



European Securities and
Markets Authority

2013 work programme

European Securities and Markets Authority

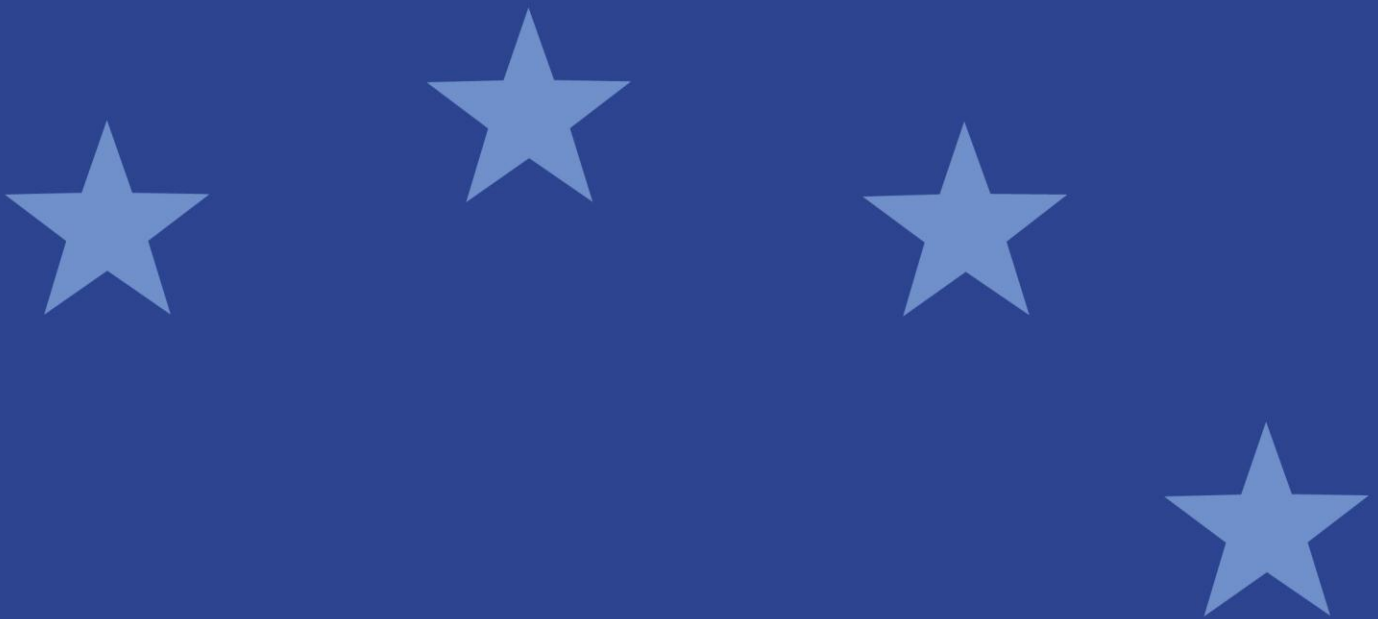


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I. Introduction

This document sets out the European Securities and Markets Authority's (ESMA) work programme for 2013, highlighting the key priorities and explaining how they will be delivered. This document was approved by the Board of Supervisors on 24 September 2012. Annex 3 presents a more detailed view on the key work streams ESMA will run in 2013 as well as on-going activities of ESMA.

II. The mission of ESMA

ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

III. ESMA's key objectives and priorities in 2013

This work programme describes the goals and deliverables planned for ESMA in its third year of operation. 2013 will be marked by a major increase of the work of ESMA, given a number of new responsibilities that are in the process or have been given to the organisation by the co-legislators.

2013 objectives and priorities are based on three key elements:

1. **New and revised legislation**

The introduction of new and the overhaul of existing legislation will be a key challenge for ESMA. 2013 will see the continuation of the revision of the Markets in Financial Instruments Directive (which will be superseded by a revised directive and a new regulation, MiFID 2 and MiFIR), and of the revision of the Market Abuse Directive (a new regulation - MAR - and a new directive - MAD 2). These new legislative texts form part of the key deliverables initiated by the EU Institutions in response to the financial crisis. Other key texts are also planned for:

- a new Credit Rating Agencies Regulation (CRA III);
- the revision of the Transparency Directive and;
- the Regulations on Venture Capital (VC) and Social Entrepreneurship Funds (SEFs).
- CSD Regulation

In order to build a single rulebook for Europe, ESMA will develop technical standards, guidelines and advice. ESMA's focus goes beyond establishing new regulation though. At the same time, ESMA will promote supervisory convergence. In 2013 it is expected that ESMA will fully exercise all its powers to drive greater convergence of national supervisory activity and implementation of EU regulation on the ground. Following several years of crisis, ESMA's work will aim to support the restoration of confidence in Europe's financial markets.

2. **Supervisory Role – CRAs and Trade Repositories**

2013 will be the second year in which ESMA will exercise its supervisory duties for CRAs. ESMA will focus on implementing its new multi-dimensional supervision approach, incorporating horizontal thematic and vertical firm-specific supervisory work. ESMA will also begin supervising Trade Repositories, under the terms of the European Market Infrastructure Regulation (EMIR), and coordinate supervisory colleges for Central Counterparties.

3. **Coordination, monitoring and analysis of financial markets**

As in 2011 and 2012, in response to the situation in European financial markets, ESMA will continue to actively monitor developments in financial markets and drive and coordinate appropriate responses (by NCAs and other EU authorities). A substantial part of ESMA's resources will be allocated to monitoring and providing analyses of developments in financial markets to support financial stability and protection of financial consumers.



In order to enable ESMA to deliver its 2013 work programme, it will need to increase its staffing and budget accordingly. In 2013 staff numbers are expected to grow from 101 to 160 and the budget from €20.2 million to approximately €28 million. ESMA will continue to be funded by the European Commission (Commission), the National Competent Authorities and fees from Credit Rating Agencies. For the first time, in 2013, funding will also be generated from Trade Repositories fee contributions which will cover ESMA's costs of the relevant supervision.

The division of ESMA's work

ESMA has structured the different work streams it will undertake according to its key responsibilities and objectives. Therefore this document presents the planned activities for 2013 under the following headings:

- Single Rulebook;
- Supervision;
- Financial consumer protection;
- Contribution to Financial Stability;
- Convergence; and
- ESMA as an organisation.

The document also contains four annexes, detailing:

- the planned human resources and organisational structure of ESMA;
- the draft 2013 budget (pending approval from the EU institutions); and
- The list of key work streams and on-going activities.

ESMA's planned activities in 2013

a. Single Rulebook¹

a. Allocated resources:
38 statutory staff

i. European Financial Markets Legislation: MiFID & MAD

One of the main projects ESMA will have to undertake in 2013 is the implementation of the review of MiFID which is currently being negotiated in Council and Parliament. ESMA expects to be involved in preparing a large number of important and highly complex implementing measures. These will take the form of ESMA technical standards or advice to the Commission on delegated acts. Assuming political agreement is reached on MiFID by end 2012, ESMA will need to begin formally working on the issues concerned by the beginning of 2013.

The main topics to be dealt with are:

- new rules applying to high-frequency trading;
- an enhanced legal framework for trading commodity derivatives;
- establishing the rules for pre- and post-trade transparency for a large number of asset classes;
- enhanced investor protection; and
- improving the quality of trade data in Europe by defining the regime for approved publication arrangements and a European consolidated tape.

The development of MiFID will strengthen ESMA's role in product intervention. The proposals seek to strengthen investor protection through an even stronger framework for the provision of investment services to retail clients and possibly a more proactive approach from NCAs.

MiFID will also require ESMA and NCAs to revise the current Transaction Reporting Exchange Mechanism (TREM) and the Reference Data System (RDS), to include extensions to financial instruments traded on MTFs, OTFs and to the scope of transaction reporting obligations and suspensions and removals from trading

The review of the market abuse regime will also form part of ESMA's regulatory single rulebook work and supervisory convergence work in 2013. This work will involve, assuming a compromise is reached by the end of 2012 on the main Level 1 text, the development of the Technical standards under the regulation. In support of this ESMA will continue to foster supervisory convergence on the application of the market abuse regime through the continuing exchange of intelligence and practices related to market surveillance and the sharing of information on enforcement investigations.

ESMA will also draft technical standards and guidelines required under the CSD Regulation. ESMA is required to deliver the draft technical standards to the Commission six months from the date of entry into force of the Regulation. Therefore final delivery by ESMA depends on the length of the negotiation of the Level 1 Regulation, but the development of the relevant standards and guidelines is likely to be one of the main tasks in the post trading area in 2013. These draft technical standards and guidelines relate to settlement discipline, CSD registration and requirements for CSDs.

¹ Single Rulebook includes regulatory technical standards (RTS), recommendations, guidelines.

Next steps

On MiFID and MAD, depending on when European co-legislators finalise their negotiations, 2014 may still see further drafting of Level 2 implementing measures along with national implementation. The actual application of new texts in practice, which may occur in 2014 or 2015, will then be coordinated by ESMA which may entail the drafting of guidelines to ensure supervisory convergence. It may also require further tasks such as, under MiFID II, the determination of derivatives subject to the obligation to trade on organised venues, and under MAR/MAD, the coordination of cross border investigations and of cooperation.

Regulatory activity in the post-trading space will imply:

- a) revision of certain technical standards under EMIR, in particular on the exemption of non-financial counterparties;
- b) the compilation of the relevant reports on EMIR implementation and revision; and
- c) relevant level 2 measures to be included in the Securities Law Directive.

Depending on the outcome of the European Commission report on the review of the Short Selling Regulation, ESMA may be involved in any revision of the short selling framework, notably the related technical standards.

ii. European Investment Fund Legislation

ESMA's focus in 2013 in the investment funds area will be divided between the finalisation of the key elements of the Alternative Investment Fund Managers Directive (AIFMD) framework, leading up to the transposition deadline of July 2013, and work in the area of UCITS. This area will also be supplemented by activity with respect to the Regulations on Venture Capital (VC) and Social Entrepreneurship Funds (SEFs).

Regarding AIFMD, ESMA intends to finalise the draft Regulatory Technical standards (technical standards) to define the types of AIFM required by Article 4(4) of the Directive by Q1 2013. These technical standards are a key element in the overall AIFMD package and should help ensure a common understanding among EU competent authorities of the most important concepts in the AIFMD. In the same context, ESMA expects to adopt the guidelines on remuneration required under Article 13 of the Directive, also by Q1. In finalising this work, ESMA will seek to ensure appropriate alignment between the guidelines for AIFMs and those for MiFID investment firms, on which work also started in 2012. ESMA will also set up a common register of EU AIFMs, as required by the Directive.

On UCITS, ESMA expects to provide input at the relevant stage on the delegated acts and/or technical standards that may be required under the UCITS V Directive. ESMA's previous work on depositaries and remuneration under the AIFMD will provide useful benchmarks on which to build.

In addition, and subject to developments at the level of the EU institutions, ESMA may be tasked with further work in relation to the VC and SEF Regulations. In responding to any requests received in this area, ESMA will have to pay close attention to the specificities of the entities covered by these two initiatives while, with respect to VC funds in particular, taking into account work done under AIFMD that may be relevant.



Next steps

ESMA's work on investment funds beyond 2013 is likely to focus on ensuring a convergent approach among national authorities in the application of AIFMD and UCITS. As a relatively new Directive, the AIFMD may give rise to questions which ESMA could address through the use of the regulatory tools it has available. On the same Directive, ESMA will play a key role in the possible introduction of a passport for non-EU AIFMs from the beginning of 2016. More generally, ESMA is well placed to participate in the follow-up work on the shadow banking initiative in the area of investment funds. This work, which may result in amendments to the UCITS framework (UCITS VI) arising from the consultation published by the Commission services in July 2012, could have a significant impact on a broad range of entities (exchange-traded funds, money market funds), portfolio management techniques (securities lending, repo transactions) and instruments (OTC derivatives). ESMA's role in this context could take the form of the preparation of technical advice or the development of draft technical standards.

iii. Corporate Finance

In 2013 ESMA will work on the Prospectus Directive, the Transparency Directive and on Corporate Governance.

Regarding the Prospectus Directive (PD), ESMA will continue the development of Technical standards contemplated by the Amended Prospectus Directive and Omnibus I Directive as well as the expected Omnibus II Directive. This is expected to focus on the means to improve the co-ordination and harmonisation of the application of the Prospectus Directive in Europe.

ESMA will develop, and test with NCAs, the IT Register to deal with notifications of approved prospectuses, supplements and certificates of approval concerning pan-European offerings and admission to trading of securities.

In 2013, the proposed revision of the Transparency Directive (TD) is expected to be finalised and ESMA envisages development of Technical standards in accordance with its provisions and to integrate any potential new responsibilities foreseen by the Regulation.

ESMA will also continue to expand its activity with regards to corporate governance issues. Following its examination of the proxy advisory industry in Europe last year, new ideas/workflows may arise from the Commission Communication on company law and corporate governance, which is expected in October 2012.

Regarding the Takeover Bids Directive, the publication of the external study on the application of the Directive, and the follow-up report from the EC, will provide ESMA with a new set of information that may contribute to further work in this area.

Next steps

The amount of work linked to the revisions of the PD is expected to decrease in this period and ESMA will focus on providing guidance to stakeholders within the prospectus regime. With regard to the TD, the workload at this stage will depend on the duration of the on-going revision process, which could bring an increase of the activity during this period. In line with its mandate ESMA will strengthen its role in ensuring convergence of practices for both directives across Europe through opinions, statements and peer reviews.

ESMA expects to expand its corporate governance activities by identifying and considering a proposed response to areas which relate to securities (as opposed to company) laws in the European Union, which are of relevance to ESMA.

On the Takeover Bid Directive, ESMA will continue to promote active exchange of best practices and will also look at any areas where further convergence of practices could be developed.

iv. CRA policy

On the policy development side, ESMA expects to work on the implementation of the CRA III Regulation (adoption expected after summer 2012), which will involve ESMA providing various draft technical standards to the Commission. In addition, it is expected that ESMA will need to start some IT projects for transparency purposes, extending the scope of the Central Repository for Credit Rating Agencies² (CEREP) and a website to ensure transparency on structured finance products.

v. Other new Regulation

A new Regulation on Audit Oversight is currently in discussion within the European Institutions. Following their conclusions, ESMA will develop technical standards in relation to audit matters and organise a new coordination role of audit oversight bodies in this field.

b. Supervision

i. Credit Rating Agencies Regulation (CRA)

b. Allocated resources:
36 statutory staff

The CRA Regulation introduced a common regulatory approach in order to ensure that credit rating activities are conducted in accordance with the principles of integrity, transparency, responsibility and good governance.

In 2013, ESMA will continue to monitor the business of CRAs as parts of its regular supervision of these entities, which will involve a combination of desk-based reviews and on-site inspections. To determine how to prioritise our work and where to focus our supervisory attention, ESMA will assemble and analyse data and market intelligence. By 2013 our supervisory IT system will be fully operational and will allow more effective pre-screening of CRAs' business developments facilitating the identification of potential new risk areas.

² <http://cerp.esma.europa.eu/cerp-web/>

ESMA's approach to its daily on-going supervision of CRAs will continue to be multi-dimensional, incorporating horizontal thematic and vertical firm specific supervisory work. For smaller CRAs, this will mean greater reliance on risk scorecards and inclusion in thematic work where appropriate, while for the large CRAs we will focus on a more intrusive model of supervision through regular dialogue with the firms aimed at developing an in-depth understanding of their operations and of where risks to our regulatory objectives could emerge. In 2013, it is expected ESMA will undertake at least two thematic reviews and at least two individual firm specific reviews. In addition it is planned to carry out up to ten on-site visits to Credit Rating Agencies in 2013.

As in 2012, ESMA expects to receive various applications for registration. As a part of its registration and certification responsibilities ESMA has established a signalling/warning system to prevent CRAs providing rating services in the EU without being registered. As part of its enforcement of the regulatory perimeter, ESMA aims to identify those CRAs operating in the EU without formal authorisation and will work closely with NCAs on perimeter issues.

ii. European Market Infrastructure Regulation (EMIR)

Activities arising from the implementation of EMIR will contribute to a greater mix of regulatory and supervisory tasks for ESMA.

The direct responsibilities ESMA is expected to assume in 2013 relate to the following:

- Determination of OTC derivatives subject to the clearing obligation;
- Set-up and maintenance of the register for the clearing obligation;
- Participation in the supervisory colleges for Central Counterparties (CCPs);
- Recognition of third country CCPs;
- Registration and supervision of Trade Repositories;
- Recognition of third country Trade Repositories; and
- Possible direct reporting to ESMA of derivatives transactions that cannot be registered by trade repositories.

The process for determining those OTC derivatives which will be subject to the clearing obligation is expected to start at the beginning of 2013, with the initial set of notifications to be received from NCAs. This process will take at least six months and the register will need to be in place following the finalisation of the list of contracts subject to the clearing obligation.

European CCPs will have 6 months following the entry into force of EMIR to request a new authorisation, and any new authorisation will be granted in accordance with an opinion from a college in which ESMA will participate. Therefore, it is expected that the work to establish the colleges will start at the beginning of 2013 in order to have the colleges up and running when authorisation will need to be given to the CCPs.

Third country CCPs are also expected to request recognition at the beginning of 2013. Currently, it is not known how long it will take the Commission to make an equivalence decision and whether they will require technical support from ESMA. The same considerations are also true for third country trade repositories.

Registration and supervision of trade repositories will start at the beginning of 2013 and the registration process is relatively short (20 days to determine the completeness of the application and 40 days to determine whether to register or refuse a trade repository). Direct reporting to ESMA is not expected to already take place in 2013. ESMA will study in the course of 2012 via a technical standard when and what might be reported directly to ESMA.

Next steps

Over the next number of years CRA Supervision will focus on the continued implementation of the supervisory regime through a process involving in-depth reviews of CRAs, tailored action plans, guidance and enforcement measures. Furthermore, ESMA's supervisory approach will be set out in manuals and other internal guidelines which will contribute to a common supervisory framework for ESMA's supervision work. In addition to its on-going supervisory work, ESMA will need to be able to conduct possible new tasks under the CRA III Regulation (in particular related to supervision of competition in the CRA industry).

As for the direct responsibilities under EMIR, the supervision of trade repositories will build on our experience of CRA supervision, to implement the necessary supervisory tools and methodologies required to ensure that trade repositories are appropriately monitored. The coordination activity across colleges of CCPs will ensure common supervisory practices and might need to be supported by supervisory guidelines or other support material.

On the clearing obligation, the activity is expected to focus on expanding the type of contracts subject to the clearing obligation and in monitoring the implementation of this obligation. Cooperation with third country competent authorities is expected to intensify in view recognised CCPs and trade repositories activity. In the unlikely scenario that no registered or recognised trade repository is capable of recording certain derivatives contracts, ESMA will need to start receiving reports directly as of 1 July 2015.

c. Financial consumer protection and financial innovation

c. Allocated resources:
10 statutory staff

ESMA will continue to foster consumer protection in 2013 through four main levels of action.

First, ESMA will intensify its analytical work on financial innovation, identifying consumer trends by examining all the data that it has started collecting in 2012 on consumer complaints and sales activity on financial products. In addition, it will accelerate and expand its monitoring of financial innovation activity also by leveraging on any relevant work that can be done at national level.

Through these two work streams, ESMA will be able to track the evolution of financial products and be able to detect threats that could damage investor protection at the European level on the short term and/or medium term.



Secondly and leveraging on the first set of actions, ESMA will continue to take a very proactive role in addressing any effective or potential threat to investors protection and will use all the instruments within its remit to remedy to the situation. This ranges from issuing warning or alerts to more dramatic measures such as considering the ban of services or products. With the likely new powers that MiFID 2 / MiFIR could allocate to ESMA, it will need to determine how and when to use them and the more appropriate cooperation with NCAs on these matters.

Thirdly, ESMA will step up the coordination of the regulatory and supervisory treatment of new or innovative financial activities and will reinforce the consistent implementation, application and effective supervision of the MiFID investor protection provisions. Additional guidelines, opinions and Q&A for market participants and/or NCAs on a wide range of topics related to transparency of information and practices, conduct of business rules and organisational requirements could and will be considered when needed.

Lastly, ESMA will also get involved in consumer financial education. The objective is not to replace or overlap with the large number of national initiatives in this respect but on the one hand establish best practices across Europe in order to leverage on the expertise of the NCAs most advanced in this field, and on the other hand, to conduct a few ad hoc transversal initiatives on topics that could be of relevance for large groups of consumers across Europe.

Next steps

ESMA will be able to build up on the data processing put in place in late 2012 and 2013 to monitor more closely and more accurately consumer trends and financial innovation. It will allow it to be even more proactive and timely in using all the various powers it will benefit from. General investor protection will remain one of the core objectives of ESMA in the years to come.

d. Contribution to financial stability

d. Allocated resources:
11 statutory staff

In order for ESMA to contribute to safeguarding the financial stability of the European Union's securities markets, it is crucial to continuously provide analysis on trends and, at an early stage, identify potential risks and vulnerabilities at a micro-prudential level, across borders and sectors. In support of this ESMA, will continue to conduct economic analyses of European securities markets and model the impact of potential adverse market developments. ESMA will inform the European Institutions, the other ESAs and the ESRB on a regular and ad hoc basis about its findings. In order to perform its functions properly, in 2013 the Authority will further intensify its relationship with the ESRB. ESMA will also consider how to enhance the data and information it receives and how to deepen its analysis, in the areas of High Frequency Trading and Hedge Funds in particular.

Another particular area of interest for ESMA in 2013 will be the area of 'shadow banking', where both enhanced transparency and monitoring – as well as potentially regulatory responses – will be required.

ESMA will step up its work on identifying trends, potential risks and vulnerabilities in securities markets and envisages issuing at least two reports in 2013 in cooperation with the other ESAs through the Joint Committee.



It will be crucial to inform decision takers of our findings on a regular basis, in particular at the level of the Financial Services Committee (FSC) and the EFC-FST, the Financial Stability Table of the Economic and Financial Committee.

ESMA will also contribute to supervisory stress testing in the EU in 2013 by developing a stress test framework for Investment Managers, Exchanges and CCPs. Areas of activity in this context may include the design of risk scenarios, the coordination of implementation, evaluation of stress testing results, possible warnings or guidelines following evaluations, and the monitoring and coordination of the application of incoming regulatory requirements for stress testing.

ESMA also intends to devote attention and resources to emergency activities such as coordination with NCAs and the other ESAs – EBA and EIOPA - in response to any crisis situation on the European financial markets, as ESMA has been doing since its creation.

Next steps

In the medium term, ESMA will work towards a more sophisticated monitoring and analysis of trends, risks and vulnerabilities in financial markets, adapting to new evolutions, and based on more comprehensive and consistent sets of market data.

In addition ESMA intends to develop a consistent pan-European stress testing framework for the areas of Investment Management, Exchanges and CCPs. It is expected to have the first results in the course of 2013.

e. Convergence

e. Allocated resources:
18 statutory staff

ESMA aims to build a level playing field by strengthening international supervisory co-ordination and promoting supervisory convergence for the benefit of the economy at large, including financial institutions, other market players, consumers and employees. ESMA was set up to foster supervisory convergence in the EU and to avoid regulatory arbitrage resulting from different supervisory practices; as this has the potential to undermine not only integrity, efficiency and orderly functioning of markets but ultimately also financial stability.

i. Peer Reviews, Breach of Union Law and Mediation

In order to foster fair and balanced supervisory practices, ESMA will conduct peer reviews on the application of existing EU legislation in the field of securities regulation and report on those findings. The planned ESMA peer reviews for 2013 cover supervisory practices with regard to Conduct of Business rules under MiFID, as well as supervisory practices with regard to ESMA's High-frequency Trading Guidelines and to Best Execution.

ESMA aims to use this work to inform its activities in other areas of its work programme, including enhancing the single rulebook through issuing guidelines and recommendations, as well as opinions, in areas where differences of application exist and through providing advice to the Commission on areas where revised legislation might be necessary to align practices.

The aim of these reviews is to identify those areas where national regulators' supervisory practices could benefit from learning from best practices in other countries. This will help ESMA to foster more convergent approaches and hence, reduce regulatory arbitrage, including through very practical tools such as Q&As.



Furthermore ESMA will use its powers to investigate and remedy cases of breach of Union law , to settle disagreements between competent authorities in cross border situations and to act in emergency situations. ESMA will take into account the input of the Securities and Markets Stakeholder Group (SMSG) as regards its activities to foster convergence.



ii. Corporate Reporting

In 2013, ESMA will continue to monitor further developments of International Financial Reporting Standards (IFRS) and will seek ways to improve enforcement activities in order to contribute to stronger co-ordination and harmonisation of their application in the EU.

ESMA will enhance its dialogue with representatives of the IFRS Interpretations Committee and will contribute more pro-actively to the International Accounting Standards Board (IASB) by providing it with insights on experiences of the implementation of these standards in practice and how they could potentially be improved to enhance their enforceability.

In order to ensure convergence of supervisory practices, ESMA is revising the current enforcement standards and will endeavour to issue guidelines in this area.

Next steps

ESMA will launch a call for identification of common accounting matters for enforcement in the EEA. Based on commonly agreed proposals, they will be published by ESMA as common enforcement priorities and included by the NCAs in their enforcement programme as areas for review. ESMA would report in the following year to the market on the enforcement actions taken in those areas.

In addition, ESMA will endeavour to make the coordination of enforcement actions to happen more frequently ex-ante, through discussion of emerging issues brought by the NCAs, instead of discussion of decisions already taken.

In line with its mandate in the area of financial reporting, ESMA will strengthen its role in the convergence of enforcement practices through issuance of statements and opinions, when necessary, and by conducting peer reviews.

ESMA will start the further development of the network of Officially Appointed Mechanisms (OAMs) and consider the potential role of XBRL within that context.

iii. Joint Committee

In 2013, ESMA will pursue the regular cooperation and cross-sectoral consistency work with the other ESAs under the Joint Committee. This will involve contributing to the regular coordination of the Sub-Committees of the Joint Committee, such as the recently installed Consumer Protection and Financial Innovation Sub-Committee, as well as ensuring that the ESAs staff exchange information and approach topics of cross-sectoral interest in a coordinated fashion.

In 2013 this is likely to include work on financial conglomerates, bilateral margining of OTC derivatives, credit ratings and investor protection. ESMA will play its part in the Joint Committee work on the Commission's initiative on Packaged Retail Investment Products (PRIIPS), particularly with respect to any changes that may be introduced on the content and format of the Key Investor Information Document for UCITS.

Finally, ESMA will participate, and support the Commission, in the preparation of a report on the review of the European System of Financial Supervision (ESFS), together with the other



ESAs through the Joint Committee. A report should be provided to the EU Institutions by end 2013 to support decisions on the next steps for the ESFS.

iv. Other convergence activities

In 2013 ESMA intends to also focus on:

- **Short selling:** By 2013 ESMA will have taken on new responsibilities under the Short Selling Regulation, that will apply from November 2012. This is a significant task, since ESMA will need to strengthen the convergence tools to ensure consistent application of the Regulation and enhance its coordination powers for when measures or restrictions are introduced during adverse circumstances or emergency situations. This will also involve monitoring and updating the thresholds for disclosure of short positions and updating the list of exempted shares;
- **Supervisory Coordination:** Furthermore ESMA will continue to play a key role in coordinating supervisory activities and in facilitating information exchange in day to day supervision and in particular in urgent cases, thereby relying on well-established tools such as the Urgent Issues Groups (UIGs), which could be used beyond cases of market abuse. ESMA will also coordinate with other EU agencies, in particular the Agency for the Cooperation of Energy Regulators (ACER).
- **UCITS:** ESMA will continue its efforts to achieve convergence among NCAs in the application of the UCITS framework, including through the development of guidelines, opinions and Q&As; and
- **Pre-trade transparency waivers:** under MiFID, ESMA will continue to coordinate harmonisation and agreement amongst NCAs on pre-trade transparency waivers according to the legislation.
- **Transaction reporting:** ESMA will work on finalising guidelines on transaction reporting and preparing for practical application thereof.
- **Suspension of financial instruments from trading:** ESMA will install an IT tool for the communication and coordination of the suspension and removal of financial instruments from trading.
- **International Co-operation:** ESMA will play its role as an Associate Member of IOSCO, focusing on contributing to that organisation's most relevant Standing Committees. ESMA will continue to participate in the EU regulatory dialogues. ESMA will play a central role in assessing the equivalence of Third Country supervisory regimes and in providing advice to the European Commission, in close cooperation with EBA and EIOPA. ESMA will lead or assist in negotiating Memoranda of Understanding with Third Country supervisors as required.

ESMA will also continue to update and develop all the informative material for supervisors such as Questions and Answers or Supervisory briefings, to contribute to better implementation of the various regulatory texts related to its fields of competence and to achieve and more consistent supervisory practices across Europe.

Next steps

Since the creation of ESMA, the majority of new regulations have given ESMA tasks related to transparency of information. In this respect, ESMA is required to set up several publically accessible registers on its web sites regarding such disparate information as: credit ratings, authorised markets, authorised entities, sanctions, etc. ESMA started several projects in 2011 in this respect, but many more will need to be undertaken in response to forthcoming financial regulations. AS a result of the current projects, ESMA will start publishing - from the end of 2013 onwards - a large number of registers containing data that will allow better transparency and supervisory convergence via EU integrated information flows to the public.

f. ESMA as an organisation

f1. Allocated resources:

Central support functions – 36 statutory staff
(Communications, Legal support, Internal control , HR, Finance, Logistic)

The large number of new tasks and powers given to ESMA in recent financial markets regulations requires an increase in its resources. The staff size will grow from 101 at the end of 2012 to 160 at the end of 2013 while the budget will increase from approximately €20m in 2012 to approximately €28m in 2013. As part of the staff growth, 18 new posts will be for supervisory activities and will be financed by fees collected from CRAs and Trade Repositories. Integration of the projected approximately 60 new temporary agents, contract agents and seconded national experts into the existing team will require careful management.

In order to accommodate the growing number of staff and increasing number of meetings held at ESMA's premises, it will be necessary to rent further space. Therefore, it is ESMA's intention to extend the premises by renting additional floors within ESMA's current rental building at 103 Rue de Grenelle. Work to adapt these floors to ESMA's needs will begin at the end of 2012 and continue in 2013.

One of the key challenges for ESMA as an organisation in 2013 will be to provide the administrative and technological support required to ensure it delivers its objectives while continuing to grow.

As indicated earlier in the document, ESMA's tasks and powers will also dictate the IT programme, which is expected to include projects for EMIR, registers required by Omnibus I and II, adaptation of the existing Transaction Reporting Exchange Mechanism (TREM) following MiFID II, registers and exchange of data for AIFMD and a new version of the Central Repository of Credit Ratings (CEREP).

f2. Allocated resources:

EU IT projects – 11 statutory staff

ESMA will continue to develop its relationships with key stakeholders e.g. EU Institutions, its SMSG, and key actors of the financial markets industry. In its contacts with EU Institutions ESMA will strive to make sure that practical implications for ESMA stemming from new tasks provided for in forthcoming legislative proposals are adequately taken into account.



ESMA will continue in 2013 to support its 11 Standing Committees and two Technical Committees where NCAs exchange information and work on areas of common interest to achieve convergence. This activity remains a key pillar of ESMA's work and helps ensure the good quality of the work programme of ESMA. These Committees are sometimes supported by Consultative Working Groups of relevant industry representatives.

Next steps

Over the coming years ESMA will grow to a full complement of currently estimated 250 people. Given the already very broad scope of tasks of ESMA, each additional task that is conferred on ESMA will however need to entail additional corresponding resources. Therefore, it is likely that both ESMA's staff and budget will increase between 2014 and 2016 although possibly at a slower pace than experienced between 2011 and 2013.

IV. Key Work Streams

Based on the key work streams outlined above, it is clear that ESMA is facing a challenging workload in 2013. It will be essential for the organisation to keep the priorities continuously under review to ensure that its limited resources are used in the most efficient way.

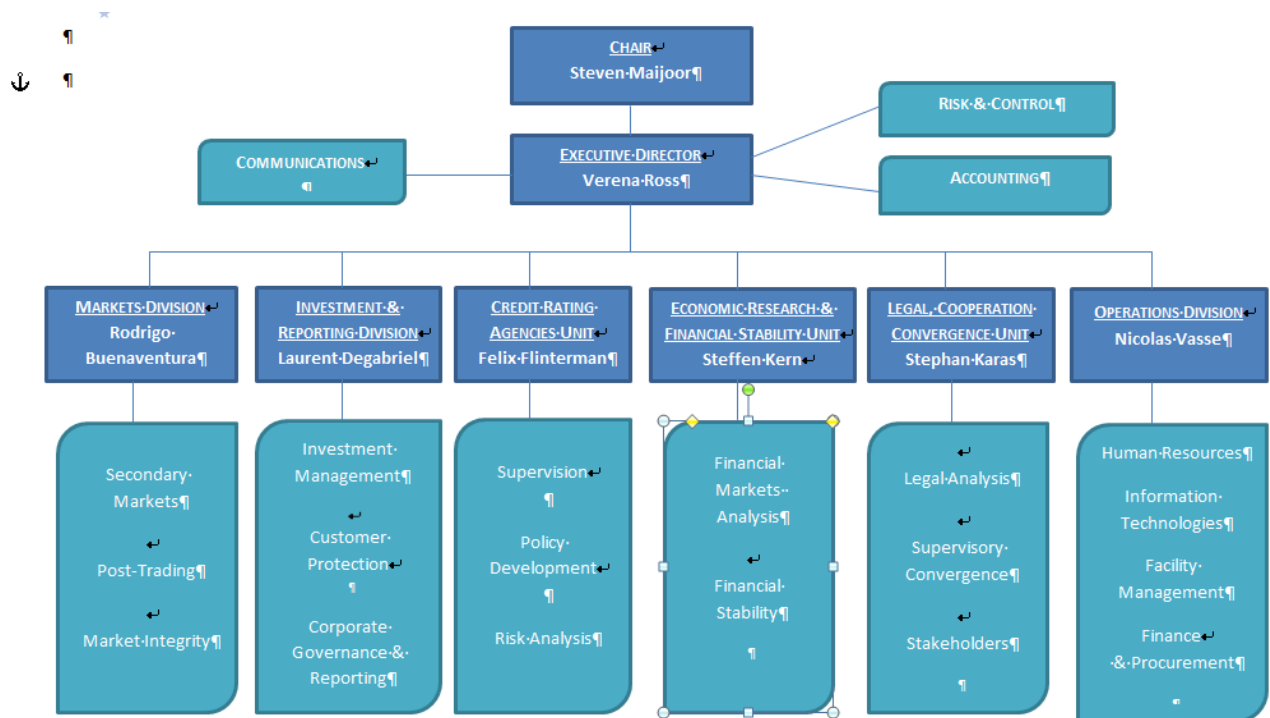
Considering the key work streams, at this point in time, ESMA views the following tasks as the key priorities for 2013:

1. Revision of MiFID and MAD;
2. Launch of Trade Repository Supervision and CCP colleges coordination;
3. CRA supervision and CRA III implementation;
4. AIFMD and UCITS V;
5. Revision of the Transparency Directive; and
6. Peer Reviews and driving supervisory convergence through full use of ESMA powers.

V. Annexes

Annex 1 – Human resources

The structure of ESMA is the following:



Regarding human resources, ESMA is planning to distribute the number of posts per Unit/Division as follow (the numbers contain the Heads):

Division/Unit	Number of staff end 2013
Markets Division	28
Investment and Reporting Division	28
Credit Rating Agencies Unit	28
Economic Research / Financial Stability Unit	12
Operations Division	
- EU IT Projects	11
- Administration	26
Legal/Cooperation Convergence Unit	15
Senior Management and Communication	12
Total	160(121 Temporary Agents)

Annex 2 – Draft budget

Establishment plan

Function group and grade	2013	
	Permanent posts	Temporary Posts
AD 16		
AD 15		1
AD 14		1
AD 13		
AD 12		3
AD 11		5
AD 10		6
AD 9		12
AD 8		24
AD 7		24
AD 6		18
AD 5		12
AD total		106
AST 11		
AST 10		
AST 9		1
AST 8		
AST 7		
AST 6		1
AST 5		2
AST 4		6
AST 3		2
AST 2		3
AST 1		
AST total		15
TOTAL		121
GRAND TOTAL	121	

External personnel

Contract Agents	DB 2013 estimate (*)
Function Group IV	10

Contract Agents	DB 2013 estimate (*)
Function Group III	4
Function Group II	11
Function Group I	
Total	25

Seconded National Experts	DB 2013 estimate (*)
Total	14

Budget - Revenues

REVENUES	2013
1 REVENUE FROM FEES AND CHARGES	6 687 000
2. EU CONTRIBUTION	8 357 400
3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)	373 000
4 OTHER CONTRIBUTIONS	12 536 600
5 ADMINISTRATIVE OPERATIONS	
6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT	
7 CORRECTION OF BUDGETARY IMBALANCES	
TOTAL REVENUES	27 954

Budget - Expenditures

EXPENDITURE	Commitment appropriations
	Draft Budget 2013
	Budget Forecast
Title 1	
Staff Expenditure	17 364 000
11 Salaries & allowances	15 727 000
- of which establishment plan posts	14 155 000
- of which external personnel	1 572 000
12 Expenditure relating to Staff recruitment	251 000
13 Mission expenses	1 100 000
14 Socio-medical infrastructure	153 000
15 Training	123 000
16 External Services	
17 Receptions and events	10 000
Title 2	
Infrastructure and operating expenditure	5 695 000
20 Rental of buildings and associated costs	2 669 000
21 Information and communication technology	980 000
22 Movable property and associated costs	219 000
23 Current administrative expenditure	554 000
24 Postage / Telecommunications	279 000
25 Meeting expenses	382 000
26 Running costs in connection with operational activities	
27 Information and publishing	612 000
28 studies	
Title 3	
Operational expenditure	4 895 000

EXPENDITURE	Commitment appropriations
	Draft Budget 2013
	Budget Forecast
Operational cost	4 895 000
TOTAL EXPENDITURE	27 954 000

Annex 3 – Detailed work programme

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
1	All	All	Single Rulebook	Technical standards and guidelines on information exchange and cooperation arrangements among national authorities	Technical standards; Guidelines	Q4	2-medium/high
2	All	All	ESMA organisation	Support to Board of Supervisors, Management Board, eleven Standing Committees, two Technical Committees, Networks and Task Forces		Permanent	N/A
3	All	Joint Committee	Convergence	Joint Committee work : support, Packaged Retail Investor Products (PRIIPs), Asset Money Laundering (AML), Non-Cooperative Jurisdictions, Financial Conglomerates, Joint Committee Risk Sub-Committee, Joint Committee's Impact Assessment network	Reports	Permanent	2-medium/high
4	CRA	CRAs	Single Rulebook	Technical standards following CRA III Regulation	technical standards	Q3	1-high
5	CRA	CRAs	Supervision	Cooperation arrangements with third countries regulators	Memorandum of Understanding	Permanent	2-medium/high
6	CRA	CRAs	Supervision	Endorsement assessment of third countries and advice on equivalence	Fully reasoned draft Decisions /Advice	Permanent	2-medium/high
7	CRA	None	Supervision	Assessment of applications for registration	Registration decision	Permanent	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
8	CRA	None	Supervision	Thematic and individual reviews (on desk and on site) of registered CRAs	Risk mitigation plans /enforcement proposal	Perma- nent	1-high
9	CRA	None	Supervision	Cooperation with third country regulators	Exchange of views on risks, priorities and perimeter	Perma- nent	2-medium/high
10	CRA; Legal, coordination and convergence	None	Supervision	Enforcement and sanctions	Possible CRAs sanctions	Perma- nent	1-high
11	Economics	CEMA	Contribution to Financial Stability	Collection and management of data, studies, reports	Studies; reports	Perma- nent	2-medium/high
12	Economics	CEMA	Single Rulebook	Impact Assessments-related work	Impact Assessment Advices; Reports	Perma- nent	2-medium/high
13	Economics	None	Contribution to Financial Stability	Relationship with the ESRB (cooperation, joint research, reporting and working groups)	Biannual reporting; internal reports	Perma- nent	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
14	Economics/Markets /Investment and Reporting	CE-MA/SMSC/Post-Trading/Investment Management	Contribution to Financial Stability	ESMA stress testing work	Coordination of activities; advice	Permanent	1-high
15	Investment and Reporting	Corporate Finance	Contribution to Financial Stability	Possible delegated acts derived from the EC Green Paper on the European Corporate Governance framework	Delegated Act	Q2	1-high
16	Investment and Reporting	Corporate Finance	Contribution to Financial Stability	Technical Advice to the Commission on revised Prospectus Directive	Technical Advice	Q2	1-high
17	Investment and Reporting	Corporate Finance	Single rulebook	Technical standards following the revision of the Transparency Directive: Notification requirements and update and maintenance of Q&A	technical standards	Q3	1-high
18	Investment and Reporting	Corporate Finance	Single Rulebook	Equivalence assessment of third country regimes regarding corporate finance	Report	Q4	2-medium/high
19	Investment and Reporting	Corporate Finance	Consumer protection	Possible work on quality and integrity of (a) voting chain and (b) institutional investor codes		Q2	2-medium/high
20	Investment and Reporting	Corporate Finance	Single Rulebook	Updating and maintenance of Q&As and Recommendations	Q&As	Permanent	3-medium/low

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
21	Investment and Reporting	Corporate Finance	Single Rulebook	Technical standards as requested by Omnibus II	technical standards	Q4	4-low
22	Investment and Reporting	Corporate Finance	Single Rulebook	Technical standards as requested by the Omnibus I Directive	technical standards	Q4	4-low
23	Investment and Reporting	Corporate Reporting	Supervision	Consistent application of IFRS/Enforcement of financial reporting (EECS) with particular focus on: exposure to financial instruments that become subject to enhanced risk and impairment of non-financial assets and going concern	Opinions; Statements	Permanent	1-high
24	Investment and Reporting	Corporate Reporting	Single Rulebook	Preparatory work on technical standards on Audit Regulation	technical standards	Q4	1-high
25	Investment and Reporting	Corporate Reporting	Single Rulebook	Revision of Enforcement Standards - financial information	technical standards or guidelines	Q4	1-high
26	Investment and Reporting	Corporate Reporting	Consumer Protection	Mapping of the application of requirements (e.g. post-implementation review)	Report	Q3	2-medium/high
27	Investment and Reporting	Corporate Reporting	Consumer Protection	Monitoring European developments in Audit Oversight, developments in the area of non-Financial Information, Integrated Reporting and Periodic Reporting and Monitoring ISA developments (IAASB)	Meetings	Permanent	2-medium/high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
28	Investment and Reporting	Corporate Reporting	Consumer Protection	Monitoring IFRS developments (IASB), contribution to EFRAG and ARC, XBRL developments (including follow-up discussion paper) and OAM	Meetings	Permanent	2-medium/high
29	Investment and Reporting	Corporate Reporting	Convergence	On-going dialogue with third country regulators (China, Japan, US...)	Meetings	Permanent	2-medium/high
30	Investment and Reporting	FISC	Consumer protection	Data collection, monitor financial activities and innovation, co-ordination activities	Internal Reports	Permanent	1-high
31	Investment and Reporting	Investment Management	Supervision	Implementation of third country chapter of AIFMD	Cooperation arrangements with non-EU CAs; Methodology for peer review of authorisation and supervision of non-EU AIFMs; Technical advice on information to be reported to ESMA under Article 67.	Q3	1-high
32	Investment and Reporting	Investment Management	Single Rulebook	Technical Advice on Venture Capital and Social Entrepreneurship Funds	Technical Advice	Q1	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
33	Investment and Reporting	Investment Management	Single Rulebook	Technical Advice, guidelines and possibly technical standards on UCITS V	Technical Advice; technical standards; guidelines	Q4	1-high
34	Investment and Reporting	Investment Management	Single Rulebook	Technical standards, advice, guidelines and Q&A on AIFMD	technical standards, advice, guidelines, Q&A	Q4	1-high
35	Investment and Reporting	Investment Management	Single Rulebook	Guidelines on AIFMD remuneration	Guidelines	Q1	2-medium/high
36	Investment and Reporting	Investment Management	Single Rulebook	Guidelines, Q&As and opinions on UCITS IV	Guidelines; Q&As; Opinions	Q4	2-medium/high
37	Investment and Reporting	Investment Management	Single Rulebook	Guidelines on a Common Definition of European Money Market Funds	Guidelines	Q4	3-medium/low
38	Investment and Reporting	IPISC	Consumer protection; Single Rulebook	Technical standards following the revision of MiFID (MiFID 2, MiFIR)	Technical Advice; technical standards	Q4	1-high
39	Investment and Reporting	IPISC	Consumer protection; Single Rulebook	Guidelines on MiFID remuneration	Guidelines	Q2	2-medium/high
40	Legal, cooperation and convergence	None	ESMA organisation	Support to the European Commission on the European System of Financial Supervisors Evaluation 2013	Self-Assessment; Reports	Q4	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
41	Legal, cooperation and convergence	None	ESMA organisation	Follow up of crisis planning and powers, depending on progress of sectorial legislation		Permanent	2-medium/high
42	Legal, cooperation and convergence	None	Convergence	Regulatory and supervisory training and staff exchange fostering convergence	16 courses	Permanent	2-medium/high
43	Legal, cooperation and convergence	None	ESMA organisation	Securities and Markets Stakeholder Group Support		Permanent	2-medium/high
44	Legal, cooperation and convergence	None	ESMA organisation	Access to documents	Legal Advice regarding application of Access to Documents Regulation	Permanent	3-medium/low
45	Legal, cooperation and convergence	None	Convergence	Execution of ESMA's powers (BUL, Mediation, Crisis Management, Product Intervention) incl. representation in front of Board of Appeal	Handling of Cases	Permanent	N/A

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
46	Legal, cooperation and convergence	None	ESMA organisation	Legal quality control regarding ESMA Legislation	Legal advice	Permanent	N/A
47	Legal, cooperation and convergence	Review Panel	Convergence	Peer reviews and reports. Conduct of business rules; Supervisory practices with regard to conduct of Business rules under MiFID (as a follow up to a Mapping in 2012): Best Execution: High Frequency Trading Guidelines	Reports	Permanent	1-high
48	Management	None	ESMA organisation	Accounting: Establish financial statements, bookkeeping, treasury and cash management, assets management	Annual accounts	Permanent	N/A
49	Management	None	ESMA organisation	External communication: Annual Report, daily communications with external stakeholders - press queries, releases, briefings, publications, Institutional Communications Network, Web site	Annual Report	Q2	N/A
50	Management	None	ESMA organisation	Risk and Control: Establish, monitor and review internal control standards across ESMA; Grow data protection security capability, Audit coordination		Permanent	N/A
51	Markets	ESMA-Pol	Single Rulebook	Application of Short Selling Regulation	Guidelines; Q&A	Q2	1-high
52	Markets	ESMA-Pol	Single Rulebook	Preparatory work on Delegated Acts and technical standards under Market Abuse Regulation	Technical Advice; technical standards; Delegated Acts	Q4	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
53	Markets	ESMA-Pol	Single Rulebook	Report on the review of Short Selling Regulation	Report	Q2	1-high
54	Markets	ESMA-Pol	Single Rulebook	Cooperation arrangements with third countries authorities under the Short Selling Regulation	Template MoU; Guidelines	Q4	2-medium/high
55	Markets	ESMA-Pol	Single Rulebook	Guidelines on harmonised transaction reporting	Guidelines	Q1	2-medium/high
56	Markets	ESMA-Pol	Supervision	Review of ESMA-Pol handbook	ESMA-Pol handbook	Q4	3-medium/low
57	Markets	None	Supervision	Participation and coordination of CCPs' colleges	Good practices	Permanent	1-high
58	Markets	None	Convergence	Recognition of third country CCPs	Decision	Permanent	1-high
59	Markets	None	Convergence	Recognition of third country Trade Repositories	Decision	Permanent	1-high
60	Markets	None	Supervision	Registration of Trade Repositories	Decision	Permanent	1-high
61	Markets	None	Supervision	Supervision of Trade Repositories		Permanent	1-high
62	Markets	Post-Trading	Single Rulebook	Joint technical standards on Article 11 of EMIR (Exchange of collateral)	technical standards	Q1/Q2	1-high
63	Markets	Post-Trading	Single Rulebook	Technical standards and Guidelines on CSD Regulation	technical standards; Guidelines	Q4	1-high
64	Markets	Post-Trading	Single Rulebook	Technical standards on determination of the clearing obligation	technical standards	Permanent	1-high
65	Markets	Post-Trading	Single Rulebook	Technical standards revising the clearing threshold	technical standards	Permanent	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
66	Markets	Post-Trading	Single Rulebook	Guidelines on the enforcement of EMIR provisions on OTC derivatives	Guidelines	Q1	2-medium/high
67	Markets	SMSC	Convergence	Development of a central multilateral functionality for communication of trading suspensions	Deployment of the new communication system	Q1	2-medium/high
68	Markets	SMSC	Single Rulebook	Pre-trade transparency waivers	Ad-hoc publication of new descriptions of proposals for waivers assessed by ESMA	Permanent	2-medium/high
69	Markets	SMSC / ESMA-Pol > Commodity Derivatives Task Force	Single Rulebook	Preparatory work on technical standards and advice on delegated and implementing acts under MiFIR and MiFID 2	technical standards; Technical Advice; Delegated Act; Implementing Acts	Q4	1-high
70	Operations	ITMG	ESMA organisation	Implementation of agreed IT work programme: registers required on Omnibus (Prospectus/MiFID/UCITS), AIFM register, EMIR, new version of TREM (transaction reporting exchange mechanism), etc...	IT systems	Permanent	1-high
71	Operations	None	ESMA organisation	Extension of premises due to an increase of statutory staff from 101 employees to 160 employees	Extension of premises	Q2	1-high
72	Operations	None	ESMA organisation	Recruitment of 59 new staff members	59 new members of staff recruited	Q4	1-high

No	Unit / Division	Standing Committee	ESMA Role	Work stream / Task Title	Deliverable	Delivery date	Priority
73	Operations	None	ESMA organisation	Facility Management: maintenance of the building, events management, catering, information systems support (telephone, audio conference, helpdesk)		Permanent	N/A
74	Operations	None	ESMA organisation	Finance and Procurement: open call for tenders, contracts management, budget planning and implementation, financial circuits, filing		Permanent	N/A
75	Operations	None	ESMA organisation	Human Resources: personnel management, career development, internal training		Permanent	N/A