

2013-2015 multi annual work programme

European Securities and Markets Authority

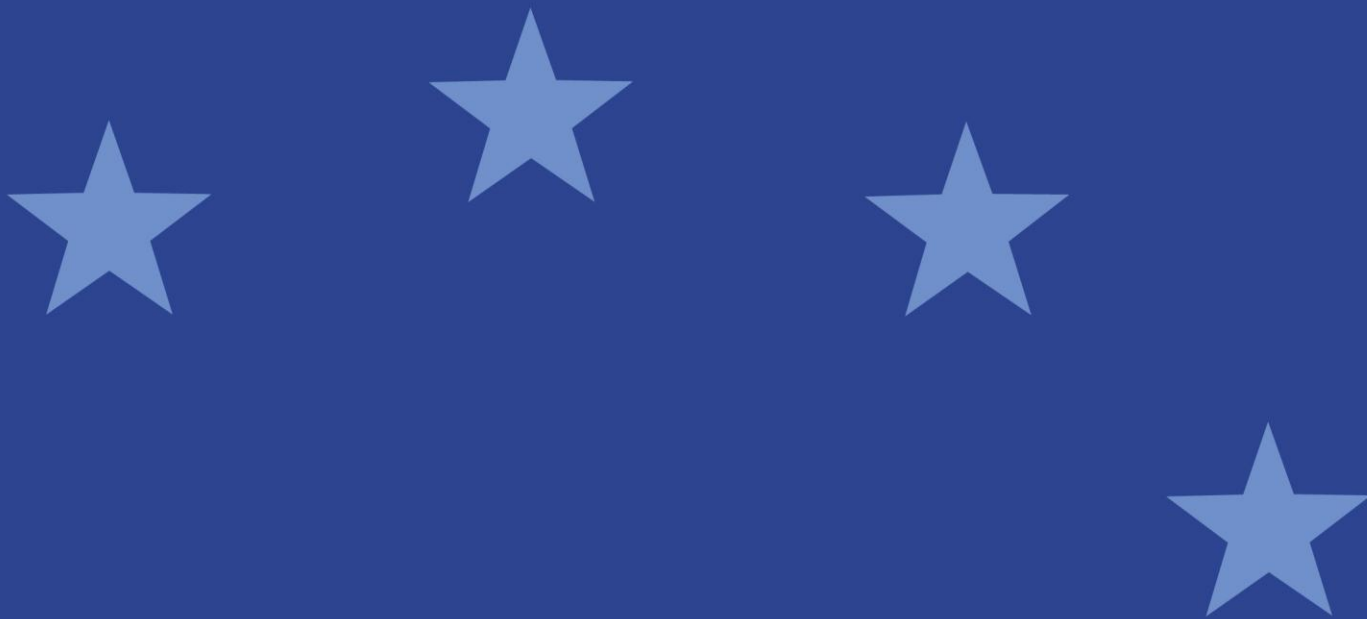


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I. Introduction

The European Securities and Markets Authority (ESMA) sets out in this document its work programme for the period 2013-15, highlighting the key priorities and explaining how they will be delivered. This document was approved by the Board of Supervisors on 24 September.



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 coordination of national supervisory activity.

III. ESMA's key objectives and priorities in 2013-2015

The multi-annual work programme describes the goals and deliverables ESMA aims to achieve in the period 2013-15. Following an initial two-year period establishing the Authority, during which ESMA already met its key objectives, 2013-15 will be when ESMA consolidates its position as a key part of the EU's system of financial supervision. In order to meet this objective, ESMA will focus on the following key strategic directions.

Strategic directions 2013-2015

- Develop the technical standards and guidelines required following the revision of existing, or the introduction of new legislations:
 - Markets in Financial Instruments Directive (MiFID) and Market Abuse Directive (MAD);
 - Credit Rating Agencies Regulation (CRA III);
 - Transparency and Prospectus Directives (TD and PD);
 - Undertakings for Collective Investment in Transferable Securities (UCITS);
 - European Market Infrastructure Regulation (EMIR), CSD Regulation/Directive and Securities Law legislation;
 - Short Selling;
 - Audit Regulation;
 - Alternative Investment Funds Management Directive (AIFMD), Venture Capital (VC) and Social Entrepreneurship Funds (SEFs); and
 - Other possible areas where future legislation might be proposed, e.g. shadow banking, reference rates (Euribor) and possibly resolution for CCPs.
- Implement a new multi-disciplinary supervisory approach, including in-depth reviews, action plans, guidance and enforcement measures;
- Develop supervisory manuals and internal guidelines setting out ESMA's supervisory approach and ensure effective pre-screening of supervised entities' business development plans in order to facilitate the identification of potential new risk areas;
- Further develop tools for financial consumer protection and extend the analysis of consumer risks and trends to respond to potential risks to consumer protection;
- Actively monitor developments in financial markets and drive and coordinate appropriate responses;
- Achieve greater convergence of national supervisory activity and implementation of EU regulations using ESMA's powers;
- Develop the infrastructure and operational processes required to support new legislative developments, e.g. major IT projects, when required.

The division of ESMA's work

ESMA has structured the different work streams it will undertake according to its key responsibilities and objectives. The planned activities for 2013-15 are set out under the following headings:

- Single Rulebook;



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

IV. ESMA's planned activities in 2013-2015

a. Single Rulebook¹

ESMA will undertake the review of several key pieces of EU financial services legislation, which will involve preparing a large number of highly complex implementing measures. These may take the form of Level 2 acts by the European Commission (EC), where ESMA is likely to be required to provide advice to the EC, or to develop ESMA technical standards.

Key Legislative Tasks

- Draft technical standards and guidelines required under the following legislations:
 - Revision of MiFID;
 - Revision of MAD;
 - CSD;
 - Securities Law legislation;
 - Revision of Short Selling Regulation;
 - Alternative Investment Fund Managers Directive (AIFMD);
 - UCITS V and VI;
 - PRIIPS;
 - Venture Capital (VC) and Social Entrepreneurship Funds (SEFs);
 - Revision of Prospectus Directive;
 - Revision of Transparency Directive;
 - Audit Regulation;
 - Omnibus II Directive;
 - CRA III Regulation;
 - Other legislative initiatives being prepared by the EU Commission; and
 - Other possible areas where future legislation might be proposed, e.g. shadow banking, reference rates (Euribor) and possibly resolution for CCPs.
- Provide high quality advice to the European Commission;
- Develop consistent guidelines for legislation which applies across a number of sectors, for example in remuneration of investment firms;
- Follow-up work on the shadow banking initiative and implement any necessary actions;
- Enhance convergence in supervision at NCAs and ESMA levels by greater use of tools e.g. supervisory review process, Q&A;
- Embed the use of ESMA's existing tools for assessing the effects of regulatory changes: regulatory impact assessment; quantitative impact studies; stress tests; public consultation.

b. Supervision

ESMA aims to establish a common supervisory approach in order to ensure that the regulation of supervised entities is conducted in accordance with the principles of integrity, transparency, responsibility and good governance.

In the coming years, ESMA will conduct its day to day supervision of financial entities, including monitoring of their business, desk-based reviews and on-site inspections. To determine how to

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

prioritise our work and where to focus our supervisory attention, ESMA will assemble and analyse data and market intelligence. ESMA will set up supervisory IT systems to allow more effective pre-screening of business developments, facilitating the identification of potential new risk areas. ESMA will continue to ensure that new entities applying for registration meet all the regulatory requirements.

Strategic direction

- Ensure regular dialogue with the firms aimed at developing an in-depth understanding of their operations and identifying where risks to our regulatory objectives could emerge;
- Set out ESMA's supervisory approach in supervisory manuals and other internal guidelines;
- Continue developing a multi-dimensional approach to our supervision, incorporating horizontal thematic and vertical individual supervisory work;
- Develop a risk scorecards and inclusion in thematic work;
- Set up supervisory IT systems to allow more effective pre-screening of business developments facilitating the identification of potential new risk areas;
- Intensify cooperation with third country competent authorities;
- Continue registering and certifying supervised entities;
- Develop the existing signalling/warning system to prevent entities providing services in the EU without being registered and supervised by ESMA;
- Focus on the implementation of the supervisory regime for CRAs through in-depth reviews, action plans, guidance and enforcement measures;
- Play a key role in the possible introduction of a passport for non-EU AIFMs; and
- Implement the supervisory tools and methodologies adapted to relevant aspects of trade repositories to be monitored.

c. Financial consumer protection

ESMA plays a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the EU. In this respect, ESMA's strategy in the area of consumer protection and financial innovation is to proactively enhance consumer protection in the area of financial markets. Moreover, ESMA ensures convergence of regulatory practices on the following activities.

Strategic direction

- Take a leading role in promoting transparency, simplicity and fairness in the market for consumers of financial products or services across the internal market;
- Further develop data collection, analysis and reporting on consumer trends;
- Monitoring trends in financial activities; and achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities;
- Strengthen ESMA's role in product intervention under MiFID (and possibly other sectors / legislations) especially investor protection through a more robust framework for the provision of investment services to retail clients;
- Implement a coherent approach to the regulatory and supervisory treatment of new or innovative financial activities;
- Develop guidelines, opinions and Q&As on the consistent implementation, application

and effective supervision of the MiFID investor protection provisions;

- Leverage on our data processing to monitor more closely consumer trends and financial innovation;
- Issue warnings and, within specific parameters, temporarily prohibit or restrict certain financial activities and products; and
- Identify areas where action of ESMA can make a difference to financial consumers.

d. Contribution to financial stability

In order for ESMA to contribute to safeguarding the financial stability of the EU's financial 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 cooperate with the European Institutions, the other ESAs and the European Systemic Risk Board on a regular and ad hoc basis.

Strategic directions

- Step up ESMA's work on identifying trends, potential risks and vulnerabilities in securities markets;
- Intensify information exchange with the European Institutions, the other ESAs and the ESRB on a regular and ad hoc basis;
- Enhance the gathering of data and deepen analysis, especially first in the areas of High Frequency Trading and Hedge Funds;
- 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 in European financial markets;
- Enhance contribution to supervisory stress testing in the EU by developing and implementing a stress test framework for, initially, Asset Managers, Exchanges and CCPs;
- Develop a more sophisticated monitoring and analysis of trends, risks and vulnerabilities in financial markets, adapting to fast-developing methodologies, and based on more comprehensive and consistent sets of market data;
- Maintain and further develop a financial stability risk dashboard; and
- Supporting national authorities with financial stability issues, to build a better mutual understanding of risk assessment and more national specific issues.

e. Convergence

According to article 29 of ESMA's founding regulation, one of ESMA's key objectives is to foster supervisory convergence 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. It therefore aims to build a level playing field by strengthening international supervisory co-ordination and promoting supervisory convergence for the benefit of the financial markets at large, including financial institutions, other market players, investors and consumers.

Strategic directions

- Enhance and multiply the conduct of peer reviews on the application of existing EU legislation for securities regulation and report on those findings;
- Issue 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;
- Use ESMA's 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;
- Continue to foster supervisory convergence through the continuing exchange of intelligence and practices related to market surveillance and the sharing of information on enforcement decisions;
- Coordinate supervisory activities in particular in urgent cases, thereby relying on well-established tools such as the Urgent Issues Groups (UIGs);
- Continue to monitor developments in International Financial Reporting Standards (IFRS) and contribute to stronger co-ordination and harmonisation of their application in the EU;
- Intensify the regular cooperation and cross-sectoral consistency check with the other ESAs under the Joint Committee;
- Continue contributing to the regular coordination of the Sub-Committees of the Joint Committee, on subjects such as consumer protection and financial innovation, financial conglomerates, OTC derivatives, credit ratings and Packaged Retail Investment Products (PRIIPS);
- Continue ensuring the best possible involvement of the Securities and Markets Stakeholder Group in the key activities of ESMA;
- Play a central role in assessing the equivalence of Third Country supervisory regimes and giving advice to the European Commission, thereby closely cooperating with EBA and EIOPA;
- Set up several registers to be accessed publicly on ESMA's web sites regarding different sets of data such as credit ratings, authorised markets, authorised entities, sanctions, etc...
- Establish and conduct sectoral and cross-sectoral training programmes for European securities markets supervisors to enhance convergence in supervisory and regulatory practices;
- Facilitate personnel exchanges and secondments between national competent authorities;
- Establishing a Mediation Panel and mediation procedures;
- Raise awareness and improve preparedness of national competent authorities to deal with financial crises;
- Coordinate, facilitate and support the functioning and the work ESMA's Stakeholder Group; and
- Focus on enlarging the contracts subject to the clearing obligation and on monitoring the implementation of such obligation.

f. ESMA as an organisation

After its foundation in 2011, ESMA has undergone an intensive period of organisational

development to bring it up to the administrative standards required of a fully functioning EU Authority. The Authority will continue to develop into a modern, efficient and responsive organisation, well equipped to meet the various and challenging demands placed upon it.

The demands placed on ESMA's internal organisation originate from developments in the external environment, adjustments to ESMA's tasks and mandate through primary legislation, the implementation of the ESMA Regulation and of the specific EU rules and regulations related to staff and financial matters. ESMA benefits from contributions of the Internal Audit Services (IAS) of the European Commission and the European Court of Auditors, and implements these bodies' recommendations in ESMA's organisation.

Strategic directions

- Manage ESMA's growth: recruit staff whose team working skills, flexibility and continuous learning abilities enable the institution to be agile and adaptive; extend premises; and ensure best induction of new comers;
- Continue to support its 11 Standing Committees and two Technical Committees where NCAs exchange information and work on areas of common interest to achieve convergence;
- Deliver quality IT systems which allow ESMA to achieve its objectives in an efficient manner;
- Further develop ESMA's corporate identity and culture, creating a working environment where staff can thrive;
- Further design and deploy ESMA's key internal processes, aiming at a high level of compliance, transparency, efficiency and effectiveness;
- Further develop ESMA's human resource performance evaluation system to ensure coherence between ESMA's objectives and key-characteristics, work plan, and performance evaluation;
- Implement best practices in the area of budgeting, ensuring budget is planned and justified for each year based on actual needs;
- Develop business contingency plans - if ESMA headquarters become unavailable etc...;
- 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;
- Set up common registers to deal with:
 - EU AIFMs;
 - notifications of approved prospectuses;
 - supplements and certificates of approval concerning pan-European offerings; and
 - admissions to trading of securities.
- Further build the external and internal communication of ESMA to ensure consistency between the external and internal perception of ESMA, and a clear communication of the objectives, key-characteristics and achievements of ESMA.