA has been mandated to draft by the relevant legislation or otherwise entrusted by the European Commission. In addition, ESMA periodically reviews its technical standards and supports the review of EU financial regulation by the Commission and co-legislators.

3.3.1 Central Counterparties

Key objectives	Contribute to the single rulebook in the area of central counterparties by reviewing the existing Level 2 where necessary, developing the Level 2 regulations flowing from EMIR 2.2 and from the CCP Recovery and Resolution Regulation once adopted.
<p>Following the implementation of EMIR 2.2 in 2020 ESMA has started the work on the corresponding Level 2 regulations and will finalise its publication early 2021.</p> <p>ESMA will also conduct a review of the appropriateness of the current RTS in relation to the TC-CCP recognition application and may propose amendments, if assessed as necessary.</p> <p>ESMA will also develop reports on the regulatory framework of certain CCP related matters, such as certain reports mandated under EMIR Refit (e.g. report on highly liquid financial instruments under Art 85(2)) or MIFIR (e.g. report on access Art 52).</p> <p>Furthermore, if the CCP Recovery and Resolution Regulation is adopted in 2021, ESMA will develop the corresponding Level 2 regulations mandated.</p> <p>Lastly, ESMA may review existing RTS about CCP related requirements where needed, for instance with regards to Anti-procyclicality rules.</p>	
Main outputs	<ul style="list-style-type: none"> – New RTSs mandated under EMIR 2.2 and under CCP Recovery and Resolution Regulation (if adopted); – Amendment of the RTS on recognition application; – Reports related to CCPs matters, under EMIR or other regulations such as MIFIR; – Review CCP RTS with regards to Anti-procyclicality requirements.

3.3.2 Post-Trading

Key objectives	Contribute to the single rulebook in the area of post trading by reviewing and amending technical standards under EMIR as amended by Refit and by developing new technical standards or revising existing ones, if there will be amendments to CSDR, as well as by developing reports on post trading matters.
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Following the review of EMIR and the changes introduced under EMIR Refit, ESMA intends to review where necessary certain technical standards. ESMA expects to conduct a review of the appropriateness of the current clearing thresholds and may propose, if assessed as necessary, amendments to the existing Regulatory Technical Standards setting the applicable value of these thresholds. ESMA may also review and update if necessary, the Clearing Obligation RTS, depending on market developments and possible changes in the clearing offers.

ESMA will also develop reports on the regulatory framework of certain post-trading matters, such as certain reports mandated under EMIR (for instance on the potential clearing solutions for pension scheme arrangements).

Main outputs

- Reviewed and amended technical standards following the EMIR Review (where needed);
- Reports to the Commission mandated under EMIR (the review of the clearing thresholds or the report on the potential clearing solutions for pension scheme arrangements).

3.3.3 Market Integrity

Key objectives

Respond to potential amendments in the Market Abuse Regulation (MAR) by issuing new technical standards or revising existing ones.

Ensure a proportionate and efficient short selling regulatory framework through its reassessment following the experiences of 2020.

In case MAR is amended following the ESMA Report on the MAR review, ESMA will issue new technical standards or revise the existing ones as required by legislation.

ESMA may also take advantage of the lessons learnt in 2020 after the Covid-19 outbreak in relation to short selling bans and related emergency measures and re-consider some aspects of the short selling regulatory framework at its own initiative.

Main outputs

- If needed, new draft RTS and ITS under MAR or revision of the existing ones;
- Possible technical advice to the EC on the Short Selling Regulation and/or proposals to the EC in relation to existing Commission delegated and implementing regulations issued under the Short Selling Regulation.

3.3.4 Data Reporting

Key objectives

Contribute to the review of MiFID II / MiFIR and AIFMD (if required) by providing expertise, market and supervisory intelligence and making recommendations regarding possible amendments related to data reporting, including data quality.

	<p>Provide technical advice and/or develop technical standards as a follow-up to the changes pertaining to data reporting service providers that were introduced to MiFID II/MiFIR following ESAs Review. 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.</p>
<p>The review of MiFID II/MiFIR may lead to single rulebook work in relation to reporting (e.g. transaction and reference data) and other related requirements in the context of the MiFID II/MiFIR review. When doing so, ESMA will take into account the experience gained with the relevant reporting requirements which were introduced in 2018 and will leverage on the established data quality frameworks under various other reporting regimes.</p> <p>Furthermore, the review of the AIFMD may lead to some additional single rulebook work in relation to the reporting requirements envisaged therein.</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> – Draft RTS and ITS on reporting under MiFID II/MiFIR review; – (Potential) Technical advice on the investment management legislation (i.e. AIFMD) related to reporting requirements.

3.3.5 Investment Management

<p>Key objectives</p>	<p>Contribute to the development of the single rulebook following the upcoming AIFMD review (if required).</p> <p>Facilitate the growth of cross-border distribution of investment funds by ensuring that the relevant Technical Standards are delivered within the deadline and the relevant IT tools (including central databases) are developed.</p>
<p>ESMA will deliver three technical standards related to the implementation of the legislation on cross-border distribution of investment funds. The review of the AIFMD (and possibly the UCITS Directive) may lead to some additional single rulebook work in relation to these pieces of legislation. Similarly, the Commission's review of the PRIIPs Regulation may give rise to additional work within the Joint Committee. Moreover, further work on draft RTS on ESG disclosure will be carried out within the Joint Committee.</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> – (Potential) Technical advice/other input on the investment management legislation (mainly UCITS Directive and AIFMD); – ITS setting-out standard forms, templates and procedures in relation to information contained in the central databases and other IT systems to be developed by ESMA.

3.3.6 Investor Protection and Intermediaries

<p>Key objectives</p>	<p>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 firms' regime by ensuring that the relevant Technical Standards and other relevant documents are delivered to the Commission within the deadline.</p> <p>Continue to contribute to the review of MiFID II, also by reviewing technical standards (if needed).</p> <p>Contribute to the development of a single rulebook in the area of crowdfunding.</p>
<p>Following the start of the work on the MiFID review reports in 2019 and 2020, ESMA will continue in 2021 to assist the Commission in any follow-up work on MiFID II/MiFIR in the investor protection and intermediaries area.</p> <p>Furthermore, ESMA will review MiFID II technical standards in the same area, as the need arises. The need for changes in the MiFID II/R framework may also arise from innovative products and services (such as crypto-assets).</p> <p>ESMA will assess the outcome of common reporting templates on firms' cross-border activities in the EU, voluntarily adopted by NCAs in the previous year, and will consider reviewing relevant RTS/ITS and intervening on its registers to give further evidence to firms' cross-border activities.</p> <p>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).</p> <p>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. ESMA will co-operate with the EBA on the development of Technical Standards, Guidelines and other legal acts required under the new prudential framework for investment firms.</p> <p>ESMA will also conduct work required by MiFIR/MiFID II, as modified by the Investment Firm Regulation (IFR), on the changes to the third-country regime for the provision of investment services by third-country firms and on the activities linked to the third country regime under MiFIR, as modified by the IFR.</p> <p>Following the (expected) adoption of the new crowdfunding regulation, ESMA will deliver the relevant technical standards required by legislation.</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> – MiFID II reports (Article 90 MiFID II); – New technical standards and review of existing ones, including technical standards required by the IFR;

	<ul style="list-style-type: none"> – Advice to the Commission on MiFID II/MiFIR; – Co-operation arrangements with relevant third-country authorities; – Support to EC on equivalence assessments of third-country regimes; – Possible subsequent registration of third-country firms and establishment of reporting flow based on RTS/ITS delivered in 2020; – RTS/ITS required by the crowdfunding regulation; – Any follow up advice to the EC on ESMA staffing needs arising from the MiFIR third-country regime, as modified by the IFR.
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3.3.7 Secondary Markets

Key objectives	<p>Continue contributing to the review of MiFID II / MiFIR by providing expertise and market intelligence and making recommendations regarding possible amendments in the area of secondary markets.</p> <p>Provide technical advice and/or develop technical standards as a follow-up to the MiFID II/MiFIR review covering transparency, market structure and commodity derivative issues.</p> <p>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.</p>
<p>Following the start of the work on the MiFID review reports in 2019 and 2020, ESMA will continue in 2021 providing advice to the Commission covering key provisions of MiFID II/MiFIR in the area of secondary markets such as the provisions relating to algorithmic trading or the functioning of organised trading facilities (OTFs).</p> <p>Furthermore, as a follow-up to the review reports already delivered, ESMA may start working on providing technical advice and developing technical standards as follow-up to these reports in case Level 1 changes materialise particularly in respect of establishing a consolidated tape.</p> <p>ESMA will also continue monitoring and reviewing RTS/ITS, in particular in the context of the United Kingdom’s withdrawal from the EU 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).</p>	
Main outputs	<ul style="list-style-type: none"> – Deliver various MiFID II/MiFIR review reports; – Develop technical advice and technical standards following the MiFID II/MiFIR review; – Potential amendment of RTS 2 as well as of other RTS/ITS where necessary.

3.3.8 Corporate Finance

Key objectives	Continue contributing to the single rulebook under the Prospectus Regulation and the Transparency Directive, as necessary.
<p>ESMA will contribute to the development of the single rulebook by continuing to monitor developments in prospectus supervision, notifications of major holdings and corporate governance in order to continually evaluate if the single rulebook in these areas remains fit for purpose. ESMA will also continue to assist the European Commission in any work relating to these areas. In addition, the Commission may request that ESMA gives its advice on disclosure requirements for specialist issuers.</p>	
Main outputs	<ul style="list-style-type: none"> – Potential new technical standards and review of existing technical standards where necessary; – Potential advice to the Commission on prospectus disclosure requirements for specialist issuers.

3.3.9 Corporate Reporting

Objective	Contribute to the set-up of high-quality corporate reporting standards, including standards for non-financial reporting, also through the provision of enforcers' views on endorsement advice and views on new pronouncements on IFRS, and maintenance of an updated regulatory framework for digital reporting.
<p>ESMA will continue to contribute actively to the accounting standard setting and IFRS endorsement in the EU through its observership at the EFRAG Board and at the Commission's Accounting Regulatory Committee. In addition, ESMA will contribute 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>ESMA will also undertake 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> <p>ESMA will monitor developments and provide advice to the Commission on any potential review of the Transparency Directive requirements relating to periodic reporting. ESMA also monitors the developments in the area of non-financial reporting and stands ready to undertake any related technical work if the need arises.</p> <p>Furthermore, ESMA will update the regulatory technical standards relating to the ESEF core taxonomy to be used for the preparation of annual financial reports in ESEF format, to reflect the most recent version of the IFRS Taxonomy.</p>	

Main outputs	<ul style="list-style-type: none"> – Technical positions on new IFRS pronouncements and amendments; – Technical positions on endorsement advice on new IFRS pronouncements and amendments; – Technical positions on significant new International Auditing Standards; – Amendments to the RTS on ESEF to update the taxonomy to be used by issuers.
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3.3.10 Policy (and convergence) activity to support our supervisory mandates: Benchmarks Regulation

Objective	<p>Continue to contribute to the establishment of a robust BMR regulatory framework, provide support to the preparation of ESMA’s future BMR supervisory activity and promote supervisory convergence in the area of BMR among NCAs.</p>
<p>In the context of the BMR new supervisory powers, ESMA will prepare a technical advice on the fees that third country administrators and critical benchmark administrators will have to pay to ESMA for registration under BMR. A second technical advice refers to ESMA’s future power to impose fines or periodic penalty payments on benchmark administrators. ESMA will deliver these technical advices to the Commission in Q1 2021.</p> <p>For each third-country administrator applying for recognition to an NCA, ESMA will continue to issue an advice to the relevant NCA focusing on the types of benchmarks provided by the applicant third country administrator. Also, in order to ensure consistent approaches among the NCAs, in 2021 ESMA will have to issue opinions to the NCAs who recognised or endorsed third country benchmarks in the last two years, assessing how these NCAs have applied the relevant BMR requirements.</p> <p>For any new BMR equivalence decision that the Commission will adopt, ESMA will establish cooperation arrangements with the third country NCAs whose jurisdiction is covered by this BMR equivalence decision.</p> <p>Finally, ESMA will continue to foster supervisory convergence in the area of the BMR among the NCAs. Supervisory convergence work is based on ongoing exchanges of views among regulators. These 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 and can result in the production of Q&As, opinion, or other supervisory convergence tools.</p>	
Main outputs	<ul style="list-style-type: none"> – Technical advice on BMR fees and fines; – Advices to NCAs for each recognition applications;

- Opinions to NCAs that recognised / endorsed third country benchmarks in the last two years.

3.3.11 Policy (and convergence) activity to support our supervisory mandates: Credit Rating Agencies

Objective

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.

ESMA will develop necessary policy tools to ensure the implementation of the CRA Regulation supports ESMA's objectives of investor protection and financial stability by reacting to new trends and supervisory observations. This includes a continuous monitoring of the implementation of relevant RTS/ITS with the possibility of proposing changes where necessary and developing Guidelines or Q&As to support the consistent application of CRAR.

For the coming year, ESMA will also actively contribute to the work undertaken by international bodies including the ESRB, IOSCO and FSB regarding CRAs as a result of COVID-19 as well as the consideration of ESG factors in credit ratings. This will include assessing developments in areas such as ESG data and ratings providers within the context of ESMA's mandate for assessing risks to investors, markets and financial stability.

In addition, ESMA will perform assessments of third country regulatory frameworks for endorsement as needed and will provide Technical Advice to the European Commission on the equivalence of third countries in case the Commission requests 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 provided to already registered ECAIs in order to promote a consistent implementation of Capital Requirements Regulation (CRR) and Solvency II Directive across the EU.

Finally, ESMA will provide Technical Advice on the European Commission's delegated regulation on fees charged by ESMA to CRAs. Furthermore, ESMA will provide guidance to CRAs in the area of preliminary ratings and further develop its views on availability and use of credit rating data.

Main outputs

- Technical Advice on Commission delegated regulation (EU) 272/2012 of 7 February 2012 (related to credit rating agencies);
- Guidance establishing ESMA's expectations around Preliminary Ratings;
- Follow up Report to Call for Evidence on Availability and Use of Credit Rating Information and Data.

3.3.12 Policy (and convergence) activity to support our supervisory mandates: Securitisation Repositories

<p>Key objectives</p>	<p>Promote consistent application of the securitisation regulation requirements and exchange of supervisory experiences and coordination among NCAs, in particular, in the area of STS securitisation.</p>
<p>ESMA will monitor the consistent implementation of the Securitisation Regulation in particular, the recently adopted delegated acts and consider whether any need for additional guidance will be necessary. ESMA will also develop the necessary legislative mandates to include synthetic securitisations as a new category of simple, transparent and standardised (STS) securitisation following the Commission’s legislative proposals within the COVID19 Recovery Package⁴.</p> <p>ESMA will continue to publish Q&As to provide clarifications on Level 2 measures related to its remit, such as disclosure templates or STS notifications. ESMA will also monitor the Union securitisation market on a comprehensive basis and assess potential adjustments to the data completeness thresholds to be applied by securitisation repositories to the securitisation disclosure templates.</p> <p>ESMA will contribute to the Securitisation Committee established within the Joint Committee of the ESAs with a view to prevent divergent approaches in the implementation of cross-sectoral aspects of the Securitisation Regulation and assessing practical issues that could arise regarding the implementation of the STS criteria. ESMA will also assist the Commission in the report to be produced on the functioning of the securitisation legal framework by 2022. The report will include an assessment of the effects of the Securitisation Regulation and if appropriate, will be accompanied by legislative proposals.</p> <p>ESMA will continue to foster supervisory convergence and co-operation among the relevant NCAs in the securitisation field and in case of disagreement among NCAs regarding potential infringements on STS notifications, apply its mediation power.</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> – Additional guidance (opinions, guidelines and Q&As) in securitisation area, depending on needs; – Potential new technical standards on STS synthetic securitisations.

⁴ https://ec.europa.eu/info/publications/200722-proposal-capital-markets-recovery_en

3.3.13 Policy (and convergence) activity to support our supervisory mandates: Data Reporting Service Providers

Key objectives	Continue to contribute to the establishment of a robust Data Reporting Service Providers (DRSP) regulatory framework, provide support to the preparation of ESMA’s future DRSP supervisory activity and promote supervisory convergence in the area of DRSP among NCAs
ESMA will become the direct supervisor of data reporting service providers from January 2022. The related preparatory work will require ESMA to provide a number of pieces of technical advice to the EC, including, among others, the one specifying criteria to identify those approved reporting mechanisms (ARMs) and approved publication arrangements (APAs) that, by way of derogation from MiFIR on account of their limited relevance for the internal market, are subject to authorisation and supervision by a competent authority of a Member State (NCA).	
Main outputs	– Providing technical advice and preparing draft RTS/ITS in respect of data reporting service providers provisions.

3.4 Directly supervising specific financial entities

In 2021 ESMA will have direct supervisory powers in three areas: Credit Rating Agencies, Trade Repositories and Securitisation Repositories. In addition, it recognises third country CCPs and third country CSDs. Preparation work will also take place in 2021 for supervisory responsibilities on benchmark administrators and data reporting service providers (DRSPs) that will begin in 2022.

3.4.1 Central counterparties: third country CCP recognition

Key objective	Recognise (or review recognition of) third country CCPs providing clearing services in the Union.
Under EMIR, ESMA has direct responsibilities regarding the recognition of third country central counterparties (TC-CCPs) providing clearing services within the Union. The EMIR regulatory and supervisory framework for TC-CCPs and the corresponding powers for ESMA have been expanded with amendments introduced through EMIR 2.2.	
In 2021 and beyond, ESMA will continue implementing and performing its new range of supervisory responsibilities under the EMIR 2.2 framework with respect to TC-CCPs. This work includes conducting the tiering determination as well as the assessment of comparable compliance where applicable, processing applications, monitoring of compliance with	

recognition conditions by TC-CCPs, taking new recognition decisions and the review of existing ones.

Main outputs

- Procedures for TC-CCP recognition;
- Recognition decisions for TC-CCPs, including tiering and comparable compliance assessment when applicable;
- Ongoing monitoring of compliance with TC-CCPs' recognition conditions.

3.4.2 Third country CSD recognition

Key objective

Recognise 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

- Possible recognition decisions for CSDs;
- Periodic monitoring of compliance with recognition conditions.

3.4.3 Credit Rating Agencies

Key objectives

Assess registration applications under CRAR: ensure registrants meet regulatory requirements and objectives of CRAR and that applications are completed within regulatory deadlines.

Ensure credit ratings in the EU are independent, objective and of high quality by conducting timely supervisory activities with a lasting impact.

Timely indication of key supervisory risks/concerns to support pro-active and outcome-based supervision of CRAs.

Request timely and effective remediation by CRAs of supervisory concerns and adopt enforcement actions where breaches of the CRA Regulation are identified.

ESMA has adopted a risk-based approach to the supervision of CRAs and prioritises its supervisory activities according to the level of risk identified and outcomes it targets to achieve. ESMA can use different supervisory tools to address risks, e.g. engagement with CRAs, the development of policy tools, conducting investigations and requesting CRAs to implement a

remedial action plan. Where breaches of the regulation have been identified, ESMA will adopt enforcement actions, that could range from the issuance of public notices to the imposition of fines and the withdrawal of the CRA’s registration. As part of its ongoing supervision, ESMA will assess periodic and ad hoc notifications submitted by CRAs and assess registration applications under the CRA Regulation.

Key market trends in the CRA industry observed by ESMA include the impact of COVID-19, an increased focus on ESG products, rising importance of cloud technology and data analytics and an aggressive and sophisticated cyberthreat environment.

As a result of the risk assessment and the observed market trends, for 2021, ESMA has identified the following key priority areas for CRAs on which it will focus its supervisory activities:

- Monitor, identify and address new risks posed by industry and capital markets developments, such as those stemming from the COVID-19 crisis and developments in ESG products. As a response to the COVID-19 crisis, ESMA will continue to engage with CRAs to monitor the impact of COVID-19 on their operations, focussing on business continuity and adherence to key requirements of the CRA Regulation;
- Proactively identify risks in outstanding credit ratings and take appropriate actions where necessary;
- Ensure that CRAs employ independent, robust and well-structured rating processes and understand impact of new technologies, the implementation of cost savings and outsourcing on the rating process;
- Assess the drivers behind changes to methodologies and ensure that CRAs use methodologies that are robust, systematic, continuous and subject to validation, including back-testing;
- Engage with CRAs to address identified concerns on IT and information security controls, including cybersecurity and cloud outsourcing; and
- Ensure credit ratings are accessible and usable for investors.

Engage with CRAs to address identified concerns on strategy, the organisational aspects of their control environment that undermine the independence of control functions and enhance compliance’s monitoring activities.

Main outputs	<ul style="list-style-type: none"> – Follow-up actions regarding identified risks resulting from ongoing supervision and monitoring of rating actions; – Engagement with CRAs, investigations, thematic reports and letters addressed to CRAs identifying risks and requesting remediation in alignment with key supervisory priorities;
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- Assessments of registration applications within timelines set by the CRA Regulation;
- Reports for the IIO proposing enforcement actions.

3.4.4 Trade Repositories under EMIR

Key objective	<p>Ensuring the data quality, as well as the integrity, confidentiality and availability of TR data by conducting timely supervisory activities with lasting impact. Requesting remediation at individual TR level.</p> <p>Assess registration applications under EMIR: ensure delivery within regulatory deadlines and quality standards.</p> <p>Minimise disruptions in the transition to EU TRs following the end of the UK transition period.</p>
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ESMA has adopted a data-driven risk-based supervisory approach when conducting supervision of TRs. ESMA has assessed the risks for 2020 and identified the priorities to be addressed in 2021 through its supervisory activities. In 2021, 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 number of priority areas. ESMA will continue to prioritise the implementation of the Data Quality Action Plan for TR supervision; particularly, on access to data by ESMA and other public authorities, accuracy and integrity of EMIR reports, anomaly detection, and EMIR reconciliation.

In addition, ESMA will draw up and implement a holistic action plan to tackle firms’ high risk profile, in relation to ESMA’s significant concerns (e.g. data quality, IT Strategy, IT system development, and IT Outsourcing).

In the context of the UK’s withdrawal from the EU and as firms will be switching legal entities into the EU, with potential impact on their IT infrastructure location and architecture, as well as amidst the important impact of COVID-19 on business availability and market volatility, ESMA will aim to ensure an uninterrupted and stable TR EMIR service. .

Equally, ESMA will also ensure continuity of its supervisory monitoring and actions from pre-Brexit to post-Brexit legal entities of its supervised TRs.

Further, ESMA will ensure firms’ regulatory change implementations comply with its expectations, in particular on cloud computing and EMIR Q&As.

Considering specific high-risk areas in its annual TR risk assessment, ESMA will focus on specific issues of individual TRs, including ensuring the effectiveness of the compliance function and TR system capacity issues.

Finally, ESMA will prioritise finalising any work from 2020 priorities on IT & Information Security supervisory risk areas.

As a result of its day-to-day supervision and any specific reviews and 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 and smooth winding down plans of any registered TR withdrawing its registration.

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 to ensure a timely and accurate access to TR data.

Main outputs	<ul style="list-style-type: none"> – Timely assessment of registration applications under EMIR; – Data-driven supervision - on-going/ targeted data quality analysis and issues detection; – Reviews and on-site inspections; – Preparation of reports for IIO in accordance to regulatory deadlines and individual projects plans; and – Engagement with individual TRs, investigations, thematic reports and letters addressed to TRs identifying risks and requesting remediation in alignment with key supervisory priorities.
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3.4.5 Trade Repositories under SFTR

Key objective	<p>Following the registration of EU firms providing SFT reporting services in 2020, 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.</p>
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As with Trade Repository supervision under EMIR, ESMA will apply a data-driven risk-based approach to the supervision of the SFT data reporting, and its supervisory work will focus on a number of high-risk areas.

To begin with, ESMA expects that its supervisory work will focus on performing re-validations on SFTR submissions to ensure reports are in line with validation rules, assessing completeness and accuracy of SFTR Trade State and Activity reports and assessing STFR reconciliation.

In addition, ESMA will continue to monitor resource allocation to SFTR and IT performance and the capacity of the SFTR system.

ESMA will also focus on ensuring uninterrupted and stable TR SFTR service in the context of Brexit and COVID-19.

Further, ESMA will aim to ensure firms' regulatory change implementations comply with its expectations in particular on cloud computing and SFTR Guidelines on positions (estimated to apply end Q2 / beginning Q3 of 2021).

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

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 to ensure a timely and accurate access to SFTR data.

Main outputs	<ul style="list-style-type: none"> – Timely assessment of registration applications under EMIR; – Data-driven supervision - on-going/ targeted data quality analysis and issues detection; – Reviews and on-site inspections; – Preparation of reports for IIO in accordance to regulatory deadlines and individual projects plans; and – Engagement with individual TRs, investigations, thematic reports and letters addressed to TRs identifying risks and requesting remediation in alignment with key supervisory priorities.
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3.4.6 Securitisation repositories under Securitisation Regulation

Key objectives	<p>Promote consistent application of the securitisation regulation requirements and exchange of supervisory experiences and coordination among NCAs, in particular, in the area of STS securitisation.</p> <p>Assess registration applications under Securitisation Regulation and be the gatekeeper ensuring the registration of firms with high quality standards.</p> <p>Effectively identify the risks linked to the quality of the data of the securitisation repositories. Timely and lasting impact supervisory activities at individual Securitisation Repository (SR) level.</p>
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Securitisation repositories

By 2021, ESMA will have registered and started supervising SRs that will report under the Securitisation Regulation. ESMA will apply a risk-based approach to the supervision of the SR data reporting. ESMA expects that its supervisory work will initially focus on identifying shortcomings to data quality and verifying operational separation.

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

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.

<p>Main outputs</p>	<ul style="list-style-type: none"> – Timely assessment of registration applications under Securitisation Regulation; – SR risk assessment framework; – Engagement with individual SRs, investigations, letters addressed to SRs identifying risks and requesting remediation in alignment with key supervisory priorities; – Investigations, including on-site inspections; – Preparation of reports for the IIO in accordance to regulatory deadlines and individual projects plans.
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3.4.7 Benchmarks

<p>Key objective</p>	<p>Ensuring ESMA’s readiness to perform its new supervisory and enforcement powers with respect to EU critical benchmarks and third country administrators of benchmarks.</p>
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From January 2022, ESMA will have direct supervisory responsibilities on EU critical benchmarks and their administrators, and it will be responsible for the recognition and supervision of third-country administrators of benchmarks.

To ensure a proper transition of BMR supervisory duties from NCAs to ESMA, ESMA is adapting its internal organisational structure, establishing the required internal procedure and developing a BMR supervisory strategy. Preparation for these tasks began in 2020 and will continue throughout 2021.

The transition of the oversight of EURIBOR from FSMA to ESMA will be one of the main deliverables in 2021, and a close cooperation with FSMA is foreseen in the course of the year. In relation to this, ESMA will continue to participate in the EURIBOR college chaired by the FSMA, while at the end of 2021 ESMA will have to be ready to establish and chair a new college of supervisors for EURIBOR.

For the recognition of third country administrators, ESMA will work in concert with the relevant competent authorities to ensure a smooth transition of responsibilities for those third country administrators that have been already recognised and supervised in the EU before 2022, while also preparing all the internal arrangements and procedures to be ready to recognise new third country administrators applying directly to ESMA. As part of this effort, ESMA will review the functioning of ESMA BMR registers to ensure that these registers effectively play the role assigned to them by the BMR.

In the context of the Euro Risk-Free Rates Working Group, ESMA will also continue steering industry efforts towards a more resilient interest rate environment in the EU. The main deliverable of the Working Group in 2021 will be the finalisation of the recommendations on EURIBOR fallback provisions, with the aim of setting industry standards and increasing contractual robustness.

Main outputs

- Preparation of ESMA’s internal organisation to perform the new BMR supervisory duties;
- Establishment of arrangements needed for the oversight of EURIBOR: enhanced cooperation with FSMA; definition of supervisory strategy; preparation of analytical tools;
- Participation in EURIBOR college;
- Transfer to ESMA of firm-specific supervisory information and supervisory duties from NCAs currently supervising third country administrators;
- Participation in the Euro Risk-Free Rates Working Group.

3.4.8 Data Reporting Service Providers

Key objective

Ensuring ESMA’s readiness to perform its new supervisory and enforcement powers with respect to data reporting services providers

Starting January 2022, ESMA will also have the supervisory powers to authorise and supervise DRSPs, i.e. Approved Publication Arrangements (APAs), Authorised Reporting Mechanisms (ARMs) and Consolidated Tape Providers (CTPs). Preparation for these tasks began in 2020 and will continue throughout 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, who currently supervise the DRSPs, to ESMA. In addition, ESMA will need to develop a significant IT infrastructure for the access and analysis of transaction reports reported to NCAs by ARMs and subsequently to ESMA.

Main outputs

- ESMA's internal organisation necessary to perform the supervisory duties;
- IT infrastructure for the collection and analysis of data required for the supervision of DRSPs;
- Transfer of firm-specific supervisory information and supervisory duties from NCAs currently supervising DRSPs to ESMA.

3.4.9 Enforcement

Key objective

Adopt effective enforcement actions on directly supervised entities.

ESMA ensures that its internal processes can lead to the adoption of enforcement actions in the most efficient and effective way within the framework of the applicable legal constraints. It adopts effective and legally-sound enforcement decisions where infringements are established and ensures that its enforcement actions have a deterrent effect and lead to lasting changes in the supervised entities' behaviours. The Independent Investigation Officer (IIO) thoroughly investigates potential infringements and uses their investigatory powers where needed. Where infringements are established, ESMA adopts effective and robust enforcement actions, that range from the issuance of public notices to the withdrawal of registration and the imposition of fines. It also publishes detailed versions of its enforcement decisions to strengthen the impact on the supervised industries.

Main outputs

- Handling of appeals and other actions against ESMA;
- Robust enforcement actions (where infringements are established) and published enforcement decisions.

3.5 ESMA as an organisation

3.5.1 Governance and External Affairs

Key objectives

Lead and coordinate ESMA's relationship with the European Union Institutions and national competent authorities.

Lead and coordinate ESMA's activities regarding its equivalence work and international engagement (with non-EU regulators and within international organisations like IOSCO and FSB).

Provide strategic lead and co-ordination on any internal workstreams dealing with matters related to the withdrawal of the UK from the European Union.

Provide support to ESMA in the area of stakeholder relations, governance, proportionality and strategic planning and reporting.

Provide support to ESMA in the areas of risk management, assurance and accountability.

Build, maintain and protect ESMA's reputation through engagement and communication.

This activity provides active support to the whole organisation through the following ongoing tasks:

Governance: ESMA provides support to the Board of Supervisors, the Management Board and the Board of Appeal, assisting internal governance bodies and providing support to senior management. In 2021, ESMA's senior management will change with a new Chair and Executive Director, as well as new directors responsible for CCPs. In 2021, ESMA will also assume the rotating Chairmanship of the Joint Committee of the ESAs.

Relationship with the European Union Institutions:

Co-ordinating, advising and ensuring cross-organisational coherence on ESMA's inter-institutional relationships, primarily with the European Union Institutions (European Parliament, Council of the European Union, European Commission and European Central Bank). This includes ESMA's representation at the Financial Services Committee (FSC), the Economic and Financial Committee (EFC), Informal ECOFIN as well as all interactions with the European Parliament and its ECON Committee. Among others, ESMA's objective is to provide technical advice and input into legislative and non-legislative proceedings in the areas within its remit, and with the view of upcoming priorities, in particular in relation to the Capital Markets Union, Sustainable Finance and FinTech.

Cooperation with international organisations and non-EU regulators, including equivalence work: Leading and coordinating ESMA's activities and bilateral relations with

third-countries' regulators (incl. establishing cooperation arrangements) and stakeholders as well as ESMA's activities within international organisations, in particular IOSCO and FSB.

The task of co-ordinating internal workstreams dealing with matters related to the departure of the UK from the European Union and engaging with institutional and market stakeholders on relevant issues arising in relation to this will continue, as necessary. Furthermore, a reinforced coordination of the EU voice will be taken forward by ESMA in relation to relevant interactions with non-EU regulators as well as within international organisations like IOSCO and FSB.

ESMA will contribute to the equivalence assessments ahead of equivalence decisions taken by the Commission. Moreover, ESMA will ensure ongoing equivalence monitoring and regular reporting to the EU Institutions, which would in turn contribute to European Commission's reviews of equivalence decisions.

Engagement with stakeholders: open and transparent contact with stakeholders supports ESMA's work. ESMA will continue its engagement with stakeholders, in particular by providing support to the ESMA Securities and Markets Stakeholders Group, as well as to ESMA's broader stakeholder outreach. The tools ESMA will employ in its stakeholder outreach include ongoing consultative working groups linked to policy areas, and open hearings and roundtables on specific points.

Communications: The work will include pro-actively communicating ESMA's objectives and its work to key audiences, designing and implementing its corporate communications strategy; this while managing ESMA's different communications channels, including the design and implementation of a new website in 2021, and growing its digital and multimedia output. An internal communications strategy and priorities in support of organisation and cultural change will also be defined, as well as supporting its delivery to staff,

Planning and Reporting: In line with its obligations under its founding regulation and financial regulation, in 2021 ESMA will produce a programming document for the 2022 to 2024 period, including a detailed annual work programme for 2022. It will also continue to report to the Management Board and the public on the execution of the work programme notably via regular management reporting, including through key performance indicators, and via its annual report. ESMA will participate in Hearings/Scrutiny Proceedings of the European Parliament and Parliamentary Discharge processes as applicable.

Internal Controls: 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. ESMA will continue to: coordinate audits and liaise with internal and external auditors, conduct organisational risk assessments and implement the IC framework and reports.

Main outputs

- 2020 Annual Report;
- 2020 Joint Committee Annual Report;
- 2022-2024 Programming Document;
- 2022 Annual Work Programme;
- 2022 Joint Committee Annual Work Programme;

	<ul style="list-style-type: none"> – 2022 Organisational risk assessment; – Implementation of IC framework and reports; – Implementation of 2022 Communications Action Plan - Q4 2022; – 2021 Annual report on equivalence and relevant equivalence advice on specific countries/regulations.
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3.5.2 Legal

<p>Key objectives</p>	<p>Provide sound and focused legal advice to ESMA’s Board of Supervisors, Management Board, senior management and all departments that ensures informed and legally sound decisions.</p> <p>Provide clarity on the Authority’s legal toolbox and easy access to all applicable acts elaborated by ESMA.</p> <p>Promote good administrative behaviour throughout the timely and successful handling of requests for access to documents.</p> <p>Enhance the legal drafting and soundness of legal acts adopted by ESMA, notably through the sign-off process of draft technical standards.</p>
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Legal advice

Legal advice fosters sound and consistent interpretation of applicable legal or regulatory provisions falling under ESMA’s remit. Particular attention will be given in 2021 to advising on the implementation of the legislative reforms impacting ESMA’s missions and powers and specifically in relation to direct supervisory powers.

Legal review

Legal reviews are necessary to ensure the legal quality and soundness of ESMA’s contributions to the single rulebook and to supervisory convergence, as well as its supervisory decisions thus ensuring the legality of ESMA’s decisions and activities. The role of legal review of supervisory decisions will become more critical in the context of the new direct supervisory powers attributed to ESMA.

Litigation

Successful representation of ESMA before the EU Ombudsman, the Board of Appeal and eventually the Court of Justice is key for the support of ESMA’s decisions and the protection of Union interests. Where needed, ESMA will be represented and defended by its own legal team in court proceedings, unless there is a lack of specific expertise or of available resource.

In addition, efforts will continue to be made to enhance our complaints handling process, notably to promote a better use of our reporting channels. This should allow ESMA to

improve the ratio of admissible versus non admissible complaints. A focus will be placed on protecting the reporting persons from potential retaliation. Effective detection and prevention of breaches of Union law require ensuring that complainants can easily and securely bring the information they possess to ESMA’s attention.

Access to documents, data protection and ethics

Compliance with the European Data Protection Regulation through monitoring of records, an exhaustive public register and easily accessible privacy statements continues to be promoted. Adequate training and awareness sessions of staff will continue to be provided for all newcomers.

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.

Transparency and accessibility of the legal framework

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 and Q&As into the context of sectoral directives and regulations in ESMA’s remit.

Main outputs

- Sound and focused legal advice especially in the context of the new powers of ESMA;
- Legal review of ESMA’s acts especially binding supervisory decisions and legal sign-off of Technical Standards, Guidelines and Opinions;
- Timely and efficient handling of access to documents requests;
- Updating tools listing Technical Standards and Guidelines and further rolling out the Interactive Single Rulebook.

3.5.3 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 to support the new mandates of ESMA. Recruitment will be a particularly important activity in 2021 as ESMA will need to complete the recruitment of a significant number of new staff members linked to ESMA’s new powers and responsibilities. In parallel, the key project for 2021 is the simplification/phase out of legacy HR systems following the implementation of Sysper, the HR system of the European Commission.

Main outputs

- Recruitment/induction of new staff;
- Training and development of staff;
- Launch of HR EU System – Sysper.

3.5.4 Finance and Procurement

Key objective

Further align the financial and procurement function to the ESMA strategy by continuing enhancing the efficiency of financial and procurement processes.

Overall, it is estimated that no less than 3,000 payments, 450 recovery orders and 1,500 contracts and procurement procedures will be processed by ESMA in 2021 to ensure the smooth functioning of the Authority. Specifically, for 2021, 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 executed 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.

3.5.5 Corporate Services

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 areas of focus in 2021 will be the continued adaptation of the new premises to support the growth of ESMA. At the same time, the team structure, the processes and the contracts will be developed to better support a bigger organisation.

The expected tasks of the team will be the mission management, the meeting organisation and catering services taking into consideration the possibility to improve the events and meeting organisation and visitors' handling and the compatibility with the restrictions imposed by COVID-19.

Corporate Services processes will also contribute to better support ESMA as a sustainable organisation.

Main outputs

- Adaptation of ESMA’s premises to a bigger organisation;
- Revision of policies, procedures and working instruction in particular in the field of mission, events and catering management;
- Improve Facility Management support.

3.5.6 Information and Communication Technologies

Key objectives

Provide effective and proactive ICT support to staff and manage ESMA’s ICT resources in a flexible and efficient way.

Promote supervisory convergence and manage financial information through building and maintaining relevant IT systems, with the objective to collect, exchange, analyse and disseminate securities and financial markets information as required by relevant EU legislations.

In regard to promoting supervisory convergence, new projects will be executed together with the NCAs in order to deliver IT systems implementing new rules, such as EMIR Refit, cross-border distribution of investment funds, or cross border activities of investment firms.

ESMA will also implement a dedicated IT system in order to facilitate the submission of settlement fails reports by NCAs (as received from CSDs) to ESMA, and to centralise the received data under Article 7(1) of CSDR. The reporting obligation will become effective after the entry into force of the Commission Delegated Regulation (EU) 2018/1229.

There will be a continued need to enhance and extend the current data management and analytical capabilities, notably regarding the new data collection mandates related to the supervision of the third-country CCPs, DSRPs (data service reporting providers), critical benchmarks, and third-country investment firms. Therefore, new projects will be executed in order to deliver the data management and analytical capabilities required by the new direct supervision mandates.

ESMA will ensure the maintenance and lifecycle upgrades of ICT digital workplace tools such as computers, mobile, and printing devices, office automation, email and calendar, unified communications and collaborations tools, as well as will provide support to internal and external users of ESMA’s IT systems. In particular, following the disruptions to normal work patterns during the COVID-19 pandemic and benefitting from the comprehensive remote working support established as a result, ESMA will continue to support its staff and governing bodies to work remotely as needed.

ESMA will also run projects in order to increase the organisational flexibility and strengthen core administrative processes, such as the implementation of a new Q&A tool, the redesign of the ESMA’s website and intranet, or the Activity-Based Management system.

Main outputs

- ICT digital workplace tools delivery, supported by communication, change management, and user support processes;
- Execution and delivery of the IT projects and programmes related to supervisory convergence and direct supervision objectives, according to the defined programme and project management processes and methodologies.

Annex I. Human Resources

The following tables replicate ESMA's 2021 budget request, aligned to the new agreed mandates by ESMA's Board of Supervisors in July 2020. The draft budget will not be final until agreed by the Budgetary Authority:

2021 draft Establishment Plan (temporary posts)			
AD 16	2		
AD 15	3	AST 11	
AD 14	1	AST 10	
AD 13	4	AST 9	1
AD 12	10	AST 8	3
AD 11	15	AST 7	3
AD 10	23	AST 6	3
AD 9	41	AST 5	2
AD 8	40	AST 4	
AD 7	45	AST 3	
AD 6	17	AST 2	
AD 5	37	AST 1	
AD total	238	AST total	12
GRAND TOTAL		250	

Contract Agents (FTE)	2021 draft estimate
Function Group IV	66
Function Group III	35
Function Group II	
Function Group I	
Total	101

Seconded National Experts (FTE)	2021 draft estimate
Total	15

Annex II. Draft budget

The following tables replicate ESMA's 2021 budget request, aligned to the new agreed mandates by ESMA's Board of Supervisors in July 2020. The draft budget will not be final until agreed by the Budgetary Authority.

REVENUE	EUR
Fees from CRAs	10,545,743
Fees from TRs under EMIR	2,992,856
Fees from TRs under SFTR	636,555
Fees from SR	357,230
Fees from EMIR 2.2	4,340,336
EU contribution	21,203,660
Contribution from National Competent Authorities	24,677,721
Contribution for delegated tasks	1,741,849
TOTAL REVENUE	66,495,950

EXPENDITURE	EUR
Staff expenditure	43,689,950
Infrastructure and administrative expenditure	8,061,000
Operating expenditure	12,255,000
Delegated tasks	2,490,000
TOTAL EXPENDITURE	66,495,950

Annex III. 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 2021 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. Number of planned peer reviews/follow-ups delivered within planned timeline coupled with a qualitative assessment of how each element of the target has been met and delivers on ESMA's supervisory convergence mandate.
	% of IT projects' phases delivered compared to planned
	% IT projects budget execution for the current year
	% maintenance (of IT projects) budget execution for the current year
	% of open tickets versus closed (YTD) on IT projects
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. 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.

Activity	Key Performance Indicator
	<p>Level of data system coverage and quality reached. Measure: Yoy % change of composite indicator of data coverage and quality metrics, to be developed.</p>
Completing a single rulebook for EU financial markets	Percentage of technical standards reviewed.
Direct supervision of specific financial entities	Percentage of risk scenarios which triggered a supervisory action and resulted in a drop in the risk following the action.
	Ratio of remediations implemented / addressed within ESMA's expectations to number of remediations deviated from the ESMA's expectations
	Number of resources spent per identified risk issue
	Number of cases meeting the time designated for the overall enforcement process.
Organisational implications	<p>Budget management measures: Rate of implementation of Commitment Appropriations Rate of cancellation of Payment Appropriations Rate of payments executed within legal/contractual deadlines</p>
	<p>Human Resource measures: Average vacancy rate Staff turnover rate Staff satisfaction survey</p>
	Percentage of completion of the activities of the Annual Work Programme.
	Rate of external and accepted internal audit recommendations.

Annex IV. Acronyms

AIFMD	Alternative Investment Fund Managers Directive
APAs	Approved Publication Arrangements
APM	Alternative Performance Measures
ARMs	Approved Reporting Mechanisms
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
CRAR	Credit Rating Agency Regulation
CRR	Capital Requirements Regulation
CSDR	Central Securities Depositories Regulation
CSDs	Central Securities Depositories
DQAP	Data Quality Action Plan
DRSP	Data Reporting Service Providers
EBA	European Banking Authority
ECAIs	External Credit Assessment Institutions
ECB	European Central Bank
ECOFIN	Economic and Financial Affairs Council
EFC	Economic and Financial Committee
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
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
ISA	International Standards on Auditing
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
OTFs	Organised Trading Facilities
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
STS	Simple, Transparent and Standardised (Securitisation)
TC-CCP	Third Country Central Counterparty
TR	Trade Repository
TS	Technical Standard
UCITS	Undertakings for Collective Investment in Transferable Securities