



SPOTLIGHT ON MARKETS

MARCH 2022 N°32

HEY YOU! #BeCryptoAware! EU FINANCIAL REGULATORS WARN CONSUMERS ON THE RISKS OF CRYPTO-ASSETS

Final Report on the EU Carbon Market

Our response to the war in Ukraine



Fine for Trade Repository due to data breaches



CONSUMER WARNING ON THE RISKS OF CRYPTO

This warning comes in the context of growing consumer activity and interest in crypto-assets and the aggressive promotion of those assets and related products to the public, including through social media.

PUBLICATIONS

Your one-stop-shop information source in the world of EU Financial Markets brings together the latest reports, proposals and statements.

THE MONTH AHEAD

The speaking appearances of ESMA staff in April cover topics such as recent developments and predictions in the Securitisation Market and the future of Global Financial Markets.

IN THIS ISSUE

In March, ESMA together with the other European Supervisory Authorities (ESAs) issued a [joint warning](#) on the risks associated with **crypto-assets** and advised consumers to **#BeCryptoAware**. The ESAs set out key steps consumers can take to make informed decisions and warned them regarding the lack of recourse or protection, as crypto-assets and related products and services fall outside existing protection under current EU financial services rules.

In addition, the Final Report on the [EU Carbon Market](#) was published. The Report's analysis did not find any current major deficiencies in the functioning of the EU carbon market based on the data available. However, our analysis has led a number of policy recommendations to improve market transparency and monitoring.

Also in March, the Trade Repository REGIS-TR was [fined](#) €186,000 by ESMA for data breaches of the European Market Infrastructure Regulation. The breaches relate to failures in ensuring the integrity of data and providing direct and immediate access to regulators.

Other publications include the [2021 Corporate Reporting Enforcement and Regulatory Report](#), the follow-up [Report](#) to the peer review on the guidelines on the enforcement of financial information, and the [peer review report](#) on the supervision of cross-border activities of investment firms. In addition, ESMA published a [study](#) which showed that actively managed equity UCITS relative to their prospectus and market benchmark indices, between 19 February 2020 and the end of June 2020.

A full overview of all publications can be found in the newsletter, together with information on next month's speaking appearances of ESMA staff, consultations closing in April and vacancies. For updates, follow us on [Twitter](#) and [LinkedIn](#).

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EU FINANCIAL REGULATORS WARN CONSUMERS ON THE RISKS OF CRYPTO-ASSETS

The European Supervisory Authorities (EBA, ESMA and EIOPA – the ESAs) warn consumers that many crypto-assets are highly risky and speculative. The ESAs set out key steps consumers can take to ensure they make informed decisions.

This warning comes in the context of growing consumer activity and interest in crypto-assets and the aggressive promotion of those assets and related products to the public, including through social media.


In their warning, the ESAs highlight that these assets are not suited for most retail consumers as an investment or as a means of payment or exchange, as consumers:

- face the very real possibility of losing all their invested money if they buy these assets;
- should be alert to the risks of misleading advertisements, including via social media and influencers; and

- should be particularly wary of promised fast or high returns, especially those that look too good to be true.

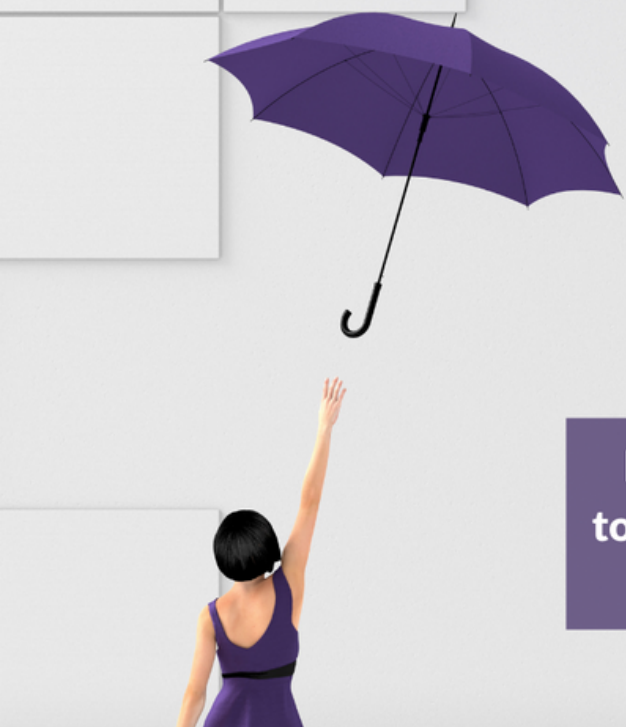
The ESAs also warn consumers that they should be aware of the lack of recourse or protection available to them, as crypto-assets and related products and services typically fall outside existing protection under current EU financial services rules.

In relation to the current situation in Ukraine, and with a view to ensuring the proper implementation of the sanctions in place, the ESAs welcome the clarification by the Council of the European Union of the scope of the restrictive measures against Russian and Belarusian entities and individuals as regards crypto-assets.




**Are the gains on crypto-assets too good to be true?
It's probably because they are...**

Think before you act!



**Did you know that you are unlikely
to be protected if your crypto-assets
are lost or stolen?**

Think before you act!



**Do you plan to invest in
crypto-assets? If things go
badly, can you afford to
lose all your money?**

Think before you act!



ESMA PUBLISHES ITS FINAL REPORT ON THE EU CARBON MARKET

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has published its Final Report on the European Union Carbon Market (EU carbon market). The Report's analysis did not find any current major deficiencies in the functioning of the EU carbon market based on the data available. However, ESMA's analysis of the market has led it to put forward a number of policy recommendations to improve market transparency and monitoring.

Key Findings

The Final Report presents an in-depth analysis of the trading of emission allowances (EUA) and emission allowance derivatives based on data gathered from different sources, including EMIR reporting, MiFIR transaction reporting, MiFID II daily and weekly position reports, auction data and data obtained from the EU Registry. ESMA, in looking at trading in carbon markets and counterparties in this market, has identified the following:

- long positions in carbon derivatives are mainly held by non-financial entities for hedging purposes;
- short positions are mainly held by banks and investment firms providing liquidity and carbon financing;
- positions by investment funds remain limited, with positions principally held by third-country funds; and
- the share of high-frequency and algorithmic trading is significant in the carbon market, even if the relevant firms are only holding very small or no actual positions.

As far as recent developments are concerned, ESMA is aware that the war in the Ukraine has had a major impact on the carbon market, with EUA prices declining by 30% between 23 February and 4 March, which was the cut-off date for ESMA's analysis. ESMA notes that the carbon price by 22 March had recovered but appreciates that the situation remains volatile.

Policy recommendations

ESMA, based on its findings and observations, has formulated a number of policy recommendations on the transparency and monitoring of the EU carbon market from the securities regulators' perspective, for instance:

- extend position management controls to EUA derivatives;
- amend EUA position reporting;
- track chain of transactions in MiFIR regulatory reports; and
- provide ESMA with access to primary market transactions.

The measures proposed would provide more information to market participants, regulators and the public and are intended to contribute to the continued smooth functioning of the market, which plays an important role for the EU's transition to a low-carbon economy.

Issues for consideration by the European Commission

ESMA has also identified two possible courses of actions, with arguments in favour and against, that the European Commission (EC) could consider regarding:

- the introduction of position limits on carbon derivatives – cited in public discussions as a potential addition to the legislative framework; and
- centralised market monitoring of the carbon market at EU level, in line with the ACER-style monitoring for gas and power.

Next steps

ESMA's Report provides a factual and comprehensive basis for the EC, the Council of the EU and the European Parliament to determine whether additional measures to regulate the carbon market are considered necessary. ESMA is ready to assist with the implementation measures and with additional data analysis or advice that could be useful in future deliberations on the EU carbon market.

ESMA COORDINATES REGULATORY RESPONSE TO THE WAR IN UKRAINE AND ITS IMPACT ON EU FINANCIAL MARKETS

The European Securities and Markets Authority (ESMA), in coordination with National Competent Authorities (NCAs), is closely monitoring the impact of the Ukraine crisis on financial markets and is prepared to use its relevant tools to ensure the orderly functioning of markets, financial stability and investor protection. This is part of the European Union's overall response to the tragic consequences of Russia's military aggression.

ESMA provides a forum for supervisors to discuss questions and coordinate responses arising from the current situation. To ensure stakeholders are adequately informed, ESMA outlines below its specific supervisory and coordination activity, as well as recommendations to financial market participants:

Supervisory and coordinating activities

- **CCPs** – ESMA is closely monitoring CCP related volatility and margin developments in energy and commodities market segments. It is also in close contact with NCAs focussing on the impact on clearing members and their clients in those markets;
- **Credit Rating Agencies** – ESMA continues to actively engage with CRAs to ensure sufficient transparency around ratings and is monitoring the impact of sanctions on CRAs' operations in close cooperation with other regulators;
- **Benchmarks** – ESMA is engaging with its supervised benchmarks administrators to verify the impact of market developments and sanctions on the provided benchmarks. It is also engaging and coordinating with NCAs regarding the impact on benchmarks provided by the administrators under NCAs' supervisory remit;
- **Investment Management** – ESMA has reinforced its coordination role by monitoring investment funds, organising frequent exchanges with NCAs to analyse market developments and supervisory risks linked to the crisis, focusing on liquidity issues and the use of liquidity management tools (LMTs) and monitoring issues relating to valuation of assets and potential suspension of redemptions;

- **Secondary markets** – ESMA and NCAs are monitoring the market situation, and ESMA is assisting NCAs with the consistent implementation of sanctions by market operators including the suspension of trading in instruments by venues;
- **Central Securities Depositories** – ESMA is monitoring, in coordination with NCAs, the impact of sanctions on CSDs' operations and assisting with their implementation in a consistent manner. It is also consolidating data on the levels of settlement fails as one of the indicators to monitor market developments;
- **Cyber Security** – ESMA is facilitating the collection and sharing of information and experiences among NCAs regarding cyber incidents; and
- **Risk assessment** – ESMA continuously monitors the risks to market participants and financial stability and exchanges its risk assessment regularly with policy makers and authorities at national, EU and international level.

Market Recommendations

- **Sanctions Compliance** – financial market participants should ensure they comply with the relevant EU sanctions and monitor for any further restrictions. The European Commission (EC) will provide clarity and answer queries on the scope and implementation of these and ESMA is supporting the EC in collecting such queries;
- **Market disclosure** – issuers should disclose as soon as possible any inside information concerning the impacts of the crisis on their fundamentals, prospects, and financial situation in line with their transparency obligations under the Market Abuse Regulation, unless the conditions for a delayed disclosure are met; and
- **Financial Reporting** – issuers should provide transparency, to the extent possible on both a qualitative and quantitative basis, on the actual and foreseeable direct and indirect impacts of the crisis on their business activities, exposures to the affected markets, supply chains, financial situation and economic performance in their 2021 year-end financial report if these have not yet been finalised and in the annual shareholders' meeting or otherwise in their interim financial reporting disclosures.

ESMA FINES REGIS-TR €186 000 FOR EMIR DATA BREACHES



The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has fined trade repository REGIS-TR €186,000 for eight breaches of the European Market Infrastructure Regulation (EMIR).

The breaches relate to failures in ensuring the integrity of data and providing direct and immediate access to regulators. The breaches were committed between 2017 and 2020. Five out of eight breaches were found to have resulted from negligence on the part of REGIS-TR.

Data Integrity

REGIS-TR negligently failed to ensure the integrity of the data reported to it due to various data processing incidents, including having incorrectly rejected data correctly reported by the Reporting Parties.

Direct and immediate access

The trade repository negligently failed to provide direct and immediate access to regulators by:

- generating incorrect reports;
- failing to provide reports within the specified time limits; and
- omitting data in the reports due to wrong rejections.

ESMA also found that REGIS-TR committed three further breaches resulting in the provision of wrong and unreliable reports to regulators by failing to verify the correctness and completeness of the data received by the reporting parties.

In calculating the fine for negligent infringements, ESMA considered both aggravating and mitigating factors under EMIR.

PUBLICATIONS



Click to read the news items

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ESMA PUBLISHES FOLLOW-UP REPORT TO THE PEER REVIEW ON THE GUIDELINES ON THE ENFORCEMENT OF FINANCIAL INFORMATION

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ESMA PROPOSES AMENDMENTS ON THE REVIEW OF TRANSPARENCY REQUIREMENTS UNDER MIFIR

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ESMA MAKES AVAILABLE ISINS BEFORE SECOND PUBLICATION OF ANNUAL TRANSPARENCY CALCULATIONS

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ACTIVELY MANAGED FUNDS FAIL TO OUTPERFORM BENCHMARKS DURING MARKET STRESS

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ESMA AND NCAS FIND ROOM FOR IMPROVEMENT IN FUNDS' LIQUIDITY STRESS TESTING

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ESMA PUBLISHES ITS FINAL REPORT ON THE EU CARBON MARKET

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ESMA ISSUES ITS 2021 CORPORATE REPORTING ENFORCEMENT AND REGULATORY REPORT

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ESAS ISSUE UPDATED SUPERVISORY STATEMENT ON THE APPLICATION OF THE SUSTAINABLE FINANCE DISCLOSURE REGULATION

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ESMA MAKES RECOMMENDATIONS FOR DRSP MANAGEMENT BODIES

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RECOMMENDATIONS TO
CYSEC



SPEAKING APPEARANCES

by ESMA staff in April

	EVENT	ORGANISER	SPEAKER
4 Apr	One Bank All Staff conference	Central Bank of Ireland	Verena Ross
8 Apr	EU Digital Finance Platform - launch event	European Commission	Verena Ross
10 Apr	AFM CT Round-table	AFM	Charlotte Sickermann
12 Apr	ESMA's corporate reporting activities	Association IMA France	Isabelle Grauer-Gaynor
21 Apr	Annual Securitisation Event	Institute for International Research (IIR)	Iliana Lani
26 Apr	ICMA ERCC AGM	ICMA	Klaus Loeber
26 Apr	City Week 2022	City Week	Verena Ross

CONSULTATIONS



Closing



01/04/2022

CONSULTATION ON THE
REVISION TO GUIDELINES AND
RECOMMENDATIONS ON SCOPE
OF THE CRA REGULATION



21/04/2022

CALL FOR EVIDENCE ON CCP
CLIMATE STRESS TESTS



27/04/2022

CONSULTATION ON GUIDELINES
ON CERTAIN ASPECTS OF THE
MIFID II SUITABILITY
REQUIREMENTS



29/04/2022

CONSULTATION PAPER ON THE
OPINION ON TRADING VENUE
PERIMETER

The full list of consultations and reply forms
can be found on the [ESMA consultations page](#)





OPEN VACANCIES

POSITION

**Traineeship notice –
Legal profile (F/M)**

**Traineeship notice –
Transversal profile (F/M)**

**Traineeship notice -
Financial Markets Profile
(F/M)**

DEADLINE

Open call
(without a specific deadline)

Open call
(without a specific deadline)

Open call
(without a specific deadline)

All open vacancies can be found on [ESMA's recruitment portal](#)



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