

TERMS OF REFERENCE

Data Standing Committee (DSC)

1. ESMA achieves its mission to enhance investor protection and promoting stable and orderly financial markets through four activities: (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) supervising specific financial entities.
2. The ESMA Regulation¹ states that ESMA shall act within the powers conferred by this Regulation and among others within the scope of
 - Regulation (EU) No 596/2014 (MAR), Regulation (EU) 600/2014 (MiFIR), Directive 2014/65/EU (MiFID),
 - Regulation (EU) 648/2012 (EMIR), Regulation (EU) 2015/2365 (SFTR)
 - Regulation (EU) 2017/1129 (Prospectus Regulation – PR),
 - Directive 2011/61/EU (AIFMD), and Regulation (EU) 2017/1131 (MMFR)
3. In order to fulfil its mission, the Board of Supervisors has established the Data Standing Committee (DSC). The Terms of Reference cover the responsibilities and tasks of this group and the Procedures for ESMA groups (ESMA/2011/BS/236rev2) set out the rules concerning its structure, governance and working methods.
4. In line with the ESMA 2020-22 Strategic Orientation (ESMA22-106-1942), the DSC will consider in all its activities how to (i) contribute to a larger retail investor base to develop the Capital Markets Union, (ii) promote sustainable finance and long-term oriented capital markets, (iii) develop digital finance as an opportunity for market participants and regulators, (iv) achieve a proportionate approach.

Responsibilities

5. The DSC contributes to ESMA's mission by developing aligned regulatory reporting requirements under the respective sectoral legislation, addressing issues related to enhancing the quality of the

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Regulation (EU) 2019/2175 of the European Parliament and the Council amending Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)



regulatory and market data reported to EU National Authorities, key data infrastructures and the market, ensuring consistency and coherence between various reporting regimes, promoting data-driven supervision and fostering data-driven supervisory convergence as foreseen in the ESMA 2020-22 Strategic Orientation:

- *Promoting Supervisory Convergence:*
 - a. The DSC contributes to the consistent and timely implementation of common standards, format and identifiers for the information to be reported, disclosed or stored by market participants, in a manner that maximises the consistency and use of regulatory and market data available to regulators and to the market through the different sources.
 - b. The DSC contributes to the consistent implementation of common methods and arrangements for regulatory and market data reporting, record keeping and data collection as well as the form and content of reported, recorded and collected data.
 - c. The DSC contributes to the consistent application of ongoing and periodic regulatory and market reporting regimes and related requirements for participants in markets for financial instruments.
 - d. The DSC contributes to the development of respective data quality frameworks and consistent performance of data quality reviews and control mechanisms to ensure data is fit for purpose.
 - e. The DSC contributes to the consistent implementation of the operational data exchange arrangements agreed by the relevant SCs.
 - f. Identifying best practices and sharing experience in respect of data management and use.
 - g. The DSC upholds the development of the data-driven supervisory culture in relation to the supervision of the data reporting through, among others, promoting the sharing of competence, knowledge and expertise on the relevant tools, technics and practices. It also promotes data-driven supervisory convergence by identifying common actions based on quantitative indicators and data points.
 - h. The DSC monitors the impact of RegTech and SupTech on the supervisory reporting and assesses their application as part of the supervisory convergence work for enhancement of data quality.
- *Completing a Single Rulebook for EU financial markets:*
 - o The DSC develops a single approach aligning, to the maximum extent, regulatory reporting requirements under various sectoral legislation and avoiding double reporting. DSC develops common standards, formats and identifiers for the information to be reported, disclosed or stored by market participants, in a manner that maximises the consistency and coherence of regulatory and market data available to regulators and to the market through the different sources.

- The DSC develops regulatory requirements in respect of registration, data collection, verification, data quality assurance, storage as well as other operational arrangements pertaining to the relevant market participants within the scope of sectoral legislation under these terms of reference.
- The DSC develops common methods and arrangements for regulatory and record keeping and the form and content of such reports (including order records).

6. The DSC contributes to all ESMA's work on issues related to:

a. regulatory and market data reporting.

In particular the DSC shall lead the work on addressing the regulatory requirements for reporting and data quality of derivative contracts under Articles 9, 55 and 81 of EMIR, transactions in financial instruments under Article 26 of MiFIR, order data record keeping under Articles 25 of MiFIR and 17(2) of MiFID, clock synchronisation under Article 50 of MiFID II, securities financing transactions under Articles 4, 5 and 12 of SFTR, reference data under Article 27 of MiFIR and Article 4 of MAR, transparency data reporting and quality of data used for respective calculations under Article 22 of MiFIR, double volume cap data reporting and quality of data used for respective calculations under Article 5 of MiFIR, position limits under Article 58 of MiFID II, reporting obligations under Article 24 of AIFMD, approved prospectuses, supplements and associated meta data under Article 21 of PR, reporting requirements under Article 37 of MMFR.

b. data collection, verification, storage, publication as well as other operational arrangements pertaining to the relevant market participants.

In particular, this includes the regulatory and data quality requirements for Trade Repositories under Title VI and Title VII EMIR and under Chapter III and Chapter VII SFTR. It also includes the requirements for Data Reporting Service Providers under Title V of MiFID II and the related post-trade disclosure requirements under Articles 20 and 21 of MiFIR for the purpose of monitoring and improving APAs data quality.

7. Requirements, other than the ones specified in paragraph 5 and 6, might be brought within the mandate of the DSC. Extension of the mandate will be done in liaison with the other relevant SCs taking into account the characteristics of the underlying market and the policy objectives of the reporting regimes and on the basis of the two key criteria other reporting requirements should satisfy: i) close interlink with already established reporting obligations, ii) significant volumes of granular data required to be reported. Such extension will be subject to BoS approval.
8. The DSC shall liaise and closely coordinate with other relevant groups reporting to the Board of Supervisors where its activities relate or are complementary to the activities of those other groups. To this purpose and among other activities, the DSC shall support other Standing Committees in developing templates for their respective data reporting frameworks other than the ones specified in paragraphs 5 and 6 for which the DSC is allocated with the lead role. Following the provision of such support, the DSC shall provide to the relevant group in charge an assessment on the consistency and coherence of these templates with other reporting requirements developed by ESMA.



Product intervention powers

9. In line with ESMA's product monitoring obligation under Articles 39 MiFIR and its product intervention powers under Article 40 and 43 MiFIR, the DSC shall refer any potential threats that are relevant to ESMA's objectives of ensuring investor protection, orderly functioning and integrity of financial/commodity markets and to stability, to the relevant Standing Committee.

Structure and governance

10. The responsibilities of the Chair, rapporteur and members of the DSC are as set out in the Procedures for ESMA groups.
11. Permanent or temporary groups reporting to the DSC may be set-up when required in line with the Procedures for ESMA groups.
12. The DSC shall establish a Data Advisory Group. The Standing Committee can – where appropriate – and in liaison with the rapporteur of the relevant Standing Committee consult other Consultative Working Groups.
13. The DSC has established the following working groups, each with its own terms of reference:
 - a. Repositories Task Force responsible for the development, implementation and data quality work in respect of the reporting requirements and of the trade repositories under EMIR and SFTR;
 - b. Funds Task Force responsible for the development, implementation and data quality work in respect of reporting requirements under AIFMD and MMFR;
 - c. Markets and Issuers Task Force responsible for the development, implementation and data quality work in respect of reporting requirements and data reporting service providers under MiFID II/MiFIR, MAR and PR.
14. Each Task Force will be comprised of subject matter experts in each reporting area and ESMA staff supporting the work of other relevant policy SCs. Coordination of the Task Forces will be done by ESMA staff supporting the work of the DSC.
15. The DSC will meet on a regular basis as required in order to deliver ESMA's (multi-) annual work programme. Meetings of substructures will be organised as necessary to enable the Standing Committee to fulfil its tasks.

Review

16. The Terms of Reference will be reviewed every two years by the Board of Supervisors.