



Annex to the Statement
by Steven Maijor, Chair of ESMA
to the ECON hearing, 26 September 2016

Facts and figures
from September 2015 to September 2016

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 2015:

- **74 draft technical standards** (TS) including draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS):
 - 29 draft RTS under MiFID II/ MiFIR:
 - 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, record keeping and clock synchronisation;

- 3 on post-trading issues;
- 2 on investor protection issues.
- 11 draft ITS under MiFID II:
 - 1 on content and format of the description of the functioning of MTFs and OTFs;
 - 1 on standard forms, templates and procedures for cooperation arrangements in respect of a trading venue whose operations are of substantial importance in a host Member State;
 - 1 on format and timing of the communications and the publication regarding the suspension and removal of financial instruments from trading on a Regulated Market, an MTF or an OTF;
 - 1 on standard forms, templates and procedures for the authorisation of data reporting services providers;
 - 1 on position reporting;
 - 1 on the format and timing of weekly position reports;
 - 1 on standard forms, templates and procedures for competent authorities to cooperate in supervisory activities, on-site verifications, and investigations and for the exchange of information;
 - 1 on standard forms, templates and procedures for the consultation of other competent authorities prior to granting an authorisation;
 - 1 on procedures and forms for submitting information on sanctions and measures;
 - 2 on investor protection issues (notification of sanctions and cooperation and exchange of information between NCAs).
- 12 draft TS under the Market Abuse Regulation (MAR):
 - 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;
 - 1 ITS on exchange of information with ESMA on sanctions and measures imposed and investigations undertaken
- 7 draft TS under EMIR:
 - 1 RTS on margin requirements for non-centrally cleared derivatives (jointly with EBA and EIOPA);
 - 1 RTS on the clearing obligation for index credit default swaps on some European corporate indices;
 - 1 RTS on the clearing obligation for interest rate OTC derivatives denominated in some EEA currencies;
 - Review and amendment of 1 RTS and 1 ITS on the reporting obligation;
 - Review and amendment of 1 RTS on the margin period of risk for CCP cleared client accounts; and
 - Review and amendment of 1 RTS on indirect clearing arrangements.
 - 5 draft TS under the Central Securities Depositories Regulation (CSDR):
 - 1 RTS on CSD requirements;
 - 1 RTS on settlement discipline;
 - 1 RTS on internalised settlement;
 - 1 ITS on CSD requirements;
 - 1 ITS on internalised settlement.

- 1 ITS under the Capital Requirements Regulation (CRR): on credit assessments by External Credit Assessment Institutions (jointly with EBA and EIOPA);
 - 1 ITS on sanctions under the UCITS V Directive;
 - 1 RTS on the European Electronic Access Point (EEAP) under the amended Transparency Directive;
 - 3 RTS on the Key Information Documents (KIDs) under Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation (jointly with EBA and EIOPA);
 - 4 RTS under the Regulation on European Long-term Investment Funds (ELTIF).
- **6 Opinions** on Commission's proposed amendments to ESMA's TS:
 - 3 Opinions on the Commission's proposed amendments to the draft RTS on non-equity transparency, ancillary activities and position limits (MiFID II / MiFIR);
 - 1 Opinion on the Commission's proposed amendments to the ITS on public disclosure of inside information and on delaying of the public disclosure of inside information (MAR);
 - 1 Opinion on the Commission's proposed amendments to the draft ITS on main indices and recognized exchanges (Capital Requirements Regulation);
 - 1 Opinion on the Commission's proposed amendments to the draft RTS on bilateral margins (EMIR), jointly with EBA and EIOPA.
 - **2 Technical Advice (TA)** to the European Commission under the CRA Regulation on Competition, choice and conflict of interest in the CRA Industry and on Reducing mechanistic reliance on external Credit Ratings; complemented with 1 Report on the possibility of establishing one or more mappings of credit ratings published on the European Rating Platform.
 - **1 Opinion** to the European Commission, Parliament and Council on Key principles for a European framework on loan origination by funds.



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):**

- Under EMIR, ESMA has direct responsibilities regarding the registration, supervision and recognition of TRs, which constitute one of the key elements of the post-crisis regulatory reform with the aim to create a more stable and transparent OTC derivatives market. ESMA aims to ensure that TRs comply on an ongoing basis with all EMIR requirements, thereby enabling various regulators to access data and details of derivative contracts in order for them to fulfil their respective mandates.
- The 6 TRs registered in November 2013 by ESMA continue to collect the derivative trades under EMIR. Two more TR applications for registration with ESMA are under assessment.
- There are 44 EU regulatory authorities that have access to at least one TR as of mid-June 2016. They include NCAs, national central banks, ESRB, ECB and ESMA.
- As of 11 August, the TRACE project facilitating data access for 29 NCAs through a single platform was launched. All 6 TRs started sending reports through this central ESMA system under new requirements. TRs will also keep running the systems they had set up previously, until data quality is consistent in both.
- As of mid-September 2016, more than 11 billion new trades have been reported to all the TRs (since the beginning of reporting in February 2015). The number of overall submissions including trades and lifecycle events exceeds 41 billion.
- There are around 300 million trade reports submitted on a weekly basis to TRs.
- ESMA has continued to work on its main priorities on TR data quality and access, financial risk and information security risk through day-to-day supervision, thematic reviews and individual investigations which have resulted in a number of remedial

actions regarding data access by authorities, confidentiality, IT systems and IT functions outsourcing.

- On data quality in particular, ESMA is continuing to put considerable effort into the overall improvement of the data quality at the TRs and is cooperating closely with NCAs, the supervisors of the counterparties submitting data to the TRs. ESMA's focus under the Data Quality Action Plan is on:
 - Harmonisation of data validations applied by TRs, and
 - Continuation of the inter-TR reconciliation process monitoring.
 - On information security risk in particular, ESMA continued its thematic review on cyber security at TRs.
 - On financial risk and more general business strategy and governance, ESMA has started to focus on the pricing practices of TRs. More specifically, an important deliverable for 2016 is the development of a supervisory strategy that sets out how ESMA intends to supervise the requirement that fees charged by TRs should be cost-related and access to TR services should be non-discriminatory.
 - ESMA is preparing for applications under the new Securities Financing Transactions (SFT) Regulation, in order to collect from counterparties reports with the details of SFTs and provide access to this data for the respective regulatory authorities.
- **Supervision of Credit Rating Agencies (CRAs):**
 - Since September 2015, 2 new credit rating agencies have been registered. ESMA now supervises 26 CRAs and 4 certified CRAs. Amongst the 26 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 40.
 - ESMA refused the registration of one CRA. ESMA is examining a number of pending applications for registration.

- ESMA has continued to work on its main priorities as identified in the 2015 WP being governance and strategy and the quality of credit ratings and credit rating activities.
- In addition to its work in these areas, ESMA is developing its internal IT tools and external systems such as the European Rating Platform (ERP).
- Through its ongoing supervision, ESMA's has further worked on:
 - 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 and withdrawal of exemptions
 - notification of new methodologies and changes to methodologies
 - assessment of compliance with the general disclosure obligations
- In addition, ESMA is engaging on an ongoing basis with various functions in different CRAs on topics related to internal control, compliance, governance, analytical work, methodologies, organisational set-up, staffing, conflicts of interest etc.
- An important deliverable for 2016 is the development of a supervisory strategy that sets out how ESMA intends to supervise the requirement that fees charged by CRAs should be non-discriminatory and based on actual costs.
- In terms of investigations, ESMA has finalised its investigation into the review and validation of methodologies, its thematic work aimed at identifying risks in the internal IT controls and security environments of CRAs, and 2 individual investigations.
- Furthermore, ESMA is currently conducting targeted individual investigations related to possible conflict of interests and independence of the rating process.

- **Sanctions:**

- As a result of ESMA's first enforcement action taken against Fitch Ratings Ltd ('Fitch'), ESMA issued a public notice in respect to three infringements committed by Fitch:
 - (1) a failure to allow due time to representatives of Slovenia to respond to Fitch's downgrade of its credit rating for Slovenia;
 - (2) a failure of internal controls in relation to the requirement to allow due time to respond to such changes in credit rating; and
 - (3) unauthorised disclosures to persons within a parent company of unpublished changes or potential changes in sovereign ratings.

ESMA therefore fined Fitch a total of €1.38m.

- As a result of the first enforcement action against DTCC Derivatives Repository Ltd ('DTCC'), ESMA issued a public notice in respect to the negligent failure of the DTCC to provide regulators with immediate access to derivatives trading data' and fined DTCC €64,000 for this breach of the Regulation.

- **Recognition of third-country Central Counterparties (CCPs):**

Concerning CCPs, since September 2013, ESMA has been managing the application of 45 third-country CCPs (TC-CCPs) applying for recognition under EMIR. Following the 10 equivalence decisions made so far by the European Commission (4 on 30 October 2014, 5 on 13 November 2015 and 1 on 15 March 2016), ESMA has completed this process for a total of 19 CCPs established in the jurisdictions corresponding to the countries covered by the scope of these equivalence decisions (9 of these TC-CCPs were recognised in the time period covered by this report).

3. Promoting supervisory convergence

As part of the new ESMA Strategic Orientation, announced in June 2015, ESMA has significantly increased its activities in the area of supervisory convergence over the last months. In particular, a first ESMA Supervisory Convergence work programme has been published for 2016. The supervisory convergence work programme, counterpart of the regulatory and supervisory work programme, gave a comprehensive overview of supervisory convergence activities and priorities across ESMA. The following priorities have been identified for 2016: preparing for the sound, efficient and consistent implementation and supervision of MiFID II/MiFIR, finalising the IT infrastructure needed to support the effective implementation and supervision of MiFID II/MiFIR and MAR, facilitating the sound and consistent supervision of OTC derivatives markets and in particular of EU CCPs and supporting the effective application of the Capital Markets Union.

ESMA has supported supervisory convergence, among others, by issuing Guidelines, Opinions, Questions and Answers (Q&As), conducting peer reviews and organising training sessions:

- **6 sets of Guidelines:**
 - 1 set of Guidelines on sound remuneration policies under the UCITS Directive and AIFMD;
 - 1 set of Guidelines on legitimate delay of disclosure under MAR;
 - 1 set of Guidelines for persons receiving market soundings under MAR;
 - 1 set of Guidelines on cross-selling practices under MiFID;
 - 1 set of Guidelines on knowledge and competence under MiFID II;
 - 1 set of Guidelines on complex debt instruments and structured products under MiFID II.

- **20 Opinions, Advice and Decisions:**
 - 5 Opinions under EMIR on certain pension scheme arrangements in relation to the clearing obligation;
 - 6 Opinions related to the Short Selling Regulation on the intention to introduce or renew emergency measures in exceptional circumstances:
 - 1 Opinion relating to CONSOB (Italy) measures, and
 - 5 Opinions (including a negative one) to the Hellenic Capital Market Commission (Greece);

- 1 Advice on the AIFMD third-countries regime as to 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;
- 1 Opinion on accounting for Deposit Guarantee Schemes (DGS);
- 1 Statement on disclosure of information in relation to the application of the new standard IFRS 15;
- 1 Statement on improving the quality of disclosures in the financial statements;
- 5 Decisions on validations of CCP risk model changes.

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.

- **Peer reviews:**

- ESMA published the outcome of 3 peer reviews on:
 - MiFID Suitability requirements;
 - Prospectus approval process; and
 - Compliance with the Short Selling Regulation as regards Market Making activities.
- As part of the peer review work, ESMA carried out 13 individual onsite visits to NCAs. A similar number are planned for ongoing peer reviews on:
 - Guidelines on Enforcement of Financial Information; and
 - MiFID Compliance function guidelines.
- ESMA has also carried out 2 follow-up reviews on:
 - Supervisory Practices against Market Abuse: this follow up peer review was limited to the areas where shortcomings were noted previously;
 - Money Market Fund Guidelines: 8 NCAs were assessed which at the time of the previous peer review had not fully applied or had not implemented at all the Guidelines.

- **Other supervisory convergence actions:**

Since September 2015:

- ESMA has been coordinating (since mid-2015) the activities of a group comprising a number of host National Competent Authorities and the Cyprus Securities and Exchange Commission (CySEC), in its capacity as home supervisor under MiFID. The work of this group has focussed on issues arising in relation to a number of Cyprus-based investment firms offering CFDs, binary options and other speculative products and that are operating throughout Europe on a cross-border basis.
- ESMA received a request for binding mediation in August 2016 under Article 19 of the ESMA Regulation. It relates to the conditions for exercising a temporary suspension of redemption requests under the UCITS Directive (Art. 84).
- ESMA has reviewed 3 new requests for a pre-trade transparency waiver in equity markets;
- ESMA has drafted 14 new Q&As on EMIR implementation; 14 Q&As on the application of MiFID, MiFID II/MiFIR, 2 Q&As on the application of the 2003 Market Abuse Directive (MAD) and 2 Q&As on the recently applicable MAR; 1 Q&A on the application of the CRA Regulation; 21 Q&As on the application of the AIFMD, 5 Q&As on the application of the UCITS Directive, 1 Q&A on the application of the EuSEF and EuVECA Regulations and 2 Q&As on the application of the Prospectus Directive;
- ESMA organised from January 2016 to September 2016: 11 training sessions, gathering 406 participants on topics such as Commodities, Prospectus review process, CSDR, MiFID/MiFIR II, IT implementation, Market monitoring. ESMA has also offered 70 e-learning courses for about 313 users. The training programme had been suspended in 2015 due to budgetary constraints and was revived in 2016 due to the urgent needs of national regulators.

4. Assessing risks to investors and financial stability

Over the last 12 months, ESMA has:

- issued 1 risk assessment report prepared by ESMA in consultation with the ESRB, assessing the need to temporarily exclude exchange traded derivatives (ETDs) from the open access provisions in Articles 35 and 36 of MiFIR;
- issued 1 statement on sales practices related to instruments subject to the BRRD regime;
- issued 1 investor warning about the sale of contracts for differences (CFDs), binary options and other speculative products;
- 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 relevant market developments;
- published 5 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 Risk Reports;
- developed, together with NCAs, an annual Data Quality Action Plan aiming at enhancing the quality of data reported to Trade Repositories.

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

ESMA, as part of its remit, has worked extensively with IOSCO in its position 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). Since 2015 ESMA has joined several policy committees as an observer and contributes to their policy work. ESMA also participates in some of the work of the Financial Stability Board.

ESMA has further contributed to the international work for the development and maintenance of global data standards. In particular, ESMA is involved in the Legal Entity Identifier Regulatory Oversight Committee (LEI ROC) and in the CPMI-IOSCO work on Harmonisation of OTC derivatives data for the purpose of global aggregation of data reported to Trade Repositories (Harmonisation WG).

ESMA's own international work has seen its focus on equivalence assessments, developing and concluding cooperation agreements, as well as significantly contributing to 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 7 MoUs with non-EU authorities that are responsible for the supervision of the TC-CCPs from the countries that have applied for recognition under EMIR;
- ESMA signed 1 MoU related to ongoing CRA supervisory and enforcement cooperation;
- ESMA signed 1 MoU related to access by third country authorities to trade repository data and is negotiating other TR data access MoUs with non-EU authorities from 2 other third countries.

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 and supervisory counterparts in third country jurisdictions. ESMA is also committed to contribute to development of regulatory framework on the global level and thus coordinate the European position in the relevant organisations as appropriate.

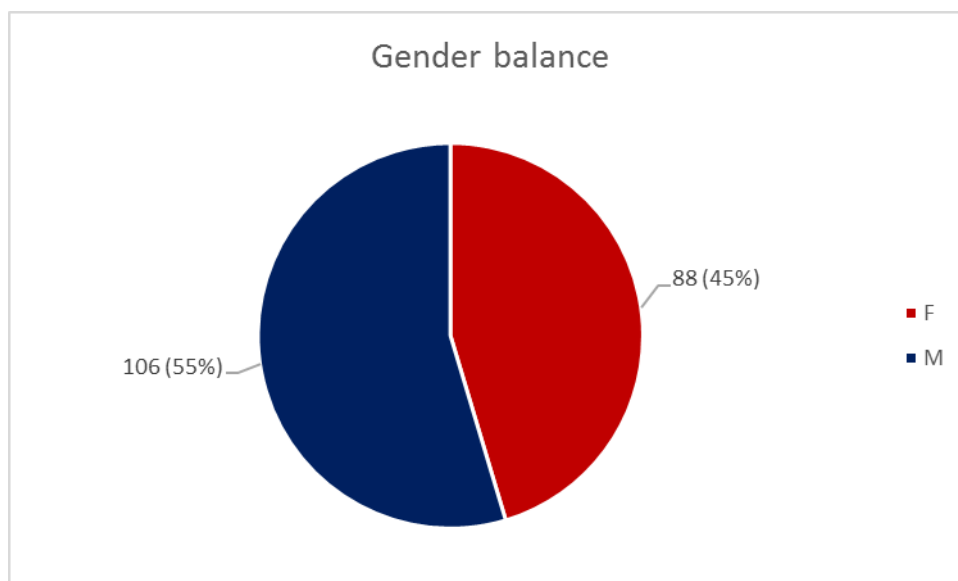
6. ESMA as an organisation: (*number of Staff as of 31 August 2016)

Years	Number of staff
2011	56
2012	83
2015	139
2014	153
2015	186
2016*	194

Staff per type (status on 31/08/2016):

	Total staff
TA	133
CA	40
SNE	21
Total	194

Gender balance (status on 31/08/2016):



Staff by nationality (status on 31/08/2016):

Country	Number of staff
AT	1
BE	2
BG	5
CZ	2
DE	19
DK	3
ES	11
FI	1
FR	46
GB	15
HU	2
IE	11
IT	28
LT	2
LV	1
NL	5
NO	1
PL	8
PT	4
RO	9
SE	2
SK	2
EL	13
AU	1
Total	194