

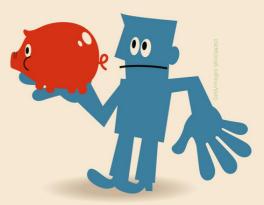


Spotlight on Markets – November & December 2023

ESMA'S LATEST REPORT ON COST AND PERFORMANCE OF RETAIL PRODUCTS: AVERAGE COST DECLINING BUT SIGNIFICANT DIFFERENCES BETWEEN COUNTRIES REMAIN

- ESG disclosures for Benchmarks Administrators
- Sustainable Finance and 2024 for ESMA
- SFDR what's new?
- When to expect the Guidelines on funds' names?







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The average cost of retail investment products declines but significant differences across EU Member States remain

The European Securities and Markets Authority (ESMA) published its <u>sixth</u> <u>market report</u> on the costs and performance of EU retail investment products. In this annual report ESMA finds that the average costs of investing in key EU retail financial products has declined by the end of 2022. However, cost heterogeneity persisted across EU Member States.

"ESMA's annual reporting on the costs and performance of retail investment products provides a clear overview and shows developments across the EU markets. Costs and performance are key determinants of whether retail investors benefit from their investments, and whilst it is to be welcomed that the cost incurred by investors has slowly declined, retail investors still need to consider costs carefully in their investment decisions."

"In 2022, investors were faced with a difficult environment characterised by lower returns and elevated level of inflation, accentuating the importance of the level of costs. Clear, comprehensive and comparable information on retail investment products can help investors assess the past performance and costs of products offered across the EU and assist them in making well-informed investment choices."



Verena Ross, ESMA Chair



Key findings in the report

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- UCITS Costs: Costs have declined, but investors should continue to consider fund fees carefully in their investment decisions. Despite costs of active equity funds decreasing, this category of funds remained more expensive than passive funds and ETFs, such that their net performance was on average lower in comparison.
- Investment value and value-for-money: Investors paid around 2,000€ in costs for an investment in UCITS of 10,000€ over ten years. The returns of the market led to a net value of 14,850€ after this period, and to a net real value of 13,500€, when inflation is taken into account.

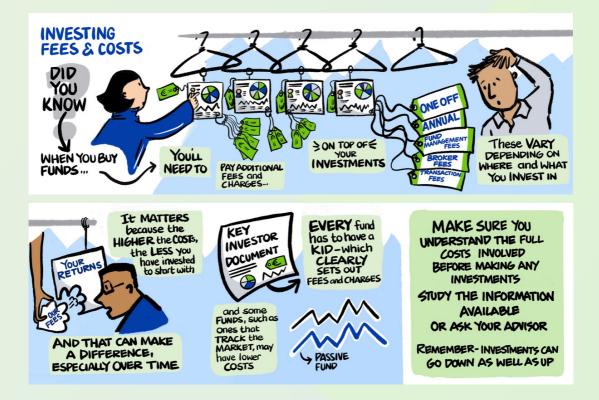
ESG UCITS: ESG funds underperformed on average their non-ESG equivalents in 2022, a likely consequence of the energy crisis. However, ESG funds still outperformed their non-ESG equivalents on the three-year investment horizon. In 2022, ongoing costs of ESG funds were lower than or similar to the ongoing costs of non-ESG equivalents.

- Alternative Investment Funds (AIFs): The market for AIFs remained dominated by professional investors with the share of retail investors reaching around 14% at the end of 2022. Retail investors invested mainly in funds of funds, "other" AIFs and real estate funds. Among those three categories of funds, real estate funds were the only category with positive gross and net returns in 2022. However, real estate markets face significant challenges since 2022, which is likely to affect the performance of real estate funds going forward, given the further increase of interest rates in 2023.
- Structured Retail Products (SRPs): Costs, largely charged in the form of entry costs, rose in 2022 for a majority of product types and issuers, although they vary substantially by payoff type and country. The analysis of performance scenarios shows that the returns of one in eight SRPs would be negative even in a moderate scenario.



Costs and performance of retail investment products are key determinants of the benefits for retail investors in the EU. Clear and comprehensive information on retail investment products can help investors assess the past performance and costs of products offered across the EU and foster retail investor participation in capital markets.

ESMA's report helps to monitor progress in this regard by providing consistent EU-wide information on cost and performance of retail investment products. It also demonstrates the relevance of disclosure of costs to investors, as required by the MiFID II, UCITS and PRIIPs rules and the need for asset managers and investment firms to act in the best interest of investors, as laid down in MiFID II, and the UCITS and AIFM Directives.



Webinar

ESMA is organising together with EIOPA a joint webinar "<u>ESMA's and EIOPA's</u> <u>Annual Cost and Past Performance Report</u>" to share the findings of:

- ESMA's Market Report on Costs and Performance of EU Retail Investment
 Products
- EIOPA's Report on Costs and Past Performances

The webinar will be held online on 10 January 2024, 10:30 – 11:30 CET.



ESMA to launch its first Common Supervisory Action on ESG disclosures for Benchmarks Administrators

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, will launch a Common Supervisory Action (CSA) with National Competent Authorities (NCAs) on ESG disclosures under the Benchmarks Regulation (BMR). It is the first CSA for ESMA in its role as a direct supervisor of Benchmarks Administrators.

The CSA will focus on supervised benchmarks administrators, located either in the Union or in a third country, that have acquired an authorisation, registration, recognition or endorsement of their benchmarks under the BMR. The goal of the CSA will be to assess compliance of the supervised Benchmarks Administrators with the ESG disclosure requirements in the BMR. The CSA will cover the following aspects:



Disclosure of ESG factors in the benchmarks statement and in the benchmarks methodology.



Specific disclosure requirements regarding climate benchmarks methodology.





ESMA believes this initiative, and the related sharing of practices across the competent authorities, will help ensure consistent and effective supervision of the ESG disclosures of supervised administrators across the Union, and enhance the comparability of the information provided to users of benchmarks. The CSA contributes to enhancing transparency and addressing greenwashing, one of ESMA's <u>Union Strategic Supervisory Priorities for NCAs</u>, with a view to protecting investors and further supporting the development of a credible ESG market.



Next steps

ESMA and the NCAs will carry out the CSA during 2024 and until Q1 2025. As part of the CSA, ESMA and the NCAs will share knowledge and experiences to foster convergence in how they supervise ESG disclosure requirements for benchmark administrators.



How to make finance work for a sustainable future?

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, contributes to the transition towards a more sustainable economy in line with the <u>European Green Deal</u> and global efforts to address the climate crisis.

Verena Ross, ESMA Chair, attended COP28 and spoke about ESMA's sustainable finance work. In her role as co-Chair of the International Organization of Securities Commission's (IOSCO) Sustainable Finance Carbon Markets Workstream, she also promoted ESMA's and IOSCO's contribution to the global sustainability agenda.

"Addressing climate change requires us to act now and ESMA is playing its part in contributing to the ambitious goals agreed internationally. There is an urgent need to support the financial sector in channelling the necessary resources towards sustainable investment and doing so in a way that preserves investors' trust."

"At COP28, I continue to convey ESMA's and IOSCO's role in supporting the financial sector's effort to aid the transition to a climate neutral and sustainable economy. In particular, as co-Chair of IOSCO's carbon markets workstream, I am advocating for enhancing the integrity and orderly functioning of Voluntary Carbon Markets (VCMs), on the back of the launch of IOSCO's consultation paper on good practices for VCMs."





International cooperation is key to ensuring that consistent measures are taken to protect investors and support financial stability, as the demand for sustainability-related financial products continues to grow. Building an internationally comparable set of rules and principles that are applicable across the entire sustainable investment value chain will help to address the global challenges facing us.

ESMA's mandate and determination to integrate environmental, social, and governance (ESG) factors across all its activities is reflected in ESMA's <u>Strategy</u> and the <u>Sustainable Finance Roadmap</u>. Given our core investor protection role, ESMA focuses on building and maintaining a trusted environment for sustainable investing. The ultimate objective is to support channelling the necessary capital flows to meet the EU's decarbonization targets as well as its wider environmental and social objectives.

ESMA has been engaging extensively with stakeholders to provide guidance around the sustainable finance regulatory framework. Working with the national supervisors to ensure consistent implementation and effective and convergent supervision and enforcement of the ESG framework at is equally important. In this context, ESG disclosures became one of our two Union-wide strategic supervisory priorities.





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To better understand ESMA's contribution to the sustainable finance agenda in 2023 and our future work in 2024, check <u>Annex 1</u> or <u>this set of visuals</u>.



Technical standards on European Single Electronic Format for the taxonomy on sustainability information, including on ESRS and on disclosures required by Article 8 of the Taxonomy Regulation

factors in credit rating methodologies and the consistency of the disclosure of ESG factors in credit rating press releases

European Commission that will identify how

to improve the documentation of ESG

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Spotlight on Markets

November & December 2023





ESMA CONTRIBUTIONS TO SUSTAINABLE FINANCE

BUILDING NCAS' AND ESMA CAPACITIES



Trainings on sustainability and sustainable finance to staff identified as target audience



Sustainable Finance Knowledge Hub set-up – in support of regulators

What's next?



Will continue to deliver training modules and complement with additional ones as needed





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ESMA proposes changes and updates timeline for its Guidelines on funds' names

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, provided an <u>update</u> on the status of ESMA's guidelines on ESG and sustainability-related terms in fund names, including details on the timing of their publication.

Since the launch of the work on the guidelines, the AIFMD and UCITS Directive reviews have progressed. ESMA has decided to postpone the adoption of the Guidelines to ensure that the outcome of these reviews may be fully considered. In particular, the text of the provisional agreement resulting from the interinstitutional negotiations contains two new mandates for ESMA to develop guidelines specifying the circumstances where the name of an AIF or UCITS is unclear, unfair, or misleading.

ESMA plans to adopt the Guidelines shortly after the date of entry into force of those amended legal texts and is publishing this statement to highlight the key content of the guidance that it intends to provide in the forthcoming Guidelines.





Next steps

The Guidelines are expected to be approved and published in Q2 2024, subject to the timing of the publication of the AIFMD and UCITS Directive revised texts. The Guidelines would apply three months after the date of their publication on the website in all EU official languages.

Managers of new funds would be expected to comply with the Guidelines in respect of those funds from the date of application of the Guidelines. Managers of funds existing before the date of application of the Guidelines should comply with the Guidelines in respect of those funds six months from the application date.





Sustainable finance: Clarity and tips to consumers

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) published an <u>interactive factsheet</u> that answers consumers' most frequently asked questions about sustainable finance. The factsheet provides tips to consumers considering buying financial products with sustainability features, including loans, investments, insurances and pensions.

The factsheet provides answers to frequently asked questions and steps consumers can take to understand how their financial choices could contribute to a more sustainable future.

In addition, the factsheet provides four tips consumers should take into account before choosing financial products with sustainability features. Consumers are encouraged to:

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decide how important sustainability is for them and what financial goals they want to achieve before they choose a product;

pay attention to the conditions and the sustainability features, to avoid being misled by 'greenwashing';

-

keep in mind that financial products with sustainability features are not risk-free;

-

for investments and life insurance policies, take their time before deciding and, if need be, seek further clarification from the firm or person that can advise them on and sell them such products.

Spotlight on Markets



Financial jargon can at times be intimidating and prevent consumers from understanding crucial financial concepts such 'ESG' or 'EU taxonomy'. To overcome this barrier, the factsheet has helpful pop-up boxes that explain

The factsheet has been translated in all EU languages, and the ESAs are working with national supervisory authorities to help promote it across the EU.

specific terms in a simple and easy-to-understand way.

Background and legal basis

The three ESAs developed the interactive factsheet in fulfilment of their mandate in Article 9(1)(b) of their respective Founding Regulations, which requires the authorities "to take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by reviewing and coordinating financial literacy and education initiatives by the competent authorities".



INVESTMENTS, LOANS, INSURANCE OR PENSIONS WITH A SUSTAINABLE FOCUS:

WHAT DO YOU NEED TO KNOW?

ESAs amends sustainability disclosures for the financial sector

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) published their <u>Final Report</u> amending the draft Regulatory Technical Standards (RTS) to the Delegated Regulation supplementing the Sustainable Finance Disclosure Regulation (SFDR). The ESAs propose adding new social indicators and streamlining the framework for the disclosure of principal adverse impacts of investment decisions on the environment and society.

The ESAs also suggest new product disclosures regarding "greenhouse gas emissions reduction" targets.

Additionally, the ESAs propose further technical revisions to the SFDR Delegated Regulation:



Improvements to the disclosures on how sustainable investments "Do No Significant Harm" (DNSH) to the environment and society;



Simplification of the pre-contractual and periodic disclosure templates for financial products; and

Other technical adjustments concerning, among others, the treatment of derivatives, the calculation of sustainable investments, and provisions for financial products with underlying investment options.

Next steps

The European Commission will study the draft RTS and decide whether to endorse them within three months. These draft RTS would be applied independently of the <u>comprehensive assessment</u> of SFDR announced by the European Commission in September 2023 and before changes resulting from that assessment would be introduced.



ESMA to put cyber risk as a new Union Strategic Supervisory Priority

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, is changing its Union Strategic Supervisory Priorities (USSPs) to focus on cyber risk and digital resilience alongside ESG disclosures.

With this new priority, EU supervisors will put greater emphasis on reinforcing firms' ICT risk management through close monitoring and supervisory actions, building new supervisory capacity and expertise. The aim is to keep pace with market and technological developments, and closely monitor potential contagion effects of attacks and disruptions across markets and firms.

The new USSP will come into force in 2025, at the same time as the Digital Operational Resilience Act – DORA. This timeline is intended to provide supervisors and firms in Member States with sufficient time to prepare for compliance with the new regulatory requirements. Meanwhile, ESMA and national competent authorities (NCAs) will carry out preparatory work planning and shaping the supervisory activities to undertake under this priority.





In addition, ESMA and NCAs will continue their work on the second priority – ESG disclosures. The aim is to tackle greenwashing, increase investors understanding and embed sustainability requirements when firms advise investors. ESG disclosures will remain the focus in 2024 across key segments of the sustainable finance value chain such as issuers, investment managers and investment firms.

The new USSP on cyber risk and digital resilience will replace the USSP on market data quality. ESMA and NCAs have carried out intensive and concerted supervisory efforts to make structural, long-lasting improvements in this area. Notably, we have:



built common data quality methodologies and data sharing frameworks; and



worked on the detection of supervisory issues, carried out investigations and developed supervisory tools to extract further intelligence from the data reported.

Ensuring data quality remains a primary duty of supervised entities. Firms, and in particular their top management, should take ownership of the data they report and increase its use also for internal purposes. EU supervisors will continue to undertake important supervisory work on data quality, leveraging on the new methodologies and tools developed through the USSP. Paying close attention to this topic remains fundamental in building a data-driven supervisory approach, a key strategic objective under the <u>ESMA Strategy</u>.

The USSPs are an important tool through which ESMA coordinates and focuses supervisory action with NCAs across the EU on specific topics.



Draft technical standards under the revised ELTIF regulation published

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, published the <u>final report</u> setting out the draft Regulatory Technical Standards (RTS) for the European Long-Term Investment Fund (ELTIF) regulation.

The draft regulatory technical standards (RTS) cover:



the circumstances in which the life of a European long-term investment fund ("ELTIF") is considered compatible with the life cycles of each of the individual assets, as well as different features of the redemption policy of the ELTIF;



the circumstances for the use of the matching mechanism, i.e. the possibility of full or partial matching (before the end of the life of the ELTIF) of transfer requests of units or shares of the ELTIF by exiting ELTIF investors with transfer requests by potential investors; and



the costs disclosure.

The RST final report delineates the specific rules that are to be applied providing a detailed framework for aspects such us minimum holding period and maximum redemption frequency, choice of liquidity management tools, notice period and maximum percentage of liquid assets that can be redeemed.

ESMA has considered the feedback received from 23 stakeholders that responded to the last public consultation and agreed amendments.



Minimum holding period

ESMA suggest allowing the ELTIF manager to select the minimum holding period that is best adjusted to an individual ELTIF, based on criteria set in the RTS, and upon justifications to the competent authority.

Maximum redemption frequency

ESMA proposes to include a common standard (maximum quarterly redemption frequency), while allowing the ELTIF manager to deviate from it, upon justifications to the competent authority.

Choice of liquidity management tools

It is suggested the mandatory implementation of at least one anti-dilution mechanism (in addition to notice period), and redemption gates, while allowing the ELTIF manager to deviate from it, in specific circumstances, and upon justifications to the competent authority.

Notice period and maximum percentage of liquid assets that can be redeemed

In addition to applying minimum percentages of liquid assets, depending on the length of the notice period, different percentages of maximum amount of liquid assets that can be redeemed are also applied.

The final RTS seeks to reach a balance by proposing prescriptive rules, while allowing ELTIF managers to deviate from these under specific circumstances.

Next steps

ESMA submitted the draft technical standards to the European Commission for endorsement and final approval.

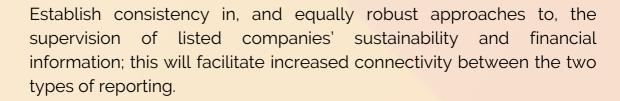


ESMA consults on corporate sustainability information

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, has launched a <u>consultation</u> on a set of draft Guidelines on Enforcement of Sustainability Information and is inviting comments from interested stakeholders by 15 March 2024.

The main goals of the draft Guidelines are to:

Ensure that national competent authorities carry out their supervision of listed companies' sustainability information under the Corporate Sustainability Reporting Directive (CSRD), the European Sustainability Reporting Standards and Article 8 of the Taxonomy Regulation in a converged manner; and



The <u>consultation paper</u> will be of interest to listed companies required to publish sustainability information by the CSRD and Article 8 of the Taxonomy Regulation, to investors and other users of sustainability information and to auditors and independent assurance services providers.

Next steps

ESMA will consider the feedback received and expects to publish the final Guidelines in Q3 2024.



ESMA approaches climate risk stress testing and financial impact of greenwashing controversies

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, published two articles, one outlining an approach to modelling the impact of asset price shocks from adverse scenarios involving climate-related risks, the other exploring the use of ESG controversies for the purpose of monitoring greenwashing risk.

Risk article: Dynamic modelling of climate-related shocks in the fund sector

The article presents a methodological approach to modelling climate-related shocks in the fund sector, which includes dynamic impacts, such as inflows and outflows from investors and portfolio rebalancing by managers. The analysis focuses on the overall direction of these effects, finding that investor outflows can worsen falls in fund values following an initial shock.

Dynamic modelling of climate-related shocks in the fund sector is part of ESMA's work in relation to its mandates in the area of climate stress testing. To anticipate the impact of climate-related shocks on the financial system, the European Commission has mandated the ESAs to perform regular climate change stress tests or scenario analyses and to develop methods, parameters and scenarios for supervisors to use in their own climate stress testing. In addition, the ESAs have a mandate to conduct a coordinated one-off climate change stress test across the financial sector in coordination with the European Central Bank (ECB) and the European Systemic Risk Board (ESRB), reporting results by 1Q25.





Risk article: Financial impact of greenwashing controversies

The article highlights how data on ESG controversies can be useful to monitor potential reputational risks around greenwashing. It also outlines the challenges involved in using such data. The number of greenwashing controversies involving large European firms increased between 2020 and 2021 and tended to be concentrated within a few firms belonging to three main sectors, including the financial sector. Growing public scrutiny highlights the importance of clear policy guidance by regulators and efforts by supervisors to ensure the credibility of sustainability-related claims.

The analysis on the financial impact of greenwashing controversies is important since the transition to a low-carbon economy requires trust in the commitment and ability of corporates companies to adapt their business operations to help deliver climate-related objectives. However, greenwashing risks undermine this trust by sapping consumer and investor confidence, underlining the importance of monitoring and tackling the problem.

Webinar

ESMA is organising a public <u>webinar</u> on the articles' findings. The webinar will be held online via Teams on 7 February 2024 from 11:00 to 12:00. During the webinar, authors of the articles will have a presentation about the articles, which will be followed by a Q&A session.

Interested persons are welcome to register by 2 February 2024 using the registration link. After the registration deadline ESMA will provide to the registered persons the Teams link for joining the webinar.





Speaking appearances

by ESMA Staff in January

Date	
18 Jan	<u>Les Matinales de la Distribution de FundGlobam</u> - Antonio Barattelli
18 Jan	<u>PCS Amsterdam Symposium</u> - Thierry Sessin-Caracci
24 Jan	<u>Deloitte greenwashing event</u> - Guilain Cals
25 Jan	Roundtable on shortening the settlement cycle in the EU - Carsten Ostermann
30 Jan	<u>Afore Consulting 8th Annual FinTech conference 2024</u> - Verena Ross
30 Jan	European Primary Bond Markets Regulation Conference - Gregory Frigo





Consultations

Click on the consultation

Closing date

15 Jan	<u>Consultation on joint Guidelines on the system for the</u> <u>exchange of information relevant to fit and proper</u> <u>assessments</u>
22 Jan	Consultation on joint EBA and ESMA Guidelines on the suitability assessment under MiCA
29 Feb	<u>Consultation on Technical Advice on CSDR Penalty</u> <u>Mechanism</u>
4 Mar	ESAs joint consultation on second batch of policy mandates under the Digital Operational Resilience Act
8 Mar	<u>Consultation on draft ITS specifying certain tasks of</u> <u>collection bodies and certain functionalities of the</u> <u>European Single Access Point</u>
14 Mar	Discussion Paper on MiFID II investor protection topics linked to digitalisation
15 Mar	<u>Consultation on the Securitisation Disclosure</u> <u>Templates</u>
15 Mar	Consultation on Draft Guidelines on Enforcement of Sustainability Information



Hearings and Webinars

Click on the consultation

10 Jan	Webinar: ESMA's and EIOPA's Annual Cost and Past Performance Report
	赋 presentations: <u>ESMA</u> <u>EIOPA</u>
7 Feb	Webinar on articles on methodology for climate risk stress testing and analysis of the financial impact of greenwashing controversies



Open vacancies

All open vacancies can be found on ESMA's recruitment portal

Deadline

- **25 Jan** Senior Supervision Officer
- 31 Dec Seconded National Experts (multiple profiles)
- **31 Dec** <u>Traineeship Notice Support functions profile</u>
- 31 Dec Traineeship Notice Data, Economics and IT profile
- 31 Dec Traineeship Notice Legal, Supervision and Policy



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