



Annex to the Statement
by Steven Maijoor, Chair of ESMA
to the ECON hearing, 14 September 2015

Facts and figures
from September 2014 to September 2015

ESMA enhances investor protection and promotes stable and orderly financial markets through (1) developing a single rulebook for EU financial markets, (2) supervising financial entities, (3) promoting supervisory convergence, and (4) assessing risks to investors and financial stability.

1. Developing a single rulebook for EU financial markets

In relation to ESMA's statutory objective of building a single rulebook for the EU and ensuring its effective implementation across the EU, the Authority has undertaken the following work since September 2014:

- **63 draft technical standards** (TS) including draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS):
 - 1 draft ITS under MiFID II on content and format of the description of the functioning of MTFs and OTFs (*scheduled for adoption on 24 September by the Board of Supervisors of ESMA*);
 - 26 draft RTS under MiFID II/ MiFIR (*scheduled for adoption on 24 September by the Board of Supervisors of ESMA*):
 - 5 on transparency requirements;
 - 6 on microstructural issues;
 - 5 on the publication of data and access;
 - 2 in relation to requirements applying on and to trading venues;
 - 2 on requirements relating to commodity derivatives;
 - 4 on requirements related to market data reporting and record keeping;

- 2 on post-trading issues.
- 11 draft TS under the Market Abuse Regulation (MAR) (*scheduled for adoption on 24 September by the Board of Supervisors of ESMA*):
 - 1 RTS and 1 ITS on the notifications and list of financial instruments;
 - 1 RTS on buyback programmes and stabilisation;
 - 1 RTS and 1 ITS on market sounding;
 - 1 RTS on accepted market practices;
 - 1 RTS on suspicious transactions and orders reporting;
 - 1 ITS on public disclosure of inside information and on delaying of the public disclosure of inside information;
 - 1 ITS on insider lists;
 - 1 ITS on managers' transactions;
 - 1 RTS on investment recommendations;
- 2 draft TS under MiFID:
 - 1 RTS on the assessment of acquisitions;
 - 1 ITS on increases in qualifying holdings in investment firms.
- 6 draft RTS under MiFID II:
 - 1 draft RTS on authorisation of investment firms;
 - 1 draft RTS on passporting;
 - 1 draft RTS on registration of third country firms;
 - 1 draft RTS on cooperation between competent authorities, and
 - 1 draft RTS on best execution.
- 2 draft ITS under MiFID II:

- 1 draft ITS on authorisation of investment firms, and
 - 1 draft ITS on passporting;
 - 5 draft TS under EMIR:
 - 3 draft RTS on the clearing obligation, respectively for interest rate OTC derivatives denominated in the G4 currencies, for index credit default swaps on some European corporate indices; and for interest rate OTC derivatives denominated in some EEA currencies (*the last 2 draft RTS will be submitted to the Board of Supervisors at the end of September*).
 - Review of 1 RTS and 1 ITS on reporting under Article 9 of EMIR (*scheduled for adoption at the end of September*).
 - 5 draft TS under the Central Securities Depositories Regulation (CSDR) (*scheduled for approval at end of September*):
 - 1 RTS on CSD requirements;
 - 1 RTS on internalised settlement;
 - 1 ITS on CSD requirements;
 - 1 ITS on internalised settlement.
 - 1 draft ITS under the Capital Requirements Regulation (CRR) on main indices and recognised exchanges;
 - 1 draft RTS under the Prospectus Directive on prospectus approval, incorporation of information by reference, prospectus publication and dissemination of advertisements;
 - 1 draft RTS under the Transparency Directive on major shareholdings;
 - 1 draft ITS on sanctions under the UCITS V Directive;
 - 1 draft RTS on the European Electronic Access Point (EEAP) under the amended Transparency Directive (*scheduled for adoption on 24 September by ESMA's Board of Supervisors*).
- **56 technical advice (TA)** to the European Commission:

- 8 TA on transparency requirements under MiFIR;
- 3 TA on the publication of data under MiFID II;
- 2 TA on microstructural issues under MiFID II;
- 5 TA in relation to requirements applying on and to trading venues under MiFID II;
- 3 TA on requirements relating to commodity derivatives under MiFID II;
- 1 TA on portfolio compression under MiFID II;
- 24 TA on investor protection topics under MiFID II/MiFIR;
- 5 TA under MAR, on indicators of market manipulation, minimum thresholds for the purpose of the exemption for certain participants in the emission allowance market from the requirement to publicly disclose inside information; (iii) determination of the competent authority for notification of delays in public disclosure of inside information, managers' transactions and reporting of infringements;
- 1 TA under CSDR, on the level of penalties for settlement fails, and the substantial importance of a CSD for the functioning of the securities markets and the protection of the investors in a host Member State;
- 2 TA under the CRA Regulation on Competition, choice and conflict of interest in the CRA Industry and on Reducing mechanistic reliance on external Credit Ratings (*to be published at the end of September 2015*);
- 1 TA on depositaries under the UCITS V Directive;
- 1 TA under the Regulations on European Social Entrepreneurship Funds and on European Venture Capital Funds (on Types of goods and services or methods of production for goods and services embodying a social objective; Conflicts of interest; Methods to measure the social impacts; and Provision of information for investors).

2. Direct supervision of financial entities by ESMA

ESMA is responsible for the supervision of both trade repositories (TRs) and credit rating agencies (CRAs).

- **Supervision of Trade Repositories (TRs):**

- The 6 TRs registered in November 2013 by ESMA continue to collect the derivative trades under EMIR:
 - One of the registered TRs, which was first registered for commodities, credit, equities and interest rates asset class derivatives, applied to be registered for the fifth asset class (FX). The registration decision was effective as of 4 June 2015;
 - One more TR application for registration with ESMA is under assessment.
- TR on-site inspections were conducted in November, December 2014 and April 2015.
- The on-site inspections focused on regulatory access, confidentiality and IT issues. A number of individual reviews and investigations were also focused on TR systems software development lifecycle, data availability and regulator's access to TRs.
- There were 36 EU regulatory authorities that had access to at least one TR as of mid-May 2015. They include NCAs, national banks, ESMA, ESRB and ECB.
- As of mid-July 2015, more than 5 billion new trades have been reported to all the TRs. The number of overall submissions including trades and lifecycle events exceeds 18 billion. After the start of the collateral and valuation reporting (since 11 August 2014) there are around 300 million trade reports which are submitted on a weekly basis. ESMA's internal analysis and the feedback from the national competent authorities showed that there was a need to improve the quality TR data.
- ESMA is putting a considerable effort on the overall improvement of the data quality at the TRs and is cooperating closely with NCAs in reaching this goal under the Data quality action plan, which consists of:
 - Harmonisation of data validations applied by TRs. The first phase of validations focused on whether certain fields can be left blank and came into force in December 2014. The non-compliant trades are being rejected by TRs; the rejection rate is lower than 3%. The second phase of validations focused on the format and content of the information submitted by counterparties to TRs and should come into force in October 2015. ESMA is and will be monitoring the implementation of validations by TRs to ensure the expected improvements;

- The inter-TR reconciliation process monitoring. The pairing and matching rates are still low and ESMA is detecting the reasons for this and identifying possible remedial actions.
- Presentation of aggregate public data was harmonised by TRs. Open positions, trades volumes and market values are weekly updated on the websites of TRs. Some TRs are further working to ensure complete consistency across themselves.

Concerning the Central Counterparties (CCPs), since September 2013, ESMA has been managing the application of 41 third-country CCPs (TC-CCPs) requiring a recognition under EMIR. Following the 4 equivalence decisions made by the European Commission on 30 October 2014, ESMA completed this process for the 11 CCPs established in the jurisdictions corresponding to the 4 countries for which a decision was made and covered by the scope of these equivalence decisions: 10 TC-CCPs were recognised in April.

- **Supervision of Credit Rating Agencies (CRAs)**

- **Registration of CRAs:**

- Since September 2014, 2 new credit rating agencies have been registered (one of them belongs to a group of registered CRAs already registered with ESMA) and 2 CRAs have been certified (US and Mexico). ESMA now supervises 24 CRAs and 4 certified CRAs. Amongst the 24 registered CRAs, 3 operate under a group structure, totalling 17 legal entities in the EU, which means that the total number of CRA entities registered in the EU is now 38.
 - ESMA refused the registration of one CRA and one applicant withdrew its application. ESMA is examining a number of pending applications for registration and certification.

- **On-going supervision of CRAs:**

- ESMA has published its annual supervisory report, which includes 1) the remedial actions implemented by CRAs following the 2013/2014 thematic investigation into structured finance ratings (in particular, RMBS), 2013/2014 thematic investigation into Small and Medium sized CRA, and ESMA's supervisory work on compliance with the requirements introduced by the 2013 amendments to the CRA Regulation regarding disclosures for sovereign ratings; and 2) its supervisory work programme for 2015;
 - ESMA has finalised its investigation into structured finance ratings (in particular, monitoring activities of RMBS ratings) and published a report covering its findings regarding quality controls over the information provided by third parties and

used in the rating process; systematic application of methodologies and thorough analysis of relevant information; annual review of ratings and timeliness of publication; disclosure of information on rating assessments and methodologies; independence of the internal review function responsible for the periodic review of methodologies, models and key rating assumptions; and resources;

- ESMA is currently:
 - finalising its thematic investigation into the review and validation of methodologies (preparing the remedial action plans for CRAs), which will be accompanied by a public consultation on the quantitative and qualitative measures that CRAs should use for the purpose of validation of their methodologies;
 - finalising its thematic work aiming at identifying the risks in the internal IT control and security environments of CRAs;
 - preparing supervisory work on the conflicts of interest posed by the provision of ancillary services (thematic work).

A large part of ESMA's activities focused on on-going desk-based supervision, i.e.:

- analysis of CRAs' periodic information,
- monitoring the effectiveness of the implementation of the remedial actions undertaken by CRAs following ESMA's investigations,
- assessment of applications for exemptions;
- notification of new methodologies for the issuance of new types of credit ratings;
- assessment of compliance with the general disclosure obligations.

Sanction:

- In June 2015, ESMA issued a public notice regarding breaches of compliance, corporate governance and record-keeping by DBRS Ratings Limited and imposed a fine of 30,000 euros as it concluded that DBRS negligently committed an infringement as regards the requirement under the CRA Regulation to arrange for adequate records. The decision by ESMA resulted from a supervisory investigation conducted into DBRS in 2012/20013.

3. Promoting supervisory convergence

ESMA has supported supervisory convergence by issuing Guidelines, Opinions, conducting peer reviews and organising training sessions:

- **4 sets of Guidelines:**
 - 1 set of Guidelines on the application of commodity derivatives definitions C6 and C7 under MiFID I,
 - 1 set of Guidelines on periodic information to be submitted to ESMA by Credit Rating Agencies
 - 1 set of Guidelines on enforcement of the financial information published by issuers listed on regulated markets under the Transparency Directive;
 - 1 set of Guidelines on Alternative Performance Measures (APMs) included in the financial information published by issuers under the Transparency Directive, Prospectuses Directive or the Market Abuse Regulation.

- **19 Opinions, Advice and Decisions:**
 - 1 Opinion on the equivalence of the Israeli prospectus regime ;
 - 3 Opinions under EMIR on CCP college composition and on the clearing obligation;
 - 9 Opinions on Short Selling Regulation on the intention to introduce or renew emergency measures in exceptional circumstances:
 - 2 Opinions relating to CONSOB measures, and
 - 7 Opinions to the Hellenic Capital Market Commission;
 - 1 Opinion and 1 Advice on the AIFMD third-countries regime:
 - 1 Opinion related to (a) the functioning of the EU passport under the AIFMD and (b) the functioning of the marketing of non-EU AIFs by EU AIFMs in the EU and the management and/or marketing of AIFs by non-EU AIFMs in the EU, and
 - 1 Advice on whether the passporting regime should be extended to the management and/or marketing of AIFs by non-EU AIFMs and to the marketing of non-EU AIFs by EU AIFMs.

- 3 Decisions on validations of CCP risk model changes;
- ESMA issued 1 Opinion to the European Parliament, the Council and the Commission calling for a modification of the UCITS Directive to take into account the clearing obligation of certain types of OTC financial derivative transactions required by EMIR.

ESMA is also contributing to the work of the Joint Committee performing the review of the Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector.

- **On peer reviews, ESMA has:**

- published the outcome of 3 peer reviews on:
 - Automated Trading Guidelines;
 - MiFID Conduct of Business regarding fair, clear and not misleading information;
 - MiFID Best Execution rules.
- ESMA has also carried out 14 out of 19 individual visits planned to national competent authorities from March 2015 to September 2015 for three on-going peer reviews; the five remaining on-site visits are scheduled in October and November 2015. These peer reviews aim at assessing the degree of convergence in the application and enforcement of EU law regarding the applicable legal regimes for:
 - Short Selling Regulation and market making activities;
 - Prospectus approval process (this review, where the focus is on workflows, timing and consistency in the manner of approval when scrutinising a prospectus, contributed to the proposal made by ESMA to the Commission on the re-cast of the Prospectus Directive);
 - MiFID suitability requirements.
- ESMA has carried out a review of supervisory practices related to the authorisation of CCPs and the functioning of colleges.

- **ESMA has also carried out 2 follow-up reviews on:**



- Market Abuse Directive Supervisory practices, and
- Money Market Funds.

As part of the new ESMA Strategy, a Supervisory Convergence work programme is being prepared for 2016. The supervisory convergence work programme, counterpart of the regulatory and supervisory work programme, will give an overview of supervisory convergence activities and priorities across ESMA.

- **Other supervisory convergence actions:**

Since September 2014, ESMA has:

- reviewed 10 new requests for a pre-trade transparency waiver in equity markets;
- drafted around 20 new Questions and Answers (Q&As) on EMIR implementation;
- organised from September 2014 to December 2014: 15 training sessions, gathering 453 participants e.g.: on securitisation, prospectus review process, UCITS, EMIR, AIFMD, MiFID II, CRA, etc.. ESMA has also offered 50 e-learning courses with 400 tutorials for about 400 users. **The training programme was suspended in 2015 due to budgetary constraints.**

4. Assessing risks to investors and financial stability

Over the last 12 months, ESMA has:

- issued 1 statement on potential risks associated with investing in contingent convertible instruments;
- issued 3 reports on Trends, Risks and Vulnerabilities in the EU, including in-depth topical analyses of vulnerabilities, helping investors and other market participants to better assess key product and market developments on:
 - fund investments in loan participation and loan origination;
 - alternative indices;
 - systemic risk in the hedge funds industry;
 - trading venue developments and operational risk;

- systemic relevance of securities financing markets in the EU;
 - performance and risks of Exchange-Traded Funds;
 - crowdfunding;
 - measuring the shadow banking system;
 - primary dealer funding and sovereign bond liquidity;
 - bank loan mutual funds.
- published 4 Risk Dashboards, featuring a clear and intuitive categorisation of risk levels for (retail) investors to better understand risks they are exposed to, based on sophisticated, state-of-the-art risk metrics;
 - participated in the drafting of 2 ESA Joint Committee and 2 IOSCO Risk Reports;
 - published an Economic Report on High Frequency Trading activity in EU equity markets, which supported the single rulebook work on this topic under MiFID;
 - published a working paper on real-world and risk-neutral probabilities in the regulation on the transparency of structured products.

5. ESMA's role in the field of international cooperation

ESMA's international work has included taking its seat as an observer to the IOSCO Board. Other IOSCO work includes an active participation in the Committee 6 on CRAs, in the European Regional Committee, and in the Risks Committee as well as in the Committee on Payment and Settlement Systems (CPSS-IOSCO). Recently, ESMA joined several policy committees as an observer. ESMA is also participating in some of the work of the Financial Stability Board.

ESMA, together with the European Commission, has worked within the OTC Derivatives Regulators Group (ODRG). The main focus has been to identify gaps and inconsistencies on the rules implementing the G20 commitments and ways to address them.

ESMA is also an official observer to the IFRS Advisory Council, the formal advisory body to the IASB and the Trustees of the IFRS Foundation providing advice on the priorities and development of IFRS as high quality globally accepted standards.



ESMA's own international work has seen it focus on equivalence assessments, developing and concluding cooperation agreements, as well as preparing for the extension of the AIFMD passporting regime. During the last year ESMA negotiated and concluded agreements between EU securities regulators and their global counterparts with responsibility for the supervision of CCPs and TRs:

- ESMA signed 4 MoUs with with non-EU authorities, from 4 different third countries, that are responsible for the supervision of the TC-CCPs from these countries that have applied for recognition under EMIR, and is negotiating MoUs with non-EU authorities from 7 other third countries;
- ESMA signed 2 MoUs related to access by third country authorities to trade repository data. ESMA is negotiating other TR data access MoUs

As an organisation responsible for the development of regulations affecting the EU's financial markets and for the supervision of key market participants (CRA and TR), ESMA is closely involved in day to day cooperation with its regulatory counterparts in third country jurisdictions.

6. ESMA as an organisation: (*number of Staff as of 31 August 2015)

Years	Number of staff
2011	56
2012	83
2015	139
2014	153
2015*	178

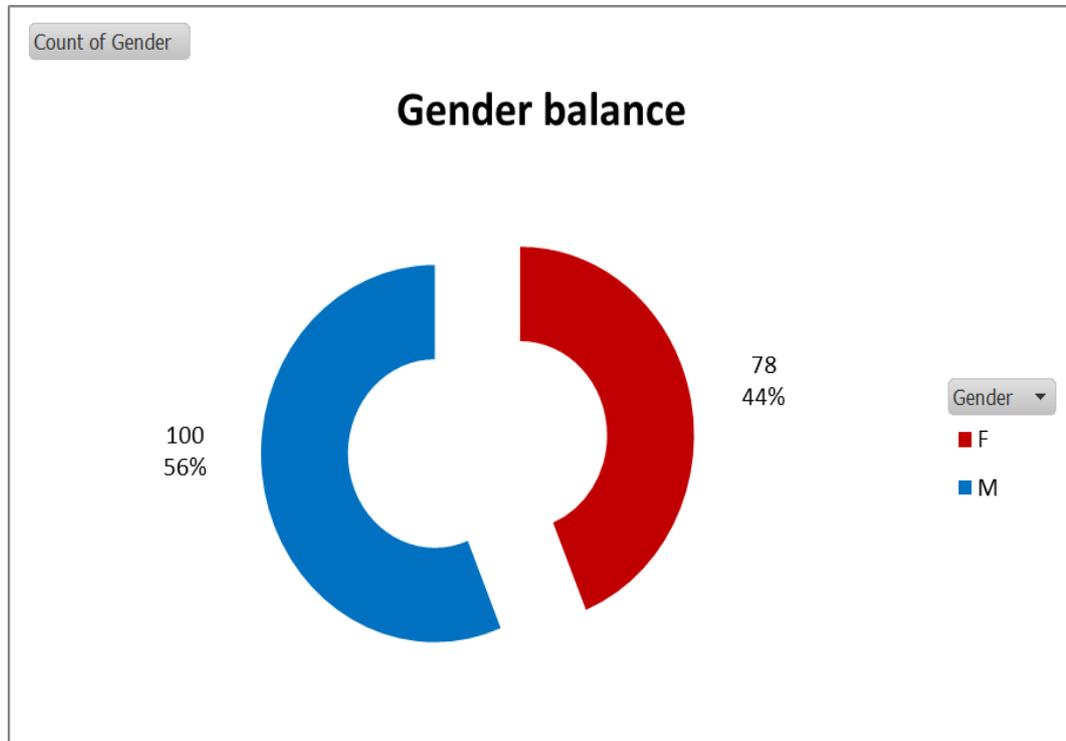
Staff per Division/Unit (status on 31/08/2015)¹:

	Credit Rating Agencies	Investment & Reporting Division	Legal, Cooperation and Convergence Unit	Markets Division	Operations Division	Risk Analysis & Economics	Senior Management ²	T
TA	21	16	13	26	29	11	9	
CA	4	2	3	3	10	8		
SNE	2	7	4	6	3	1		
Total	27	25	20	35	42	20	9	

¹ TA – Temporary Agent, CA – Contract Agent, SNE – Seconded National Expert

² Senior Management includes the Chair and Executive Director, Accounting, Communications and Internal Control.

Gender balance (status on 31/08/2015):



23 nationalities (status on 31/08/2015):

Country	Number of staff
AT	1
BE	3
BG	3
CZ	2
DE	19
DK	3
ES	10
FI	1
FR	42
GB	15
GR	11
HU	2
IE	9
IT	27

LT	2
LV	2
NL	4
NO	1
PL	5
PT	6
RO	6
SE	2
SK	2
Total	178