



European Securities and
Markets Authority

Supervisory Convergence

Work Programme 2018



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Table of Abbreviations

AIFMD	Alternative Investment Fund Managers Directive
CCP	Central Counterparty
CFD	Contract For Differences
CMU	Capital Markets Union
CSDR	Central Securities Depository Regulation
ECB	European Central Bank
EMIR	European Market Infrastructure Regulation
ESA	European Supervisory Authority
ESMA	European Securities and Markets Authority
ETF	Exchange-Traded Fund
EuSEF	European Social Entrepreneurship Fund
EuVECA	European Venture Capital Fund
FinTech	Financial Technology
ICO	Initial Coin Offering
IFRS	International Financial Reporting Standards
IOSCO	International Organisation of Securities Commissions
LEI	Legal Entity Identifier
MAR	Market Abuse Regulation
MiFID II	Markets in Financial Instruments Directive II
MiFIR	Markets in Financial Instruments Regulation
MMF	Money Market Fund
NCA	National Competent Authority
PRIIPs	Packaged Retail Investment and Insurance Products



Q&As	Questions and Answers
RegTech	Regulatory Technology
SCWP	Supervisory Convergence Work Programme
SFTR	Securities Financing Transaction Regulation
SSR	Short-Selling Regulation
STS	Simple, Transparent and Standardised securitisation
TRV	Trends, Risks and Vulnerabilities
UCITS	Undertakings for Collective Investment in Transferable Securities

1 Executive Summary

1. The 2018 Supervisory Convergence Work Programme (SCWP) sets priorities with the intention of driving ESMA's convergence agenda in the year ahead and fostering a coordinated setting of national supervisory priorities. The elaboration of these priorities builds on an iterative process between ESMA and the NCAs and takes into account the current market and regulatory environment as well as NCAs' supervisory priorities.
2. ESMA will continue to foster the effective and consistent application of the EU regulatory framework, facilitating the exchange of experience between NCAs, the development and coordination of effective national supervisory approaches, the identification of best practices as well as barriers to convergent supervision, the assessment of NCAs' actions through peer reviews and, if needed, taking remedial action.
3. ESMA expands on the 2017 SCWP by assessing the progress achieved. Although most priorities identified for 2017 remain relevant for 2018, new priorities have also been identified in order to proactively address the high impact of financial innovation as well as the need to foster supervisory convergence in the context of the UK's decision to withdraw from the EU.
4. For 2018, ESMA identified the following priorities for supervisory convergence:
 - Ensuring that MiFID II/MiFIR are applied in a sound, efficient and consistent manner across the EU
 - Improving data quality to ensure efficient reporting under various requirements set by EU legislation
 - Ensuring supervisory convergence in the context of the UK's decision to withdraw from the EU
 - Safeguarding the free movement of services in the EU through adequate investor protection in the context of cross-border provision of services
 - Monitoring developments in financial innovation, in particular through the analysis of emerging and existing instruments, platforms and technology.

2 Context for ESMA's Supervisory Convergence Work

5. Supervisory convergence is very much influenced by the regulatory and market environment as well as the focus of supervisory attention set at national level. Upcoming legislative changes require adaptation of national supervision to ensure efficient implementation and also create opportunities to foster a common EU approach at an early stage when new requirements get introduced. Equally, certain new market trends and risks may be best dealt with through common EU solutions. National priorities help ESMA to identify the topics where emphasis should be placed, and EU priorities have the objective to foster a coordinated setting of supervisory priorities at national level.
6. The following sections (2.1, 2.2 and 2.3) set out the context and conditions within the regulatory and market environments respectively as well as present NCAs' supervisory priorities, which provide valuable background information to support both ESMA's supervisory convergence priorities set out in this document, as well as providing for a more holistic overview.

2.1 The Regulatory Environment in 2018

7. Most of the regulatory activity that ESMA is tasked to undertake in 2018, such as developing draft implementing measures under the STS Securitisation Regulation, the Prospectus Regulation, and the EuSEF and EuVECA will support the CMU initiative by fostering a genuine single capital market in the EU where businesses can raise capital from a variety of sources and across borders, whilst maintaining effective investor protection. In the CMU context, ESMA is also expecting the Commission to come up with a legislative proposal to facilitate cross-border distribution of investment funds and an action plan in relation to financial innovation.
8. Indeed, regulatory work will be pursued on specifying the new framework for prospectuses including the format and content of prospectuses, the data to be reported to the prospectus register, the criteria which NCAs shall use for the scrutiny of prospectuses and procedures for the approval of such. Intense regulatory work will be on-going under the STS Securitisation Regulation to develop common reporting templates, rules for cooperation among NCAs and with the ESAs. Reporting templates and common approaches to information requests by NCAs at the moment of registration will need to be developed under EuVECA and EuSEF Regulations. Many of these measures will underpin upcoming supervisory convergence work.
9. In the context of MiFID II/MiFIR implementation, ESMA will carefully monitor the impact of MiFID II/MiFIR on secondary markets and, in case of need, assess whether any of the applicable regulatory tools need to be adjusted. It should be noted that a number of Member States have yet to transpose MiFID II in their national legislation as of the beginning of 2018.

10. The post-trading area is also expected to be impacted by regulatory work through the proposed CCP Recovery and Resolution Regulation and the revision of EMIR. It can also be noted that the STS Securitisation Regulation amends EMIR and includes two new additional EMIR mandates for technical standards. Certain aspects of this regulatory work will bear some particular relevance for convergence activity going ahead.
11. In May 2018 the General Data Protection Regulation will enter into force: to enable the transfer of personal data to third country supervisors for supervision and enforcement purposes, ESMA will finalize an administrative arrangement together with IOSCO and in liaison with the national Data Protection Authorities through WP29 and the future European Data Protection Board.
12. Finally, guidance is awaited from the European Commission under different legislative texts (e.g. MiFID II/MiFIR, AIFMD) on implementing measures related to third country regimes. Depending on the legislative text, NCAs are responsible for authorising third country entities, under specific conditions. Fostering similar approaches among NCAs for the authorisation of such entities under their national regulatory framework is important, especially if those entities provide services across the EU. Should the European Commission issue directions, ESMA stands ready to deal with these issues.

2.2 The Market Environment

13. It is important to reiterate, as per Paragraphs 5 and 6, that the following information is intended to be contextual and to provide a global view of the market environment in the context of ESMA's supervisory convergence work.
14. The market environment continued to improve in 2017, mainly against the backdrop of strengthening macroeconomic conditions. However, political risk remained salient, with the UK's decision to withdraw from the EU being a critical source of potential instability for EU financial markets and geopolitical tensions outside the EU on the rise. Nonetheless, financial conditions remained benign, with continued support from monetary policy and investors focusing on ECB announcements regarding its asset purchase programmes. The performance of EU financial markets and investment vehicles in 2H17 was largely positive, supported by improved economic sentiment and the cyclical recovery. Rebalancing of the EU financial system continues, with strong growth in market financing and new EU-level initiatives intended to strengthen the supervisory arrangements of EU capital markets.
15. The 2018 supervisory convergence priority emphasising the need to improve data quality for regulatory data is key in the context of ESMA's tasks related to monitoring and assessing market developments in the area of its competence. Please refer to ESMA's Risk Analysis Work Programme for specific risk analysis projects which rely on regulatory data.

16. An important aspect of ESMA's market monitoring responsibilities relates to its financial innovation mandate and ESMA's mandate to advise the European Institutions on developments in the field of innovation. Analysis of market activity is a critical contributor to this work leading to various work streams such as those on distributed ledger technology or on ICOs. ESMA also remains alert to changes in the investment behaviour of retail consumers.

2.3 NCAs' Supervisory Priorities in 2018

17. Discussing NCAs' supervisory priorities is an important aspect which helps ESMA to focus on certain topics from a supervisory convergence perspective, especially when it comes to highlighting priorities with cross-border impact that might have implications for a number of NCAs.

2.3.1 Supervision of investment firms and market infrastructures

18. The start date of the application of the new MiFID II/MiFIR requirements in January 2018 will continue to demand substantive work by NCAs and market participants alike: supervising the effective implementation of MiFID II/MiFIR therefore appears as a supervisory priority for NCAs in 2018.
19. Investment firms' supervision will be very much driven by the MiFID II/MiFIR implementation actions.
20. NCAs reported placing emphasis on rules of suitability, conflicts of interest and overall business conduct of investment firms, and applied governance procedures. Some of them will undertake on-site inspections to ensure compliance with the new legal requirements, others will establish or improve existing market monitoring tools. A number of NCAs will monitor marketing and advertising for financial products, with major emphasis on complex products in a low interest rate environment.
21. NCAs will continue to facilitate and supervise the implementation of legislative texts, such as EMIR and CSDR and will pay attention to expected new rules regarding CCP recovery and resolution.
22. Work streams relating to trade repositories and the monitoring of data provided by these entities will continue to require additional resources for a number of NCAs.
23. In addition, the full application of the Benchmark Regulation will require further work, such as the ongoing authorisation and registration processes.

2.3.2 Supervision of investment funds

24. NCAs have gained experience in applying the legal regimes of the UCITS Directive and AIFMD in their supervisory work, allowing for a focus on more granular issues. In 2018, NCAs will focus on issues of risk management by asset

managers, such as the treatment of operational risk, risk assessment, liquidity risk and the management of conflicts of interest.

25. Additionally, there is a wide range of issues NCAs reported focusing upon, including, inter alia, the structure of fees and charges for investment funds, issues in relation to closet indexing funds, socially responsible innovation (SRI) funds, and loan origination and loan participation funds. Reporting regimes for funds and use of data will remain a major supervisory topic for several NCAs.

2.3.3 Supervision of issuers

26. Priority in the supervision of issuers reflect the upcoming change of legislation, such as preparatory work for the new Prospectus Regulation, application of MAR and the Transparency Directive.
27. In addition, work in relation to alternative performance measures was highlighted by some NCAs, while a few of them mentioned work streams relating to sustainable and responsible finance (such as green bonds, climate related reporting).

2.3.4 Specific markets and other topics

28. A broad variety of other topics were raised by NCAs some of which are intertwined with sections previously mentioned. Assessing and facing the potential implication of the UK's decision to withdraw from the EU is a general concern for NCAs across the EU. A number of NCAs indicated that an additional supervisory focus will be placed in 2018 on outsourcing/delegation of services and responsibilities by financial entities. As a general point, supporting supervisory convergence in relation to EU passporting and information sharing among NCAs was also highlighted.
29. Application of PRIIPs has also been highlighted as an important supervisory topic. NCAs also continue to work on market developments such as crowdfunding, e.g. assessment of (legislative) developments or the setup and supervision of crowdfunding platforms. In addition to this, NCAs are focusing on topics in the financial innovation sphere, such as general FinTech related issues, ICOs and questions surrounding virtual currencies.
30. Many NCAs will invest in the development and improvement of IT systems and tools for various areas. Issues in this field range from IT infrastructure for MAR and EMIR to whistle-blowing tools, as well as the supervision of IT-risks of supervised entities and issues of cyber security.

3 Supervisory Convergence Priorities for 2018

31. Priorities are identified in order to drive ESMA's 2018 convergence agenda as well as to influence supervisory priorities set at the national level. The elaboration of these priorities is built on an iterative process between ESMA and the NCAs and takes into account the current market and regulatory environment as well as NCAs' supervisory priorities, as presented under the previous sections. In addition, the monitoring activity that has been conducted on the implementation of the previous years' work programmes show that ESMA's work regarding supervisory convergence was well received by NCAs and had a positive impact on the convergence landscape in the EU.
32. ESMA concluded through this process that although most priorities identified in the previous year remain relevant for 2018 and the continuation of the work done so far remains important, new priorities have also been identified to proactively address the high impact of financial innovation as well as the changing EU environment. Indeed, fostering supervisory convergence in the context of the UK's decision to withdraw from the EU has been considered as a priority of its own for the upcoming year.
33. To summarise, the following supervisory convergence priorities were identified for 2018:
 - **Making sure that MiFID II/MiFIR are applied in a sound, efficient and consistent manner across the EU:** MiFID II/MiFIR will play a dominant role in their first year of application. ESMA will start becoming a central source of information in respect of MiFID II/MiFIR implementation and fulfil a coordination role between NCAs to agree on common actions and on consistent application of requirements. These will be key for the successful completion of MiFID II/MiFIR objectives. The supervisory convergence work will not just be focused on providing guidance with a view to ensuring a common understanding of the requirements, as in the previous years, but emphasis will also be put on setting a number of common supervisory priorities to ensure that trading venues, financial intermediaries and other market participants effectively apply MiFID II/MiFIR in accordance with commonly agreed standards and technical specifications.
 - **Improving data quality to ensure efficient reporting under various requirements set by EU legislation** remains a major focus of ESMA's work, in line with ESMA's Data Strategy. Reporting obligations require clarification and coordination of NCAs' efforts by ESMA, in particular under MiFID II/MiFIR, EMIR and MMF Regulation. Enhancing data quality will in general help to foster a common approach for NCAs to make use of the data provided by market participants.

- **Ensuring supervisory convergence in the context of the UK's decision to withdraw from the EU (*new*):** the UK's decision to withdraw from the EU has raised a wide range of questions to be considered by ESMA and NCAs in relation to the relocation of UK based entities, activities and functions to the EU27. The Supervisory Coordination Network will continue discussing ex ante concrete cases of relocation to foster a common supervisory approach, among others on outsourcing and delegation. Similarly, firms' contingency plans will continue to be discussed. Currently ESMA and NCAs are working on the assumption that the UK will become a third country after its withdrawal from the EU¹. Depending on the progress made in the negotiations between the EU27 and the UK, the need may arise to look at the cooperation arrangements between the UK and the EU27 NCAs and as well as ESMA.
- **Safeguarding the free movement of services in the EU through adequate investor protection in the context of cross-border provision of services:** ESMA will continue to watch that retail investors receive similar protection independently of the location of the firm providing services to them. In particular, ESMA will continue to monitor the marketing of derivative products to retail investors on a cross-border basis. Worth noting here are ESMA's upcoming product intervention measures, which will have to be applied and enforced consistently as well as the preparation for a smooth roll-out of national measures, as appropriate. Further, ways to improve cooperation among home and host national authorities will be looked at, for example through creating closer dialogue among enforcement specialist in the EU. On the asset management side, ESMA will strive for facilitating cross-border distribution of funds, in support of the European Commission, and for building common approaches to fee structures and closet-indexing.
- **Monitoring developments in financial innovation, in particular through the analysis of emerging and existing instruments, platforms and technology (*new*):** ESMA expects the rapid pace of financial innovation developments across the EU securities markets to continue in 2018. These developments influence the way in which securities are developed, traded and supervised. In turn, ESMA is undertaking material analysis on the emergence of such instruments as virtual currencies, such platforms as ICOs and such tools as the distributed ledger technology. Additionally, ESMA will analyse how market participants are embracing regulatory technology to comply with recently implemented regulation, and how supervisors are deploying supervisory technology to undertake what has become a data driven supervisory process. The remit of this analysis will include increased uses of cloud computing to efficiently employ such technologies and the potential cyber risk vulnerabilities as firms and supervisors implement such methods.

¹ This is without prejudice to any specific arrangements that may be reached between the UK and the EU.

34. It should be noted that supervisory convergence work in the area of CCPs will continue to receive high attention by ESMA, who will continue to play a primary role in all CCP colleges, identify potential divergent practices by NCAs or CCPs and address them. In particular, two sets of guidelines on CCP requirements are expected to be published, one on conflicts of interest and one on anti-procyclicality measures. In addition, a common template for reporting and facilitating the comparison of data across CCP colleges is expected to be agreed. Furthermore, ESMA will need to start shifting some of its focus on the upcoming challenges due to the Commission's proposal to revise EMIR. ESMA will also be active in conducting some follow-ups to the results of the EU-wide CCP stress test published in January 2018 and in preparing for the next exercise. Last, follow-up work could be undertaken on past CCP peer reviews.
35. As chair of the Joint Committee of the ESAs in 2018, ESMA will actively contribute to its supervisory convergence related work, such as on the implementation of PRIIPs, fostering cooperation among home-host NCAs or NCAs' complaints handling processes.
36. Considering the changing EU environment that contains uncertainties for ESMA, the work programme needs to be considered with a certain degree of flexibility allowing a response to new challenges that might arise in the context of on-going negotiations at the EU level.

4 Thematic and Cross-cutting Activities

37. This section provides an overview of the key objectives pursued in each area to underpin the implementation of the 2018 convergence priorities. Building on the key objectives, ESMA's full convergence work programme is set out in Annex I of this document containing the presentation of relevant deliverables and output. Where appropriate, the activities in this section will be linked to the relevant identified supervisory convergence priorities.
38. Taking into account longer term priorities, some work streams were already initiated in 2017 and will progress in 2018, while others are likely to continue into 2019.

4.1 Thematic activities

4.1.1 Intermediaries and Investor Protection

39. ESMA will continue concentrating on the sound, efficient and consistent application of the new MiFID II / MiFIR framework across the EU as per the first supervisory convergence priority for 2018. Application of new powers under the product intervention regime will be of particular focus, as well as the update of the existing ESMA guidance or the elaboration of new supervisory convergence work in relation to key MiFID II requirements such as suitability, best execution and

inducements. Underpinning ESMA's priority to ensure investor protection in cross-border situations across the EU, work will also be pursued further related to CFDs as well as through the Joint Committee on home-host related issues.

4.1.2 Secondary markets

40. Tied in with the first identified supervisory convergence priority for 2018, the intensive MiFID II/MiFIR related convergence work will continue through the elaboration of Q&As on emerging issues and preparing ESMA opinions, such as on pre-trade waivers or position limits. ESMA will start becoming a central source of information for the appropriate implementation of MiFID II/MiFIR and fulfil a coordination role between NCAs to agree on common actions and on consistent application of requirements. Indeed, MiFID II/MiFIR mandate ESMA with a large number of regular reporting and monitoring tasks, such as on the application of waivers from pre-trade transparency and arrangements for deferred publication, and the implementation of position limits and position management controls. In addition, the framework for the ESMA position management powers framework will have to be developed, as well as practical arrangements to facilitate and coordinate the access to order data by competent authorities. Convergence work will include the assessment of third country trading venues for the purpose of post-trade transparency requirements and the position limits regime.

4.1.3 Investment Management

41. After focusing on the transposition of UCITS V and the AIFMD in recent years, the key objective will be to address pending issues in order to foster common supervisory approaches, such as an analysis of permissible performance fee structures across the EU, further clarification in the area of closet-indexing or moving ahead with guidance on funds' stress testing. Strengthening investor protection in cross-border situations will continue to be a priority. ESMA will contribute to supervisory convergence regarding the MMF Regulation, for instance by issuing guidance to clarify MMF managers' reporting obligations and ensure consistent data collection by NCAs. ESMA will reflect in 2018 on how best to foster common approaches to cybersecurity and cyber resilience. The first step will be a senior supervisors' forum meeting in the asset management area dedicated to this topic.

42. Depending on the direction that the European Commission will take in its upcoming legislative proposal to facilitate cross-border distribution of investment funds, ESMA might initiate complementary or additional work streams, also in keeping with its objective to support the Capital Markets Union initiative. Through the Joint Committee, supervisory convergence related activities will continue on the appropriate and consistent application of PRIIPs throughout the EU.

4.1.4 Market Integrity

43. Further to the elaboration of an extensive set of ESMA guidance over the past few years to ensure the sound, efficient and consistent application of MAR, attention will focus on supervisory issues related to MAR and SSR through sharing experiences gathered in relation to daily monitoring of markets and enforcement. Such an exchange may result in new Q&As and/or supervisory briefings for NCAs.
44. As 2018 is the first year of application of the Benchmark Regulation, it is also expected that ESMA will produce a number of Q&As addressed to market participants, as well as supervisory briefings for both NCAs and critical benchmark colleges of supervisors, as questions arise. Additionally, ESMA will publish the guidelines on non-significant benchmarks in the first half of 2018.

4.1.5 Post-trading

45. The enhanced and convergent supervision of CCPs will continue to receive high attention at EU level, especially in the context of the UK's withdrawal from the EU, considering their systemic relevance and cross-border activity. To reinforce the existing framework, ESMA is planning to continue its preparatory work on the guidelines regarding the proposed CCP Recovery and Resolution Regulation. In parallel, ESMA will continue using its wide set of convergence tools through its participation in Colleges, as well as the development of Q&As, guidelines and opinions. In addition, ESMA will carry on its supervisory convergence work in other post trading areas such as SFTR and settlement. In respect of the latter, it will in particular start working on supervisory convergence measures in relation to CSDR settlement discipline requirements².

4.1.6 Corporate finance

46. Focus will clearly be on preparing for the new prospectus regime. Though the emphasis will primarily be on the regulatory side, guidelines will be developed on the presentation of risk factors in a prospectus and the review of such by NCAs. A revision of the existing Q&As and other guidance tools for the former prospectus regime will be initiated simultaneously. Discussions on topical convergence issues will continue.

4.1.7 Corporate reporting

47. Supervisory convergence is at the heart of ESMA's activities in relation to corporate reporting. The elaboration of annual common enforcement priorities will continue to focus supervisory attention at the national level on the same topics when reviewing annual accounts of issuers across the EU. Specific attention will

² Subject to the adoption by the EC of the RTS on settlement discipline under CSDR (draft published by ESMA on 1 February 2016)

be paid on the implementation of new standards such as IFRS 9. The evaluation of the implementation of the common enforcement priorities, the annual report on enforcement activities, will be developed. Attention will be placed on the implementation of the Guidelines on Alternative Performance Measures and on non-financial reporting.

4.2 Cross-cutting Activities

4.2.1 Market Data

48. Recognising the importance of obtaining high quality and complete data from reporting entities under different EU legislative texts, ESMA together with NCAs will define and implement concrete action plans for improving the quality of the data under different reporting regimes, which supports ESMA's 2018 key priority to strive for enhanced data quality. The experience built on the EMIR data quality action plan will be extended and further improved also to other reporting regime, in particular under MIFIR for regulatory reporting and transparency purposes. This will imply the development and application of detailed methodologies, the definition of data quality tests and assessment criteria and an on-going monitoring of performance indicators. Furthermore, common initiatives will be taken for ensuring the swift take up of all missing LEIs and other data standards. Finally, practical arrangements to facilitate and coordinate the access to order data by competent authorities will be assessed.

4.2.2 Financial Innovation

49. Developments in the fields of financial innovation in general and RegTech are viewed with strong interest on the part of NCAs, supporting the inclusion of the key priority on financial innovation. These developments may alter the way in which supervised data is analysed, and the way in which market participants gather and deliver data. Advances in the space of Distributed Ledger Technology continue with high frequency, which calls for ongoing monitoring. Regarding ICOs, a thorough analysis will be undertaken to determine the regulatory scope and implications.

4.2.3 IT Infrastructure supporting convergence

50. Setting up an efficient and effective IT infrastructure is paramount for ESMA and NCAs to work in a consistent manner together. Supporting harmonised data collection and sharing by NCAs as well as facilitating the use and analysis of data is essential for the fostering of supervisory convergence and will become increasingly central for coherent and high quality supervision in the EU. Priorities for IT infrastructure related work to foster convergence will be 1) maintaining the existing IT infrastructure such as those underpinning MiFID II/MiFIR, MAR and EMIR, 2) building new systems for reporting under the STS Securitisation

Regulation, 3) and under the MMF Regulation, 4) expanding the register under the new Prospectus Regulation, and 5) CSDR.

4.2.4 Peer reviews

51. ESMA conducts peer reviews in the interest of fostering convergent supervisory approaches and application of rules in the EU. Peer reviews, whether own initiative or mandatory, and follow-up work have proved to be an effective tool, which ESMA is committed to use and further enhance, as the need may arise. In this respect, the Methodology will be adjusted in 2018 in order to address a few recommendations, in particular those made by the European Commission' internal audit service.
52. In 2018, one peer review currently underway will be finalized: it relates to the Guidelines on ETFs and other UCITS issues. New peer reviews are envisaged subject to resource availability, these cover: (i) supervisory actions aiming at enhancing the quality of data reported under EMIR; (ii) the collection and use of suspicious transaction and order reports under MAR as a source of information in the context of market abuse investigations. A follow-up is currently being undertaken to the 2016 peer review on the MiFID Suitability Guidelines.
53. Besides, as several EU legislations foresee that ESMA undertakes peer reviews on a regular basis (such as EMIR, AIFMD, Prospectus Regulation, CSDR, STS Securitisation Regulation, EuVECA/EuSEF), ESMA stands ready to develop methodologies for these mandatory peer reviews when the need arises.

4.2.5 Towards more consistent approaches to supervision and enforcement

54. Exchange of experience between supervisors are key to promote a consistent and efficient supervision of cross-border provision of services. ESMA will facilitate these discussions through existing groups or the set up of new forums for sharing of experience and resolving cross-border issues as the need may arise. This includes an Enforcement Network or new Senior Supervisors' Forums to discuss strategic supervisory issues. The first Senior Supervisors' Forum is due in March 2018; it will be dedicated to cyber-security, with a particular focus on the asset management sector.
55. ESMA is also working on implementing a more robust approach to monitor NCAs' declared non-compliance with Guidelines.

4.2.6 Training

56. Training of NCAs' staff is considered to be a true convergence tool establishing a common ground to share experiences among NCAs and learn from one and another. The detailed training activities planned for 2018 are presented in Annex II.

Annex I: Key objectives and main outputs for 2018

Thematic Areas

Investor Protection and Intermediaries

Key objective

ESMA will continue concentrating on the sound, efficient and consistent application of the new MiFID II / MiFIR framework across the EU as per the first key supervisory convergence priority for 2018. Application of new powers under the product intervention regime will be of particular focus, as well as the update of the existing ESMA guidance or the elaboration of new supervisory convergence work in relation to key MiFID II requirements such as suitability, best execution and inducements. Underpinning ESMA's key priority to ensure investor protection in cross-border situations across the EU, work will also be pursued further related to CFDs as well as through the Joint Committee on home-host related issues.

Product intervention

Work will continue in relation to the new power under MiFID II/MiFIR permitting ESMA to ban or restrict the marketing, distribution or sale of certain financial products, or to intervene in relation to certain financial activities. ESMA will work on issuing an opinion in relation to national product intervention measures in this regard as well.

Review of Guidelines on certain aspects of the MiFID II suitability requirements

Update of the 2012 guidelines issued on the same topic. The new guidelines will have an expanded the scope to cover robo-advice and behavioural finance.

Developing/Reviewing Q&As on MiFID II investor protection and intermediaries topics

Q&As will be developed on MiFID II conduct of business and organisational requirements

Reviewing the existing MiFID I guidance

Review of the existing MiFID I guidance to assess compatibility with MiFID II, strengthen them. In particular, review of the Supervisory briefing on suitability or the ESMA guidelines on remuneration or on the compliance function.

Workshops with NCAs on MiFID II topics

Workshops with NCA staff to share experiences on national implementation/application of the MiFID II requirements. Potential topics include the use of telephone recordings, best execution, inducements, and remuneration.

Convergence in the context of the UK’s withdrawal from the EU

ESMA will continue its supervisory convergence activities as initiated in 2017 concerning in particular issues related to authorisation, outsourcing and delegation. In light of developments in the negotiations with the UK, new supervisory convergence issues may arise that will require attention. Discussions on possible cliff-edge effects, relevant risks and market as well as NCAs’ preparedness will continue, including on the need to issue further supervisory guidance and/or direct investor communications.

Main outputs

- Potential ESMA product intervention measures. Possible investor warnings (H1 2018)
- Product intervention: Opinions on national product intervention measures (on-going, as needed)
- Review of the Guidelines on certain aspects of the MiFID II suitability requirements (Q2 2018)
- Developing/Reviewing Q&As on MiFID II investor protection and intermediaries topics (on-going)
- Reviewing the existing MiFID I guidance to assess compatibility with MiFID II and strengthen them (Q3 / Q4 2018)
- Workshops with NCAs on MiFID II topics (1 or 2 workshops to be organised during 2018)

Secondary Markets

Key objective

Tied in with the first identified supervisory convergence priority for 2018, the intensive MiFID II/MiFIR related convergence work will continue through the elaboration of Q&As on emerging issues and preparing ESMA opinions, such as on pre-trade waivers or position limits. ESMA will start becoming a central source of information for the appropriate implementation of MiFID II/MiFIR and fulfil a coordination role between NCAs to agree on common actions and on consistent application of requirements. Indeed, MiFID/MiFIR mandate ESMA with a large number of regular reporting and monitoring tasks, such as on the application of waivers from pre-trade transparency and arrangements for deferred publication, and the implementation of position limits and position management controls. In addition, the framework for the ESMA position management powers framework will have to be developed, as well as practical arrangements to facilitate and coordinate the access to order data by competent authorities.

Convergence work will include the assessment of third country trading venues for the purpose of post-trade transparency requirements and the position limits regime.

Developing/Reviewing Q&As in relation to secondary markets' aspects

Common interpretation and application of MiFID II/MiFIR related requirements in relation to market structure and transparency issues, such as on the systematic internaliser regime, the concept of multilateral systems and many others.

Developing/Reviewing Q&As in relation to commodity derivatives' aspects

Common interpretation and application of MiFID II commodity derivatives related requirements such as on position limits, position reporting or the concept of "ancillary activity".

Opinions pre-trade waivers

Issuing of opinions on pre-trade transparency waivers for equity and non-equity instruments to contribute to the convergent application of waivers from pre-trade transparency. In particular, finalisation of the ESMA opinions for non-equity waivers.

Opinions position limits

Issuing opinions on position limits for commodity derivatives to contribute to the convergent application of the position limit regime for commodity derivatives. In particular, finalisation of pending notifications for position limits.

Opinions temporary suspension of transparency

Issuing opinions on the temporary suspension of transparency by NCAs, as well as on the renewal of a temporary suspension.

Regular reporting and monitoring tasks under MiFID II/MiFIR

Work will start on a number of monitoring and reporting tasks under MiFID II/MiFIR, such as annual reports on the use of pre-trade transparency waivers and the application of deferred publication as well as the monitoring of the implementation of position limits and position management controls.

Position management

Work will continue in relation to the new power under MiFIR permitting ESMA to exercise under certain conditions position management powers and facilitating the coordination among NCAs.

Assessment of third country trading venues

Assessment of third country trading venues pursuant to a set of objective criteria for the purpose of post-trade transparency and the position limit regime.

Reviewing the opinion on ‘traded on a trading venue’ (TOTV)

In May 2017, ESMA published an opinion providing guidance on the concept of TOTV. As noted in the opinion, ESMA will closely monitor market developments and may consider providing further guidance should it be deemed necessary

Convergence in the context of the UK’s withdrawal from the EU

Identification and mitigation of potential cliff effects. Ensuring common practices in cases of relocation of trading venues or in contingency planning. Advising the European Commission on the necessary measures needed to equip the EU with the right tools.

Main outputs

- Developing/Reviewing Q&As to MiFID II requirements in relation to secondary markets and commodity derivatives (on-going)
- Opinions pre-trade waivers (pending non-equity waivers and on-going)
- Opinions position limits (pending position limits and on-going)
- Opinions on the temporary suspension of transparency
- Assessment of third country trading venues
- Annual reports on the application of waivers from pre-trade transparency and deferred publication, and on the implementation of position limits and position management controls
- Implementing the framework for the ESMA position management powers
- Revision of the TOTV opinion

Investment Management

Key objective

After focusing on the transposition of UCITS V and the AIFMD in recent years, the key objective, will be to address pending issues in order to foster common supervisory approaches, such as an analysis of permissible performance fee structures across the EU, further clarifications in the area of closet-indexing or moving ahead with guidance on funds’ stress testing. Strengthening investor protection in cross-border situations will continue to be a priority. ESMA will contribute to supervisory

convergence regarding the MMF Regulation, for instance by issuing guidance to clarify MMF managers' reporting obligations and ensure consistent data collection by NCAs. ESMA will reflect in 2018 on how best to foster common approaches to cybersecurity and cyber resilience. The first step will be a senior supervisors' forum meeting in the asset management area dedicated to this topic.

Depending on the direction that the European Commission will take in its upcoming legislative proposal to facilitate cross-border distribution of investment funds, ESMA might initiate complementary or additional work streams, also in keeping with its objective to support the Capital Markets Union initiative. Through the Joint Committee, supervisory convergence related activities will continue on the appropriate and consistent application of PRIIPs throughout the EU.

Performance fees

Currently there are different practices across NCAs regarding what performance fee structures are permissible and on the circumstances in which performance fees can be paid. This creates risks of regulatory arbitrage and inconsistent levels of investor protection.

Stress testing

ESMA will continue its work on investment fund stress testing, including carrying out model-based stress simulations in cooperation with ESRB. Both AIFMD and the UCITS Directive contain references to stress testing by funds but ESMA sees the need to develop more guidance on how this is to be done. The recent FSB recommendations underline the additional focus on stress testing as a tool, both at micro (i.e. fund) and macro (i.e. across a specific sector or sub-sector) level.

Developing/Reviewing of AIFMD and UCITS Q&As

Issues of practical application of the UCITS and AIFMD frameworks will be addressed by developing/reviewing ESMA's AIFMD and UCITS Q&As.

Guidelines on reporting obligations for money market funds

The guidelines will provide clarity to MMF managers on what they should report. This will help ensure that there is a consistent approach and that the information in ESMA's central database can be exploited more fully. This work involves the development of guidelines that will complement the implementing technical standards on the reporting requirements submitted to the European Commission in 2017.

Liquidity and leverage

In light of the Recommendations issued by the ESRB, ESMA will work on a procedure for the imposition of leverage limits, building on previous preparatory work in this area, and develop guidance on the use of liquidity management tools.

Closet indexing follow-up

ESMA’s statement on closet indexing in 2016 identified a number of possible issues to be addressed in future work streams. In 2018 ESMA will gather detailed information from NCAs on the work done at national level to address this practice. The aim of this work is to ensure that NCAs are taking convergent approaches to situations where deficiencies are identified. ESMA will also consider the need for policy changes, such as improving disclosures on the extent to which a fund has discretion in relation to a benchmark.

Barriers to cross-border distribution of funds

The European Commission is due to issue proposals (which may be a mixture of legislative and non-legislative action) in Q1 2018 to facilitate the distribution of funds across the EU and remove obstacles that may be preventing the smooth functioning of the marketing and management passports. The package may include a role for ESMA.

Convergence in the context of the UK’s withdrawal from the EU

ESMA will continue its supervisory convergence activities as initiated in 2017 concerning in particular issues related to authorisation, outsourcing and delegation. Emerging issues will be considered as the need arises. This is likely to include discussions on potential cliff effects, on NCAs’ actions in terms of contingency planning, as well as potential communication to investors.

Main outputs

- Performance fees (guidance: Q3 2018)
- Stress testing (principles for NCAs: Q3 2018)
- Guidelines on reporting obligations for money market funds (Q4 2018)
- Developing/Reviewing of AIFMD and UCITS Q&As (on-going)
- Liquidity and leverage (DP/CP: Q2 2018)
- Closet indexing follow-up (Q4 2018)
- Preparatory work in light of Commission’s proposal on barriers to cross-border distribution of funds (depends on scope and timing of European Commission’s proposals)

Market Integrity

Key objective

Further to the elaboration of an extensive set of ESMA guidance over the past few years to ensure the sound, efficient and consistent application of MAR, attention will focus on supervisory issues related to MAR and SSR through sharing experiences gathered in relation to daily monitoring of markets and enforcement. Such an exchange may result in new Q&As and/or supervisory briefings for NCAs.

As 2018 is the first year of application of the Benchmark Regulation, it is also expected that ESMA will produce a number of Q&As addressed to market participants, as well as supervisory briefings for both NCAs and critical benchmark colleges of supervisors, as questions arise. Additionally, ESMA will publish the guidelines on non-significant benchmarks in the first half of 2018.

Developing/Reviewing Q&As and/or supervisory briefings under the MAR, BMR and SSR

The main aim of the work in this area is to facilitate the convergent application of the MAR, BMR and SSR. For example, further work will be undertaken with respect to the disclosure of inside information by regular issuers and credit institutions and the coordination of national authorities in market abuse cases with cross-border relevance.

Guidelines on non-significant benchmarks

ESMA will issue guidelines on four different policy areas that will be applicable to non-significant benchmarks (as provided for by the BMR): procedures and characteristics of the oversight function; input data; transparency of benchmark methodology; and governance and control requirements for supervised contributors. ESMA has already drafted technical standards applying to significant (and critical) benchmarks covering the same areas and the guidelines will ensure a proportionate approach to lesser used indices.

Exchange of experiences regarding market abuse

In addition to the regular exchange of views on the interpretation and application of regulatory provisions in MAR, SSR and BMR, supervisory workshops will be set up in order to allow discussions based on the lessons learnt from the monitoring and enforcement experience. These supervisory workshops facilitate the exchange of experience among market integrity experts and the development of common approaches towards market abuse cases and their coordination where needed.

One workshop with the Agency for the Cooperation of Energy Regulators (ACER) is also envisaged to exchange views and share experience.

Safeguarding retail contracts on major interest rate benchmarks

Benchmarks measuring inter banking loan markets are currently undergoing substantial changes both in Europe and worldwide. ESMA will join other European authorities in a common effort to ensure that existing contracts referencing major European interest rate benchmarks will continue to be robust. ESMA will also steer industry efforts to adopt legacy consumer contracts to possible alternatives where existing benchmarks may not be sustained.

Main outputs

- Developing/Reviewing Q&As and/or supervisory briefings for NCAs under the MAR, BMR and SSR (as the need arises)
- Guidelines on non-significant benchmarks
- Discussions and workshops based on the lessons learnt from the monitoring and enforcement experience by NCAs (on-going)
- One supervisory workshop with ACER
- Set-up and coordination of a European industry working group on the adoption of alternative interest rates in retail contracts

Post-trading

Key objective

The enhanced and convergent supervision of CCPs will continue to receive high attention at EU level, especially in the context of the UK’s withdrawal from the EU, considering their systemic relevance and cross-border activity. To reinforce the existing framework, ESMA is planning to continue its preparatory work on the guidelines regarding the proposed CCP Recovery and Resolution Regulation. In parallel, ESMA will continue using its wide set of convergence tools through its participation in Colleges, as well as the development of Q&As, guidelines and opinions. In addition, ESMA will carry on its supervisory convergence work in other post trading areas such as SFTR and settlement. In respect of the latter, it will in particular start working on supervisory convergence measures in relation to CSDR settlement discipline requirements³

CCPs

- Coordinating and ensuring supervisory convergence across Colleges
- Provide interpretative aids through convergence tools, such as Q&As, opinions, guidelines, recommendations and raising awareness on good practices.
- Assess and validate significant changes in CCP risk models
- Developing guidelines on issues of CCP recovery and resolution

³ Subject to the adoption by the EC of the RTS on settlement discipline under CSDR (draft published by ESMA on 1 February 2016)

Further convergence activities to ensure consistent application of EMIR

- Define and coordinate common supervisory actions by NCAs and ESMA
- Continue monitoring compliance with the clearing obligation and bilateral margining obligation as well as the activity of non-financial counterparties and their systemic relevance
- Developing/reviewing procedures, Q&As and opinions in the scope of the Bilateral margin requirement RTS, in collaboration with the ESAs where applicable.

Issuing opinions in consultation with EIOPA on pension schemes exemptions, as need arises

Deliver an annual report to the European Parliament, the Council and the Commission on penalties imposed by competent authorities

Post trading aspects of MiFIR

Q&As may be issued for example in relation to compression, to the certainty of clearing, or indirect clearing provisions of MiFIR.

Settlement and CSDs

- Ensuring the consistent application of CSDR through Q&As in relation to CSD requirements, and in particular through guidelines in the areas of internalised settlement and settlement discipline, subject to the timely endorsement of the RTS on settlement discipline
- Co-ordinating work for NCAs regarding the supervision of CSDs participating in T2S

SFTR

Subject to the timely endorsement of the respective technical standards, developing guidelines on portability and positions in SFTs, Q&As and possibly opinions.

Main outputs

CCPs

- CCP common templates for data reporting
- Potential recommendations following the EU-wide CCP Stress Test results
- Guidelines on CCPs' management of conflicts of interest
- Guidelines on anti-procyclicality margin measures
- Subject to the timely adoption of the Regulation, Guidelines on conditions for entry into resolution of CCPs (Q4 2018)
- Subject to the timely adoption of the Regulation, Guidelines on the content of cross-border cooperation arrangements for CCP resolution (Q4 2018)

EMIR

- Annual report to the European Parliament, the Council and the Commission on penalties imposed by competent authorities (Q4 2018)
- Procedures, Q&As and opinions in the scope of the Bilateral margin requirement RTS, in collaboration with the ESAs where applicable (as need arises)
- Guidelines on the calculation of positions in derivatives by TRs (Q2 2018)
- Opinions in consultation with EIOPA on pension schemes exemptions (as need arises)

MiFIR

- MiFIR Q&As in relation to compression, to the certainty of clearing, or indirect clearing provisions of MiFIR

CSDs and CSDR

- Q&As in respect of CSD requirements and settlement discipline, subject to the publication of the RTS on settlement discipline (as need arises)
- Guidelines on internalised settlement reporting (Q1 2018)
- Subject to the timely endorsement of the RTS on settlement discipline: public consultation on Guidelines on the standardised procedures and messaging protocols to be used in order to prevent settlement fails (Q2 2018), Guidelines on the reporting on settlement fails (Q4 2018), Guidelines on supervisory practices regarding the enforcement of settlement discipline requirements (Q4 2018)

SFTR

- subject to the timely endorsement of the respective technical standards, Guidelines on Portability (Q4 2018)
- subject to the timely endorsement of the respective technical standards, Guidelines on calculation by TRs of named and sectoral positions in SFTs (Q4 2018)
- Q&As and, possibly, opinions within the scope of the SFTR (as need arises)

Corporate Finance

<p>Key objective</p>	<p>Focus will clearly be on preparing for the new prospectus regime. Though the emphasis will primarily be on the regulatory side, guidelines will be developed on the presentation of risk factors in a prospectus and the review of such by NCAs. A revision of the existing Q&As and other guidance tools for the former prospectus regime will be initiated simultaneously. Discussions on topical convergence issues will continue.</p>
<p>Guidelines on risk factors under the Prospectus Regulation</p> <p>Preparatory work to elaborate guidelines in relation to the presentation of risk factors in a prospectus and the review of such by NCAs with the objective to facilitate more consistency among supervisory approaches. Such guidelines come as a follow-up to the 2016 prospectus peer review and in the context of the new Prospectus Regulation.</p> <p>Review of existing ESMA guidance in the area of prospectus</p> <p>Review of the existing Level 3 measures is required before the new Prospectus Regulation becomes applicable on 21 July 2019. The revision will focus on reviewing and updating existing Q&A. on prospectus together with development of new Q&As to address the legal requirements under the new Prospectus Regulation as well as review the ESMA update of the CESR recommendations on prospectus and the Supervisory Briefing on prospectus scrutiny. This work is necessary to update new legislative references, identify gaps and also to convert the recommendations into Level 3 ESMA guidance.</p> <p>Live case discussions</p> <p>Exchange of NCAs regulatory and supervisory experience in all corporate finance areas which includes mainly discussing specific live cases.</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> - Consultation on the draft Guidelines on risk factors under the Prospectus Regulation (Q4 2018) - Review of existing ESMA guidance in the area of prospectus (starting in Q3 2018) - Live case discussions (ongoing)

Corporate Reporting

<p>Key objective</p>	<p>Supervisory convergence is at the heart of ESMA's activities in relation to corporate reporting. The elaboration of annual common enforcement priorities will continue to focus supervisory attention at the national level on the same topics when reviewing annual accounts of issuers across the EU. Specific attention will be paid on the implementation of new standards such as IFRS 9. The evaluation of the implementation of the common</p>
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enforcement priorities, the annual report on enforcement activities, will be developed. Attention will be placed on the implementation of the Guidelines on Alternative Performance Measures and on non-financial reporting.

Continued work in the area of enforcement of financial information in the IFRS financial statements

Discussion on live cases, proactive identification of divergent practices, development and evaluation of common enforcement priorities (ECEP), elaboration of the annual report on NCAs enforcement activities, publication of decisions (extract from database). In addition, ESMA will specifically focus on the implementation and consistent supervisory practices of the new accounting standards, such as IFRS 9 Financial Instruments, also in close cooperation with the other ESAs and the SSM.

Possible change on GLEFI or development of a supervisory briefing(s) on particular issues (such as selection).

Convergence of supervisory practices on narrative reporting (i.e. both management report and non-financial statement)

Application of the Guidelines on Alternative Performance Measures (APM) outside of the financial statements. Inventory of practices and discussion on supervisory approaches for non-financial reporting (NFR) (e.g. sustainability issues).

Review of accounting practices on particular accounting issues

Review of accounting practices linked to the post-implementation review of new standards by the IASB (possibly IFRS 10 –Consolidated financial statements or IFRS 11- Joint arrangements).

Convergence in the context of the UK’s withdrawal from the EU

Dealing with emerging convergence issues as the need arises.

Main outputs

- Continued work in the area of enforcement of financial information in the IFRS financial statements (Discussions: on-going; Annual report: Q1; ECEP: Q4; Extracts publication: Q2, Q4 2018)
- Convergence of supervisory practices on narrative reporting (Discussions: Continuous, APM follow-up (possibly a report): Q4, NFR: Inventory of approaches Q4 2018)
- Review of accounting practices on particular accounting issues (linked to the timing of a post-implementation review by the IASB)

Cross-cutting Activities

Market Data

<p>Key objective</p>	<p>Recognising the importance of obtaining high quality and complete data from reporting entities under different EU legislative texts, ESMA together with NCAs will define and implement concrete action plans for improving the quality of the data under different reporting regimes, which supports ESMA's 2018 key priority to strive for enhanced data quality. The experience built on the EMIR data quality action plan will be extended and further improved also to other reporting regime, in particular under MiFIR for regulatory reporting and transparency purposes. This will imply the development and application of detailed methodologies, the definition of data quality tests and assessment criteria and an on-going monitoring of performance indicators. Furthermore, common initiatives will be taken for ensuring the swift take up of all missing LEIs and other data standards. Finally, practical arrangements to facilitate and coordinate the access to order data by competent authorities will be assessed.</p>
	<p>Data Quality under EMIR</p> <p>Improving data quality will remain a focus in 2018 and issues such as the use of appropriate identifiers, data standards will be looked at. The Data Quality Action Plan will continue.</p> <p>Developing/Reviewing Q&As under EMIR reporting</p> <p>Common interpretation and application of EMIR reporting related requirements</p> <p>Data Quality Methodologies under MiFIR, e.g. MiFIR transaction reporting, reference data, transparency calculations and double volume cap</p> <p>The objective is for NCAs to receive high quality, complete data under MiFIR through the application of the Data Quality Methodologies.</p> <p>Developing/Reviewing Q&As and/or supervisory briefings for NCAs under MiFID II data reporting, e.g. transaction reporting, reference data, order record keeping</p> <p>Common interpretation and application of MiFID II data reporting related requirements. Development of necessary arrangements to facilitate and coordinate the access to order data by competent authorities.</p>
<p>Main outputs</p>	<ul style="list-style-type: none"> - Data Quality Action Plan (update in Q1 2018) - Developing/reviewing Q&As under EMIR reporting (on-going)

	<ul style="list-style-type: none"> - Data Quality Methodologies under MiFIR, e.g. MiFIR transaction reporting, reference data, transparency calculations and double volume cap (on-going) - Developing/reviewing Q&As and/or supervisory briefings for NCAs under MiFID II data reporting, e.g. transaction reporting, reference data, order record keeping (on-going) - Development of necessary arrangements to facilitate and coordinate the access to order data by competent authorities
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Financial Innovation

<p>Key objective</p>	<p>Developments in the fields of financial innovation in general and RegTech are viewed with strong interest on the part of NCAs, supporting the inclusion of the key priority on financial innovation. These developments may alter the way in which supervised data is analysed, and the way in which market participants gather and deliver data. Advances in the space of Distributed Ledger Technology continue with high frequency, which calls for ongoing monitoring. Regarding ICOs, a thorough analysis will be undertaken to determine the regulatory scope and implications.</p>
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RegTech

Analytical and empirical understanding of how RegTech is employed on the part of supervisors and market participants. An analysis of two test cases in which supervised data uses such technologies is envisaged.

Innovation Facilitators

Undertake an analytical and empirical understanding of the various types of innovation facilitators in place and planned across the EU while identifying best practices.

FinTech licensing mapping exercise

Conduct a mapping of current licensing approaches taken by supervisory authorities. Where appropriate provide advice to EC on need for changes to regulatory frameworks.

Distributed Ledger Technology (DLT)

The objective is to enhance analytical and empirical understanding of NCAs of how DLT is being deployed in financial services. Continue to analyse DLT applications and where needed update the published DLT Report accordingly.

Product Intervention

Assuring sufficient preparation for both ESMA and NCAs as product intervention powers are effective as of 3 January 2018. Based on lessons learned from existing product intervention cases, update the MiFIR Product Intervention Supervisory Briefing.

ICO market analysis

Undertake a thorough analysis of the regulatory implications of ICOs with an effort to determine when they fall into regulatory scope.

Main outputs

- Update of the DLT Report (if need arises)
- Update of the MiFIR Product Intervention Supervisory Briefing (if need arises)
- RegTech : analysis of test cases (Q2 2018)
- Exchanges on innovation facilitators (ongoing)
- FinTech licensing mapping exercise (Q3 2018)
- ICO market analysis (Q3 2018)

IT Infrastructure

Key objective

Setting up an efficient and effective IT infrastructure is paramount for ESMA and NCAs to work in a consistent manner together. Supporting harmonised data collection and sharing by NCAs as well as facilitating the use and analysis of data is essential for the fostering of supervisory convergence and will become increasingly central for coherent and high quality supervision in the EU. Priorities for IT infrastructure related work to foster convergence will be 1) maintaining the existing IT infrastructure such as those underpinning MiFID II/MiFIR, MAR and EMIR, 2) and building new systems for reporting under the STS Securitisation Regulation, 3) and under the MMF Regulation, 4) expanding the register under the new Prospectus Regulation, and 5) CSDR.

Public Register for securitisations falling under STS

Setting up a public register of all securitisations meeting the STS criteria, including a completed notification template

Reporting under CSDR

Setting up the IT infrastructure for the reporting of NCAs regarding data on settlement fails and internalised settlements to ESMA

Public Register for Money Market Funds

Setting up a public register of Money Market Funds under the new regulation, as well as a central database with aggregated reports collected from the Money Market Fund Managers.

Expanding the prospectus register

Expanding the current prospectus register with collection of more meta data on EU prospectuses and central publication of all collected prospectuses, as well as exchange of information necessary for prospectus passporting between the NCAs.

Main outputs

- Public register for securitisations (Q4 2019)
- IT infrastructure for CSDR reporting (Article 9, Q1 2019 and Article 7, Q4 2019)
- Public register for Money Market Funds (Q4 2019)
- Expanding the prospectus register (Q4 2019)

Peer reviews and Horizontal supervisory convergence work

Key objective

ESMA conducts peer reviews in the interest of fostering convergent supervisory approaches and application of rules in the EU. Peer reviews, whether own initiative or mandatory, and follow-up work have proved to be an effective tool, which ESMA is committed to use and further enhance, as the need may arise. In this respect, the Methodology will be adjusted in 2018 in order to address a few recommendations, in particular those made by the European Commission' internal audit service.

Exchange of experience between supervisors are key to promote a consistent and efficient supervision of cross-border provision of services. ESMA will facilitate these discussions through existing groups or the set up of new forums for sharing of experience and resolving cross-border issues as the need may arise. This includes an Enforcement Network or new senior supervisor's forums to discuss strategic supervisory issues, starting with cyber-security in the asset management sector.

ESMA is also working on implementing a more robust approach to monitor NCAs' declared non-compliance with Guidelines.

Peer reviews

Guidelines on ETFs and other UCITS issues: this assessment is focusing on the supervisory practices of six NCAs in relation to efficient portfolio management techniques.

The on-site visits will take place in Q1 while the final report is expected to be published in Q3.

Two new peer reviews are envisaged to start in H2 2018, if resources permit: these are set to cover (i) supervisory actions aiming at enhancing the quality of data reported under EMIR; and (ii) the collection and use of suspicious transaction and order reports under MAR as a source of information in the context of market abuse investigations.

Follow-ups to earlier peer reviews: the follow-up to the Peer Review on the MiFID II Suitability Guidelines will be finalised and an additional follow-up may be launched in H2 2018.

Peer Review Methodologies

Quick-fix update of the Methodology: the Methodology will be adjusted in 2018 in order to address a few recommendations, in particular those made by the European Commission's internal audit service.

Besides, as several EU legislations foresee that ESMA undertakes peer reviews on a regular basis (such as EMIR, AIFMD, Prospectus Regulation, CSDR, STS Securitisation Regulation, EuVECA/EuSEF), ESMA stands ready to develop methodologies for these mandatory peer reviews when the need arises.

Enforcement Network

This recently established network brings together enforcement specialists and serves as a forum for exchange of experience and practices. The objective is to improve the common understanding of enforcement approaches and use of sanctions.

Senior Supervisors' forums

ESMA is committed to bringing together the high-ranking supervisors from NCAs to exchange views on strategic supervisory issues. The first such event will address cyber-security and cyber-resilience issues in particular in the asset management sector. A second event may be organised before end 2018, if resources permit, potentially on NCAs' approaches to risk-based supervision.

Supervisory convergence tools

Discussions will be held, resource permitting, to follow-up on the outcome of the monitoring activity linked to the implementation of previous SCWPs to ensure more consistency in the use of convergence tools adopted by ESMA.

ESMA is also working on implementing a more robust approach to monitor NCAs' declared non-compliance with Guidelines, e.g. through a more systematic reporting on the state of play to the European Institutions in ESMA's Annual Report, in line with ESMAR Art. 16(4).

**Main
outputs**

- Peer review on the Guidelines on ETFs and other UCITS issues (Q3 2018)
- Follow-up to the MiFID II Suitability Peer Review (Q2 2018)
- Proposal for the quick-fix of the Methodology (Q1 2018)
- Meetings of the Enforcement Network (Q4 2018)
- First event for high-ranking supervisors on cybersecurity/resilience (Q1 2018)

Annex II: ESMA 2018 external training programme

CROSS-SECTOR SEMINAR					
	Course title	Target group	Course objectives	Date	Host
1	Securitisation	Experts dealing with or interested in Securitisation	Participants will get an update on (upcoming) EU legislation and ESMA's approach on the reform of the EU securitisation markets (EU future regulation on securitisation).	Q3-Q4 2018	ESMA
SECTORAL SEMINARS					
Annual seminars					
	Course title	Target group	Course objectives	Date	Host
2	Annual general overview of MiFID II/MiFIR	This seminar is addressed to junior supervisory and policy staff working with MiFID	This seminar aims to give a broad overview of the MiFID by selecting the most important provisions of the legislation. (It might be organised as two events (one on Secondary Markets and one on Investor Protection and intermediaries.)	Q2 2018	ESMA

3	Annual advanced seminar on a specific MiFID II /MiFIR area		This seminar aims to provide information for experienced staff on MiFID II and MiFIR. The detailed programme depends on the market and regulatory developments in 2018.	Q4/2018	ESMA
4	Introduction to the UCITS and AIFMD frameworks	Junior supervisory and policy staff working in the area of UCITS and AIFMD.	This seminar aims to give a broad overview of the UCITS and AIFMD Directives by selecting the most important provisions of the legislation such as the Overview of EU investment fund legislation; Authorisation of investment funds and managers; Operating conditions for UCITS management companies and AIFMs.	Q4/2018	ESMA
5	Advanced seminar on the UCITS and AIFMD frameworks	Experienced supervisory and policy staff working in the area of UCITS and AIFMD.	This seminar aims to provide information for experienced staff on UCITS and AIFMD. The detailed programme depends on the market and regulatory developments in 2018.	Q4/2018	ESMA
6	CSDR implementation – settlement discipline	Experienced supervisory and policy staff working in the area of CSDR.	Training on settlement discipline requirements under CSDR and Level 2 measures (subject to the timely adoption of the TS on settlement discipline)	Q4/2018	ESMA

Technical seminars					
7	Seminar on IFRS	Depending on the agenda of seminar.	Training on specific topics in line with the needs of the EECS members. The aim is to provide information on the application of new standards or those where supervisory issues have been identified.	Q3/2018	ESMA/ in conjunction with EECS
8	Money Market Funds	Experts dealing with or interested in MMF	The aim of the course is to provide an overview of the key aspects of the Money Market Funds Regulation and their practical application, including the related ESMA guidelines on stress testing and the implementing technical standards on reporting requirements.	Q4/2018	AMF France
9	Prospectus	Supervisory and policy staff working with Prospectus.	Implementation and application of "Regulation (EU) 2017/1129 of the European Parliament and the Council on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market	Q1/2019	ESMA
10	Advanced technical training on UCITS and AIFMD directives		<p>Technical training on:</p> <ul style="list-style-type: none"> - the commitment and gross leverage - the calculation of assets under management - AIFMD reporting 	2018	AMF France (tbc)

11	Seminar on key issues regarding the detection and enforcement of the market abuse regime under the new regulatory framework	All interested staff of the NCAs	Seminars addressing: <ul style="list-style-type: none"> - the implementation of new legislation on MAR - market monitoring - practical cases of investigations relating to market abuse 	2018	CMVM
12	Training on on-site inspections of asset managers	All interested staff of the NCAs	A training focusing on the particular areas of asset management such as risk management, IT risk supervision, assessing BCP/DRP framework etc.	2018	MFSA
13	Stress testing workshop (applicable to fund management)	Junior experts dealing with fund management.	The workshop will focus on the knowledge and best practice sharing of the NCAs.	2018	ESMA
14	Product Intervention	All interested staff of the NCAs	Focusing on the NCA roles in the production intervention.	2018	ESMA

IT seminars					
15	CSDR implementation – internalised settlement reporting – training on the IT system	Supervisory and policy staff working in the area of CSDR and IT experts	<p>An overview of the CSDR legislation and the business context</p> <p>II) An overview of the report content (message xsd/validation)</p> <p>III) What the NCAs need to ensure they are capable of doing re sending reports received by them from settlement internalisers to ESMA.</p> <p>IV) Using the ESMA solution, late-submissions, extracting data, user support.</p>	Q4 2018	ESMA
16	SFTR implementation	NCAs' IT staff (or subject matter experts) involved in the implementation of the SFTR regulation	The seminar aims to give an overview of IT/data implications for NCAs with regards to the implementation of the SFTR regulation. The training will cover details related to the data formats and interfaces for the SFTR data reporting.	Q4 2018	ESMA
17	Seminars on exchange of experiences on the usage of data	NCA staff dealing with data	Linked with the future ESMA data strategy we are planning seminars/workshops on exchange of experiences as regards usage of data.	2018	KNF

Annex III: List of new guidelines to be elaborated in 2018

	Name of Guidelines	Relevant Legislative Text
1	Guidelines on reporting obligations for money market funds	Money Market Funds Regulation
2	Guidelines on internalised settlement reporting	CSDR
3	Guidelines on the reporting on settlement fails ⁴	CSDR
4	Guidelines on the standardised procedures and messaging protocols to be used in order to prevent settlement fails ⁵	CSDR
5	Guidelines on supervisory practices regarding the enforcement of settlement discipline requirements ⁶	CSDR
6	Guidelines on non-significant benchmarks	BMR
7	Update of Guidelines on certain aspects of the MiFID II suitability requirements	MiFID II
8	Guidelines on Portability ⁷	SFTR
9	Guidelines on calculation by TRs of named and sectoral positions in SFTs	SFTR

⁴ Subject to timely endorsement of the respective RTS

⁵ Subject to timely endorsement of the respective RTS

⁶ Subject to timely endorsement of the respective RTS

⁷ Subject to timely endorsement of the respective technical standards

10	Guidelines on CCPs' management of conflict of interests ⁸	EMIR
11	Guidelines on CCPs anti-procyclicality margin measures	EMIR
12	Guidelines on conditions for entry into resolution of CCPs ⁹	CCP Recovery and Resolution Regulation
13	Guidelines on the content of cross-border cooperation arrangements for CCP resolution ¹⁰	CCP Recovery and Resolution Regulation

⁸ Subject to timely endorsement of the respective technical standards

⁹ Subject to the timely adoption of the Regulation

¹⁰ Subject to the timely adoption of the Regulation