



Annex to the Statement
by Steven Maijoor, Chair of ESMA
to the ECON hearing, 4 November 2019

**Facts and figures
from 1 October 2018 to 15 October 2019**

ESMA enhances investor protection and promotes stable and orderly financial markets through

- (1) developing a single rulebook for EU financial markets;
- (2) supervising certain 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, the Authority has undertaken the following work since 1 October 2018:

- **9 draft Technical Standards (TS)** including draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS):
 - 3 RTS and 1 ITS under the Securitization Regulation on (i) the information to be provided in the application for registration of a securitisation repository, (ii) the format of information to be provided in the application for the registration of a securitisation repository, (iii) securitisation operational standards for data collection, aggregation, comparison, access and verification of completeness and consistency, and (iv) cooperation, exchange of information and notification between competent authorities and ESMA, the EBA and EIOPA;
 - 2 RTS under EMIR, as amended by the Securitisation Regulation, jointly developed with the ESAs, on the clearing obligation and bilateral margining requirements for covered bonds and securitisation;
 - 1 RTS under EMIR on the novation of contracts for which the clearing obligation has not yet taken effect;

- 1 RTS under EMIR, jointly developed with the ESAs, on the novation of contracts for which the bilateral margining requirements have not yet applied; and
- 1 RTS on cooperation arrangements with third countries based on Article 26(2) of MAR

ESMA also contributed to the work of the ESAs Joint Committee on 1 RTS on amendment to the PRIIPs Delegated Regulation to extend the time period for which PRIIP manufacturers that offer a range of options for investment are exempted from preparing a PRIIPs KID. Moreover, ESMA also contributed to the work of the ESAs Joint Committee on the review of the PRIIPs KID through a consultation on further targeted amendments to the PRIIPs Delegated Regulation.

- **2 Amendments of Technical Standards:**

- 1 Amendment to the RTS on the electronic reporting format under the Transparency Directive; and
- 1 Amendment to the RTS on the tick size regime for shares, depositary receipts and exchange traded funds under MiFIR.

- **5 pieces of Technical Advice (TA):**

- 1 TA on the integration of sustainability risk in MiFID II;
-
- 1 TA on the integration of sustainability risk in UCITS and AIFMD;
- 1 TA on sustainability considerations in the Credit Rating Market;
- 1 TA on Minimum Information Content for Prospectus Exemption; and
- 1 TA on Securitisation Repositories Fees.

In addition, ESMA published its Advice to the EU Institutions on initial coin offerings and crypto-assets. The Advice clarifies the existing EU rules applicable to crypto-assets that qualify as financial instruments and provides ESMA's position on any gaps and issues in the current EU financial regulatory framework for consideration by EU policymakers.

Furthermore, ESMA issued, jointly with EBA and EIOPA, a Technical Advice to the Commission on the costs and benefits of developing a coherent cyber resilience testing framework for significant market participants and infrastructures within the whole EU financial sector, and a Technical Advice to the European Commission on the need for legislative improvements relating to ICT risk management requirements in the EU financial sector.

Following the review of EMIR regarding CCP supervision (“EMIR 2.2”), ESMA’s work on a set of three TAs has also greatly progressed and the TAs will cover tiering criteria, comparable compliance and fees. The final report will be submitted shortly.

Finally, ESMA started working on the review reports under MiFID II, with a call for evidence on position limits and position management controls published in May 2019, a consultation on the development of prices for market data and the consolidated tape for equity instruments published in July 2019, a call for evidence on the disclosure of inducements, costs and charges published in July, 2019, and a call for evidence on the effects of product intervention measures regarding CFDs and binary options on market participants and clients published in September 2019. In addition, ESMA has started working on the review report on the Market Abuse Regulation (“MAR”) with a consultation published in October 2019.

2. Direct supervision of financial entities by ESMA

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

- At the beginning of 2019 ESMA registered two TRs and deregistered one, bringing the total number of TRs registered by ESMA to 9. The two registrations are part of the TRs response to the UK’s decision to withdraw from the UK.
- There are more than 50 EU regulatory authorities that have access to at least one TR as of October 2019. They include NCAs, national central banks, ESRB, ECB, EIOPA, ACER and ESMA.
- As of October 2019, the TRACE infrastructure (launched in Aug 2016) facilitates data access for 36 NCAs through a single platform while 4 more authorities have expressed their interest to get access to TR data through this platform.
- As of September 2019, a total of more than 30 billion new trades have been reported to the TRs (since the beginning of reporting in February 2014). The number of overall submissions including trades and lifecycle events exceeds 94 billion.
- For the last 4 months, there has been on average more than 300 million trade reports submitted on a weekly basis to TRs.
- In line with its 2019 work programme, since October 2018, ESMA has continued to work on its main priorities of TR data quality and access by authorities, TR business continuity planning, IT process and system reliability and information security through day-to-day supervision, thematic reviews and individual investigations. More specifically, ESMA has worked on:

- Improving TR data quality through the Data Quality Action Plan, which includes cooperating closely with NCAs, the supervisors of the counterparties submitting data to the TRs;
 - Assessing the systems, controls and procedures that TRs put in place in order to provide authorities with complete and accurate derivatives data; and
 - Monitoring the implementation of the Guidelines on Portability by TRs and engaging with TRs where supervisory concerns were identified.
- **Supervision of Credit Rating Agencies (CRAs)**
 - Since October 2018, ESMA registered three new CRAs and withdrew the registration of five CRAs. Two of the three registrations are part of the CRAs response to the UK's decision to withdraw from the UK. Three of the five withdrawals are the effect of corporate reorganisations of groups of CRAs.
 - ESMA now supervises 28 CRAs and four certified CRAs. Amongst the 28 registered CRAs, four operate under a group structure, totalling 18 legal entities in the EU, which means that the total number of CRA entities registered in the EU is now 42.
 - In line with its 2019 work programme, since October 2018, ESMA has continued to work on the risks identified in CRAs' outstanding credit ratings, the quality of the rating process and cybersecurity. More specifically ESMA has worked on:
 - Assessing the quality and robustness of the rating monitoring process of CRAs and communicating concerns with respect to the thoroughness of the analysis, the disclosure to investors and the controls around among others conflicts of interest to the CRAs involved;
 - Surveying a sub-set of EU-registered CRA industry's view of the cyber-threat landscape, to assess the current state of the cybersecurity risk environment, as perceived by the CRAs, as well as the current defence mechanisms and capabilities CRAs have employed to protect their assets from cyber-attacks; and
 - Performing on-site visits to CRAs to assess their corporate governance arrangements and internal control processes as part of its ongoing monitoring activities and cycle of engagement.
 - In terms of investigations, ESMA has finalised its investigations into:
 - The development, approval, and validation of a specific model and the related rating methodology of a CRA. In this investigation, ESMA focused on the allocation of roles and responsibilities, the applicable internal control

mechanisms and their implementation, and the corresponding records and documentation (medium size CRA);

- The quality and accuracy of credit ratings issued by two CRAs. Areas of focus were, among others: (i) the rating methodologies, models, and key rating assumptions; (ii) the process to issue, monitor, and review credit ratings and related controls; and (iii) the resources employed in the different phases of the rating process (medium size CRAs); and
- The process to assign credit ratings to individual instruments (issue credit ratings) of two CRAs. Areas of focus were: (i) the quality of the rating process, including the regular monitoring and review of credit ratings; and (ii) the adequacy and efficiency of the relevant internal controls (large size CRAs).

- **Common areas of supervision across CRAs and TRs**

- In its 2019 work programme, ESMA has also identified areas of focus across CRAs and TRs, including Brexit, fees and internal controls.
- Brexit has been a key area of focus for ESMA during 2018 and 2019. Since October 2017, ESMA has closely monitored the contingency plans implemented by CRAs and TRs in preparation of Brexit. In both industries ESMA has noted significant steps forward in terms of preparedness for a no deal Brexit scenario.
- ESMA has also worked on the follow-up on the Thematic Report on fees charged by CRAs and TRs which included identifying good practices and further areas for improvements which will be published into a Follow-up Report aimed at enhancing the CRA and TR industries' standards in the areas of transparency to customers, cost monitoring and fee setting processes.
- In addition, ESMA is continuing to work on a framework for internal controls for both TRs and CRAs, with the objective to introduce public guidance in this respect at a later stage.

- **Sanctions**

- Sanction on Fitch entities

In March 2019 ESMA fined Fitch France €812,500 and issued a public notice for negligently breaching the CRA Regulation. ESMA found that the CRA infringed the CRA Regulation by failing to disclose immediately the fact that over 10% of its capital/voting rights were held by an individual shareholder, who was a board member of rated entity Fondation Nationale des Sciences Politiques (FNSP).

As part of the same March 2019 proceedings, ESMA also fined Fitch €3,195,000 and issued corresponding public notices for having issued ratings on Casino-Guichard-

Perrachon (“Casino”) instruments, despite the fact that an individual holding more than 10% of its capital was a board member of Casino, for not having immediately assessed whether there were grounds for re-rating or withdrawing the existing credit rating on FNRP, for not having adequate policies and procedures to ensure compliance with its obligations under the Regulation, and for not having internal control mechanisms designed to secure compliance with decisions and procedures at all levels.

- Sanction on Regis TR

In July 2019 ESMA found that Regis-TR, the second largest EU-registered trade repository, failed to put in place systems capable of providing to regulators direct and immediate access to derivatives data from the start of the EMIR reporting obligation in February 2014 to October 2016. These access failures related to:

- 85.5% of Regis-TR’s data on trade terminations and 1.6% of data on trade modifications; and
- 100% of Regis-TR’s data on trade valuations and 100% of data on collateral updates.

ESMA also found that Regis-TR had committed the infringement negligently and, therefore, imposed a fine of €56,000.

- Update on Nordic banks, further to the Board of Appeal decision

Between June 2011 and August 2016, five banks (Nordea Bank, Svenska Handelsbanken, SEB, Danske Bank and Swedbank) issued credit research to their clients – and SEB continued to do so until May 2018. This credit research included the issuance of what the banks described as shadow ratings. These reports related to different entities and underlying financial instruments and these reports included opinions, which ESMA found that they met the definition of a credit rating provided for by the CRAR. However, no bank had acquired the necessary ESMA authorisation to issue ratings and such conduct infringes the CRAR which requires prior authorisation. None of the five banks was registered as a CRA nor had they applied for registration.

ESMA, in June 2018, fined the five banks €495,000 each for negligently infringing the Credit Rating Agencies Regulation (CRAR) by issuing credit ratings without being authorised by ESMA to do so.

Four of the five banks (Nordea Bank, Svenska Handelsbanken, SEB, and Swedbank) appealed against ESMA’s decisions in 2018 to the Board of Appeal of the European Supervisory Authorities (BoA). In February 2019, while upholding all the infringements, the BoA accepted the banks’ claim that they had not acted negligently given the very unusual circumstances of the banks’ practice and while applying the high standard of care required of the banks. Based on this decision, ESMA decided that the only

appropriate supervisory measure in the four banks' cases were public notices regarding the banks' infringements and that no fine will be imposed, in accordance with CRAR.

- **Preparation for the supervision of Securities Financing Transactions and Securitisation Repositories**

ESMA is currently (i) assessing applications for registration as a trade repository under the Securities Financing Transactions (SFT) Regulation and (ii) preparing for their supervision after the start of the reporting obligation in April 2020. Under the SFT Regulation, the registered entities will collect from counterparties reports with the details of SFTs and provide access to this data for the respective regulatory authorities.

ESMA is also preparing for applications under the Securitisation Regulation. The Securitisation repositories will collect securitisation data (via standardised templates) and documentation from originators, sponsors and Securitisation Special Purpose Entities (SSPEs), and provide direct and immediate access free of charge to investor, potential investors, and a specific set of public authorities.

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

Concerning the actual recognition of third-country CCPs (TC-CCPs), since September 2013, ESMA has been managing the application of 51 TC-CCPs applying for recognition under EMIR.

Following the equivalence decisions for 14 third countries made so far by the European Commission, ESMA has completed this process for a total of 34 CCPs established in the jurisdictions corresponding to the countries covered by the scope of these equivalence decisions.

In 2019, two Indian CCPs were recognised. Three UK CCPs were also conditionally recognised as a preventive measure in case of a no-deal Brexit scenario (see below).

In addition, ESMA has been preparing the implementation of the changes introduced by EMIR 2.2 in terms of responsibilities, scope of activity and governance.

- **Conditional recognition of the UK Central Securities Depository (CSD)**

Similarly, to the case of UK CCPs mentioned above, one UK CSD was also conditionally recognised as a preventive measure in case of a no-deal Brexit scenario (see below).

3. Promoting supervisory convergence

As part of the ESMA Strategic Orientation 2016-2020, ESMA has significantly increased its activities in the area of supervisory convergence to ensure a consistent application of EU



regulation in the Single Market. ESMA laid out the following supervisory convergence priorities for 2019:

- Ensuring supervisory convergence in the context of the UK's decision to withdraw from the EU; Making data and its use more robust and consistent by developing and further clarifying reporting methodologies and providing guidance to ensure complete and high-quality data;
- Driving forward consistency in the application of MiFID II/MiFIR and getting to a common understanding on arising supervisory challenges;
- Safeguarding the free movement of services in the EU through adequate investor protection in the context of cross-border provision of services; and
- Fostering supervisory convergence in the field of financial innovation.

ESMA has supported supervisory convergence, among others, by issuing Guidelines, Opinions, Questions and Answers (Q&As), fostering discussion of concrete supervisory cases and conducting peer reviews:

- **8 sets of Guidelines:**
 - 1 set of updated Guidelines on the submission of periodic information to ESMA by Credit Rating Agencies;
 - 1 set of Guidelines on Disclosure Requirements Applicable to Credit Ratings;
 - 1 set of Guidelines for non-significant benchmarks;
 - 1 set of Guidelines on risk factors under the Prospectus Regulation;
 - 1 set of updated Guidelines on the application of certain financial instruments definitions in MiFID II;
 - 1 set of Guidelines on the reporting to competent authorities under article 37 of the MMF Regulation;
 - 1 set of updated Guidelines on stress test scenarios under the MMF Regulation; and
 - 1 set of Guidelines on liquidity stress testing in UCITS and AIFs;

Pursuant to Article 16(4) of the ESMA Regulation, ESMA has to inform the European Parliament, the Council and the Commission of the Guidelines and Recommendations that have been issued, stating which competent authority has not complied with them, and outlining how the Authority intends to ensure that the competent authority concerned follows its recommendations and Guide-

lines in the future. To meet this objective, ESMA has continued publishing on its website compliance tables for each set of Guidelines, as well as an overview table of those, showing all the notifications of compliance, non-compliance, or intentions to comply.

For all Guidelines issued by ESMA since its inception, there are currently 20 instances in which an NCA has declared non-compliance with a set of Guidelines (instead of 17 instances in October 2018). The slight increase over the last twelve months is due on the one hand to two further NCAs communicating to ESMA that they do not intend to continue complying with the *Guidelines on the Exemption for market making activities and primary market operations under the SSR*, and, on the other hand, to the publication of the new compliance table for the *Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under CRD IV and MiFID II*.

- **275 Opinions, pieces of Advice and Reports:**

- 184 Opinions under MiFID on pre-trade transparency non-equity waivers;
- 50 Opinions under MiFID on pre-trade transparency equity waivers, including the review of 4 pre-trade transparency waivers granted under MiFID I;
- 1 Opinion on the ancillary activity calculations;
- 26 Opinions on position limits;
- 1 Report on waivers and deferrals;
- 1 Opinion on frequent batch auctions and the double volume cap mechanism;
- 1 Opinion under SSR (on BaFin's short-selling ban of Wirecard AG shares);
- 5 pieces of Advice to NCAs on recognition of 3rd country administrators under BMR;
- 1 Opinion on the assessment of a NCA on designation of a critical benchmark under BMR;
- 1 Report on preliminary findings regarding multiple withholding tax reclaim schemes;
- 1 Report on accepted market practices under Article MAR;
- 1 Report on administrative and criminal sanctions and other administrative measures under MAR;
- 1 Report on penalties and measures imposed under the UCITS Directive; and

- 1 Report on sanctions and measures imposed under MiFID II.
- **243 Questions and Answers (Q&As):**
 - 1 Q&As under CRAR regarding notification to ESMA by CRAs on errors in their rating methodologies or in their application;
 - 1 Q&As under AIFMD on notification requirements with regard to AIFMs managing umbrella AIFs on a cross-border basis;
 - 2 Q&As under AIFMD on the calculation of leverage;
 - 5 Q&As under AIFMD on depositaries;
 - 66 Q&As under the Securitisation Regulation;
 - 9 Q&As under BMR;
 - 8 Q&As under MAR;
 - 2 Q&As under UCITS on benchmark disclosure requirements;
 - 3 Q&As under UCITS on past performance;
 - 5 Q&As under UCITS on depositaries;
 - 34 Q&As under the Prospectus Regulation;
 - 3 Q&As on the application of prospectus (2) and transparency rules (1) in case of a no-deal Brexit;
 - 25 Q&As (including amendments to Q&As) under MiFID II on investor protection and intermediaries;
 - 7 Q&As (including amendments to Q&As) under MiFIR on data reporting;
 - 12 Q&As (including amendments to Q&As) under MiFID II and MiFIR on market structure topics
 - 24 Q&As (including amendments to Q&As) under MiFID II and MiFIR on transparency topics;
 - 7 Q&As under MiFID II and MiFIR on commodity derivative topics;

- 10 Q&As on EMIR implementation (including on the changes introduced by EMIR REFIT); and
- 19 Q&As on CSDR implementation.
- **Supervisory briefings:**
 - Supervisory briefing on the supervision of non-EU branches of EU firms providing investment services and activities under MiFID II;
 - Supervisory briefing on compliance with the MiFIR pre-trade transparency requirements in commodity derivatives;
 - Supervisory briefing on MiFID II suitability requirements;
 - Supervisory briefing on MiFID II appropriateness requirements;
 - Supervisory briefing on disclosure of inside information under MAR, regarding the obligation to disclose the information “as soon as possible”; and
 - Supervisory briefing on disclosure of inside information under MAR regarding shareholders’ potential transaction.
- **Peer reviews:**
 - ESMA published the outcome of two reviews on:
 - Annual Peer Review on EU CCP Supervision. This peer review assesses the overall functioning of CCP colleges and provides an in-depth analysis of supervisory activities of National Competent Authorities on CCPs with respect to requirements set out in EMIR related to CCPs’ collateral and funding arrangements.
 - Peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR. This peer review was undertaken as there was a concern that the quality of data under EMIR may not be as high as would be expected. In that respect, the peer review confirms that there is significant room for NCAs to improve their supervisory focus and actions in this area.
- **Product intervention measures:**

CFDs and Binary Options product intervention measures under MiFIR

Between October 2018 and October 2019, ESMA has renewed the measures concerning the ban on the marketing, distribution or sale of binary options to retail clients and the restrictions concerning contracts for differences, which were in effect, respectively, since 2 July 2018 and 1 August 2018.

ESMA reviewed the measures, also through a significant collection of data and information across the EU market and, in the period at hand, it issued 3 Renewal Decisions (1 Renewal Decision on product intervention relating to binary options and 2 Renewal Decisions on product intervention relating to contracts for differences).

Subsequently, ESMA provided 51 number of Opinions regarding national measures (25 Opinions on product intervention measures relating to binary options and 26 Opinions on product intervention measures relating to contracts for differences), which ultimately replaced the ESMA temporary measures adopted in 2018 and renewed three times.

ESMA published 2 Q&As (including amendments to a previous Q&As) in relation to its product intervention measures. In July 2019, ESMA also published a statement on the application of product intervention measures addressed to providers marketing, distributing or selling contracts for differences (CFDs) to retail clients. The statement deals with certain undesirable practices ESMA has identified in relation to the client classification of professional clients on request and the marketing, distribution or sale by third-country CFD providers.

Other key supervisory convergence actions:

- **UK's withdrawal from the European Union**
 - Following the postponing of its date from 31 March to 31 October 2019, Brexit has remained a topic of utmost importance to ESMA. A number of statements and Q&As have been issued and surveys and contingency plans have been made in many domains to ensure preparedness in face of the possibility of the UK withdrawing from the EU without a withdrawal agreement. In particular, ESMA has issued an updated public statement in order to raise the awareness of all market participants on the importance of preparing for the possibility of there being a no-deal Brexit.
 - In addition to this, in terms of measures relating to supervisory cooperation:
 - The established relationship and a basis for future cooperation with the FCA is being maintained, and an ESMA/UK FCA Memorandum as well as a multilateral EU NCAs/UK FCA memorandum have been agreed to;
 - ESMA has made conditional recognition decisions in favour of the UK CCPs and the UK CSD;

- MoUs with the Bank of England have been updated for the purpose of recognition of UK CCPs and the UK CSD;
 - Assurances have been made of the use of UK credit ratings for regulatory purposes; and
 - Conditional deregistration decisions of all UK firms are ready.
- ESMA worked on identifying the other information exchange and cooperation needs with the UK authorities that would arise once the UK becomes a third-country.
 - ESMA's Supervisory Coordination Network, set up in June 2017, continued its work well. To recall, the Network is made up of senior representatives of NCAs and has the objective to enhance mutual understanding through information exchange, sharing of good practices and discussions of key issues arising from relocation of firms, notably investment firms, asset managers and trading venues, in the scope of the UK's withdrawal from the EU. The network meets on a monthly basis and discussions of concrete real-life cases between members promotes supervisory convergence among NCAs. The network invites EBA and the SSM on an ad hoc basis to share views on supervisory questions of common interest, thereby promoting supervisory convergence across the sectors. As of end September 2019, the SCN has discussed more than 230 cases and nearly 140 follow-ups to these cases.
 - In the context of the UK withdrawing from the EU, ESMA agreed to provide a framework for reinforced supervisory cooperation of EU NCAs, called "Voluntary Supervisory Colleges (VSC)". VSC are practical tools of enhanced supervision of major groups of financial market participants operating in the EU27. The objective is to facilitate information sharing between NCAs and thereby assist the supervision of a number of major EU entities/third country branches belonging to third country groups, offering financial services throughout the EU but headquartered in different Member States.
- **Interactive Single Rulebook**
 - During 2019 ESMA has expanded the Interactive Single Rulebook (ISBR), available on the ESMA's website, to include an ISRB on MiFID II and on MiFIR. This adds to the previously published interactive versions of the UCITS Directive and the CRA Regulation. ESMA is currently developing an interactive version of the Transparency Directive. The ISRB is designed as an online tool allowing a comprehensive overview of and an easy access to all level 2 and level 3 measures adopted in relation to a given level 1 text. The objective is to facilitate the consistent application of the EU single rulebook in the securities markets area.
 - **Mediation, breach of Union law (BUL) and complaints handling**

- ESMA has not been involved in formal procedures on binding mediation under Article 19 of the ESMA Regulation in the last year.
- ESMA monitors and assesses complaints received within the breach of Union law framework (Article 17 of ESMA Regulation). ESMA received 119 new complaints between 1 January 2019 and 30 September 2019. During this period, ESMA closed 115 complaints (including 84 which were considered as inadmissible). The assessment by ESMA is on-going in 4 cases. Regarding the admissible complaints, ESMA sent, in 2019, 3 requests for information to national competent authorities under Article 35 of the ESMA Regulation. In addition, during this period ESMA received 167 requests for information from natural and legal persons.
- **Other actions**
 - ESMA continued to work within the Working Group on euro risk-free rates (EUR RFR WG), together with the European Central Bank (ECB), the European Commission and the Belgian Financial Services and Markets Authority (FSMA). In the last year, the EUR RFR WG achieved many important goals, including: defining the transition from EONIA to €STR (i.e. *defining the new EONIA's methodology as €STR + 8.5 bps*); a recommendation on a €STR-based forward-looking term structure methodology; a report on the impact of the transition from EONIA to the €STR on cash and derivatives products; guiding principles for fallback provisions in new contracts for euro-denominated cash products; and the EONIA to €STR legal action plan. For the last two achievements, ESMA acted as the secretariat of the sub-group within the EUR RFR WG drafting these two documents.
 - ESMA published the register of administrators of benchmarks and 3rd country benchmarks. The register includes all the EU and 3rd country administrators who have been authorised, registered, or recognised in the EU by the relevant EU National Competent Authority and the related 3rd country benchmarks that can be used in the Union.
 - ESMA published a Public Statement on European common enforcement priorities for 2018 IFRS financial statements and a Public Statement on recognition of deferred tax assets arising from the carry forward of unused tax losses under IAS 12.
 - ESMA organised a Senior Supervisors Forum (SSF) meeting on the risk-based approaches (RBA) to supervision in the investment firm sector. The SSF is designed to bringing together leading supervisors from NCAs to exchange views on strategic issues of on-the-ground supervision and application of regulatory principles.

- ESMA held a workshop for NCAs to promote supervisory convergence in NCAs' supervision of closet indexing. The workshop's objective was to enhance supervisory convergence in the supervision of closet indexing by facilitating insights and good practices amongst peers. It did this by bringing together experts from a number of NCAs, who shared techniques, experiences and exchanged views on overcoming some of the key challenges faced when undertaking investigations.
- ESMA's Enforcement Network, comprising enforcement and sanctions specialists from NCAs, continues to build collaborative relationships amongst enforcement specialists to facilitate convergence in enforcement outcomes and co-operation in cross-border enforcement investigations. The Network has shared best practices in key areas such as individual accountability, publication of enforcement outcomes, on-site inspection techniques as well as working to develop best practices on financial penalties and enhancing cooperation for cross-border enforcement investigations.
- ESMA organised 8 training sessions for NCAs.

4. Assessing risks to investors and financial stability

Over the last 12 months, ESMA has:

- issued two reports on Trends, Risks and Vulnerabilities (TRV) in the EU, including in-depth topical analyses of EU money market fund stress testing requirements, the EU alternative investment fund market for retail investors, the impact of the MiFID II dark trading restrictions on EU equity markets, challenges and opportunities from regulatory technologies (RegTech) and supervisory technologies (SupTech), trends and risks in the EU leverage loan and CDO markets, the performance of actively and passively managed equity UCITS funds, as well as the use of derivatives by equity UCITS funds; the ESMA TRV also has extended coverage of retail consumer and sustainability issues.
- issued the first Annual Statistical Reports on EU Derivatives Markets, EU Alternative Investment Fund Markets and the Performance and Cost of retail investment products;
- published four Risk Dashboards, featuring a clear and intuitive categorisation of risk levels for (retail) investors and other stakeholders to better understand risks they might be exposed to, based on sophisticated, state-of-the-art risk metrics;
- issued a report on stress simulation for investment funds;
- designed its third EU-wide stress test exercise regarding CCPs established in the EU and published the framework which triggers the launch of the actual stress test exercise. The CCP stress test assesses the resilience and safety of the EU CCP industry and helps to

identify possible vulnerabilities. ESMA is testing the resilience of 16 European CCPs (which might be reduced depending on the Brexit situation) EU-wide. The final report with the results of the exercise is scheduled for Q2 of 2020.

- developed, within the ESAs Joint Committee, two reports on risks and vulnerabilities in the EU financial system;
- developed a report on the status of licencing regimes of FinTech firms across the European Union (EU). The report is based on two surveys conducted by ESMA since January 2018, which gathered evidence from national competent authorities (NCAs) on the licensing regimes of FinTech firms in their jurisdictions;
- issued, together with the EBA and EIOPA, a joint report on innovation facilitators (regulatory sandboxes and innovation hubs). The report sets out a comparative analysis of the innovation facilitators established to date within the EU. The ESAs also set out best practices for the design and operation of innovation facilitators. Further to the publication of the report, the EC and the ESAs established the European Forum of Innovation Facilitators; and
- held, jointly with EBA and EIOPA, the Joint Consumer Protection Day.

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 as well as a member and observer to certain IOSCO Committees and Sub-Groups, including the Committee on Emerging Risks and the European Regional Committee. In particular, ESMA has been part of the IOSCO Group on Cross-border Cooperation and Market Fragmentation and thus contributed to IOSCO and FSB reports on Market Fragmentation submitted to G20 in June 2019. ESMA also participates in some of the work of the Financial Stability Board, including its Committee on Assessment of Vulnerabilities (SCAV).

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 has also significantly contributed to the work on the establishment of the Unique Product Identifier (UPI) and Unique Trade Identifier (UTI).

ESMA's own international work has seen it focus on equivalence assessments and developing and concluding cooperation agreements. 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 the regulatory framework on the global level and thus coordinate the European position in the relevant organisations as appropriate.

In addition, in view of the application of the General Data Protection Regulation (GDPR), and the corresponding European Data Protection Regulation which should be finalized by end 2018 and which will be applicable to EU institutions, bodies and agencies, ESMA has continued to play a key coordination role regarding implementation of the new rules applying to international transfers of personal data between EEA and non-EEA securities regulators. In particular, ESMA, as a direct supervisor, as well as on behalf of EU NCAs, has been negotiating with non-EU regulators associated within IOSCO and the European Data Protection Board (EDPB) an Administrative Arrangement for the international transfers of personal data, which should ensure continued data transfers for enforcement and supervisory purposes. After the EDPB issued a favourable opinion on the draft IOSCO-ESMA Administrative Arrangement in February 2019, both ESMA and the IOSCO Boards formally endorsed the Arrangement and launched the signatory process. As of 15 October, 31 authorities have signed the Arrangement, 18 from EEA countries (including ESMA), 13 from non-EEA countries.

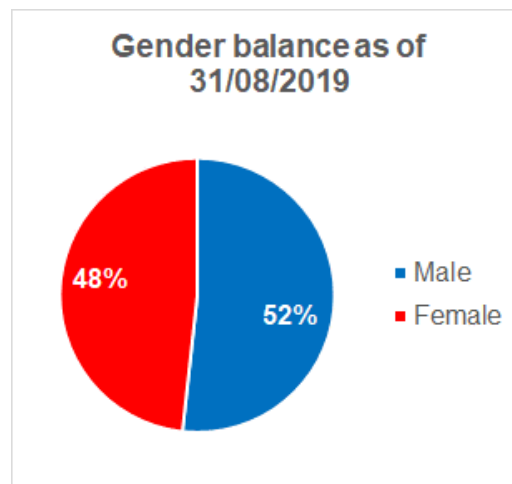
6. ESMA as an organisation:

Number of staff (status on 31/08/2019):

Years	Number of staff
2011	56
2012	83
2015	139
2014	153
2015	186
2016	204
2017	224
2018	231
2019*	230

Staff per type (status on 31/08/2019):

	Total staff
TA	152
CA	68
SNE	10
Total	230



Staff by nationality (status on 31/08/2019):

Country	Number of staff
AT	2
BE	4
BG	4
CZ	2
DE	16
DK	2
ES	13
FI	1
FR	64
GB	9
GR	19
HU	4

IE	9
IT	40
LT	2
LV	1
MT	1
NL	7
NO	1
PL	8
PT	2
RO	12
SE	5
SK	2
Total	230