



Annex to the Statement
by Steven Maijoor, Chair of ESMA
to the ECON hearing, 23 September 2014

Facts and figures
from September 2013 to September 2014

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 2013:

- **10 draft technical standards (TS):**
 - 2 draft regulatory technical standards (RTS) under EMIR:
 - 1 on CCP colleges; and
 - 1 on application to third country entities under EMIR;
 - 3 draft RTS under CRA3:
 - 1 on European rating platform;
 - 1 on fees to CRA clients; and
 - 1 on information on structured finance instruments;
 - 1 draft RTS under the Prospectus Directive on specific situations that require the publication of a supplement to the prospectus;
 - 2 draft TS, 1 RTS and 1 Implementing Technical Standard (ITS), under MiFID on the assessment of acquisitions and on increases in qualifying holdings in investment firms; and
 - 2 draft ITS on notification under the Regulations on European Social Entrepreneurship Funds and European Venture Capital Funds.

ESMA is developing almost 30 draft TS under the Central Securities Depositories Regulation (CSDR) and issued a Discussion Paper on this matter in early 2014 for a 2-month public consultation.

ESMA has started to translate the Level 1 MiFID II/MiFIR requirements into practically applicable rules and regulations, which include 65 TS, 9 sets of ESMA Guidelines and 23 separate sections where the Commission has asked ESMA for technical advice (TA). ESMA issued a Discussion and a Consultation Paper covering most of these matters in May 2014. ESMA is now in the process of reviewing over 400 responses to the Consultation Paper and over 300 responses to the Discussion Paper. Following this review, ESMA will deliver its final TA to the Commission at the end of 2014 and organise another consultation round for the TS at the end of 2014 or the start of 2015.

ESMA has started to translate the Level 1 Market Abuse Regulation (MAR) requirements into practically applicable rules and regulations in the form of 15 TS, 6 TA and 3 sets of ESMA Guidelines. ESMA issued a Discussion Paper on this matter in November 2013. Following the review of the responses received to this 10-week public consultation, ESMA has organised a second round of public consultation with the publication, in mid-July 2014, of two Consultations Papers, one on the TS and the second on the TA. Following this 3-month consultation, ESMA will finalise the TA and the TS, to be respectively delivered to the Commission in the first quarter of 2015 and by mid-2015.

- **12 sets of technical advice (TA) to the European Commission:**
 - 1 on fines for Trade Repositories under EMIR;
 - 8 on third country regulatory equivalence (Hong Kong, India, Switzerland, South Korea, Singapore, Australia, Japan and the USA) under EMIR;
 - 1 on the information that competent authorities should provide to ESMA under Article 67(3) of the AIFMD; and
 - 2 under the CRA Regulation:
 - 1 TA on network of smaller CRAs; and
 - 1 TA on sovereign ratings.

- **7 sets of Guidelines and Recommendations on:**
 - Reducing reliance on ratings (jointly drafted with EBA and EIOPA);
 - Enforcement of financial information under the Transparency Directive and IFRS regulation;
 - ETFs and other UCITS issues;
 - Remuneration policies and practices under MiFID;
 - Reporting obligations under Articles 3(3)(d) and 24(1), (2) and (4) of the AIFMD;
 - Implementation of the CPSS-IOSCO Principles for Financial Market Infrastructures in respect of CCPs;
 - Complaints-handling for the securities and banking sectors (jointly drafted with EBA).

ESMA provided all relevant stakeholders with the opportunity to provide input into its policy development process: through open public consultations, interacting with various stakeholder associations – representing investors, consumers and market participants - and by soliciting the views of the Securities and Markets Stakeholders Group (SMSG) – which represents consumers, financial services users, academics, small and medium-sized enterprises, market participants and employees of financial services firms.

2. Supervision of Credit Rating Agencies and Trade Repositories

- Since September 2013, 1 new credit rating agency (CRA) has been registered. ESMA now supervises 23 CRAs and 2 certified CRAs. Amongst the 23 registered CRAs, 3 operate under a group structure, totalling 16 legal entities in the EU, which means that the total number of CRA entities registered in the EU is now 36.

ESMA refused the registration of 2 CRAs and 2 applicants withdrew their application. ESMA is examining a number of pending applications for registration and certification.

The Board of Appeal of the ESAs unanimously decided to dismiss the appeal of an applicant and confirmed ESMA's decision to refuse the applicant's registration as a CRA.

As regards on-going supervision, ESMA:

- published its annual supervisory report, which includes the remedial actions implemented by CRAs following the 2012 investigation into bank rating methodologies, ESMA's findings following its Sovereign ratings investigation (summary) and the individual investigation into the ratings publication controls in a single CRA, and its supervisory work programme for 2014;
- finalised its investigation into sovereign ratings and published a report covering its findings regarding governance, conflicts of interest, resourcing adequacy and confidentiality controls;
- finalised the thematic investigation into the corporate governance and internal controls of 18 small and medium-sized CRAs (that included 14 on-site visits in 2013, 4 on-site visits in 2014); and
- is currently conducting:
 - a thematic investigation (including an on-site visit) into the monitoring of structured finance ratings at four large CRAs;
 - an individual investigation (including an on-site visit) into corporate ratings in a single CRA; and
 - a thematic investigation into the review and validation of rating methodologies.

A large part of ESMA's activities focused on on-going desk-based supervision, i.e.: analysis of CRAs' periodic information, monitoring the implementation of the remedial actions undertaken by CRAs following ESMA's investigations and analysis of the notifications of changes to the initial conditions for registration (mainly regarding changes in the organisational and corporate governance structure; new types of credit ratings; changes in branches and outsourcing and endorsement).

In June 2014, ESMA issued a public notice censuring Standard & Poor's Credit Market Services France SAS and Standard & Poor's Credit Market Services Europe Limited (S&P) for breaches of Regulation 1060/2009 (CRA Regulation). The decision¹ by ESMA resulted from its investigation into the erroneous publication of a credit rating on 10 November 2011 by S&P.

- In November 2013, 6 trade repositories (TRs) were registered by ESMA:
 - All the TRs, except 1, were registered for the five asset classes: commodities, credit, foreign exchange, equity, interest rates;
 - All TRs became subject to ESMA's on-going supervision once they were registered. ESMA TR supervision is focused on ensuring that TRs comply on an on-going basis with all EMIR requirements, thereby enabling regulators to access data and details of derivative contracts in order for them to fulfil their respective mandates. There were 26 EU regulatory authorities that had access to at least one TR at the end of August 2014;
 - The bulk of activities that ESMA has performed in terms of on-going TR supervision so far were desk-based. These activities mainly followed the annual TR work programme with some adjustments, where needed, depending on priorities and emergencies. The desk-based supervisory activities include assessing periodic information and notifications from TRs, analysis of external information (authorities, complaints, requests for information) and regular contact with TRs. During the first half of 2014 ESMA has focused its supervisory attention on data quality;
 - Upon the registration of TRs ESMA started to put in place all the tools and procedures needed to perform its TR supervisory activities through the development of a risk-based approach adapted to the structure of the TR industry. Following the outcomes of the risk analysis/assessment, on-site inspections and thematic reviews are to be performed during Q3-Q4 2014, calibrating supervisory efforts towards the riskiest TRs/areas;
 - Since reporting under EMIR went live, derivatives trade data has flowed into TR systems: as of 30 June 2014, more than 1 billion new trades have been reported to all the TRs. The figure is expected to grow in the second half of the year when collateral and valuation reports will start to be sent to TRs (since 11 August 2014). The long on-boarding queues of entities at some TRs around the reporting start date (some hundreds of direct participants reporting on behalf of thousands of entities) have gradually reduced over time;
 - ESMA, together with the national competent authorities, is focused on improving the quality of records maintained by trade repositories.

¹ ESMA found that this incident was the result of a failure by S&P to meet certain organisational requirements set out in the CRA Regulation, relating to sound internal control mechanisms, effective control and safeguard arrangements for information processing systems and decision-making procedures and organisational structures. ESMA, based on the provisions of the CRA Regulation, decided that the relevant breaches warranted a supervisory measure in the form of a public notice. The final decision on the supervisory measure took into account the steps taken by S&P to end the infringement and was considered proportionate to the seriousness of the breach.

3. Promoting supervisory convergence

ESMA has supported supervisory convergence by:

- conducting 3 peer reviews, using on-site visits as a tool in all three. ESMA has carried out 18 individual visits to national competent authorities from December 2013 to July 2014 for the three work streams. The peer reviews aim to assess the degree of convergence in the application and enforcement of EU law as regards the applicable legal regimes for
 - Automated Trading Guidelines;
 - MiFID Conduct of Business rules as regards fair, clear and not misleading information; and
 - MiFID Best Execution rules.
- issuing 1 opinion on selling practices for complex financial products;
- organising 23 training sessions, gathering 582 participants e.g.: consistent application of IFRS, Commodities, Corporate Governance, CRA regulation and reducing reliance on ratings. ESMA has been offering 50 e-learning courses with 400 tutorials for about 400 users.

Moreover, since September 2013, ESMA has:

- reviewed 2 new requests for a pre-trade transparency waiver in equity markets;
- drafted almost 100 Questions and Answers (Q&As) on EMIR implementation, 20 Q&As on CRA regulation, over 50 Q&As on AIFMD, over 40 Q&As on UCITS and 3 Q&As on EuSEF/EuVECA;
- issued 8 Opinions on subjects related to AIFMD, prospectuses, MiFID, structured retail products, MMF and EMIR.

4. Assessing risks to investors and financial stability

Over the last 12 months, ESMA has:

- together with EBA, published Principles to address the problems identified with benchmark-setting processes by providing benchmark users, administrators, calculation agents, publishers and data submitters with a common framework for carrying out these activities. The application of the Principles also helps in the transition to the future EU legal framework for benchmarks. In addition, ESMA and EBA have reviewed the EBF-EURIBOR system and provided Recommendations for improving their benchmark-setting processes;
- reviewed the performance of Euribor-EBF vis-à-vis the 2013 Recommendations, and vis-à-vis the IOSCO Principles;
- issued 1 statement on potential risks associated with investing in contingent convertible instruments;

- issued 2 reports on Trends, Risks and Vulnerabilities in the EU, including in-depth topical analyses of vulnerabilities in 8 areas of market activity, helping investors and other market participants to better assess key product and market developments;
- 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 IOSCO Risk Reports; and
- driven the promotion of non-bank work in the ESRB, by taking the (co-)Chair in their Shadow Banking Expert Group, providing concrete advice on systemic risks e.g. around loan origination by funds, money market funds and CCPs.

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

ESMA is continuing its engagement on the reform of financial markets at the international level. Examples include the participation in the international coordination of OTC derivatives reform (in the so-called ODRG), participation in work-streams of the Financial Stability Board² (FSB) and in the working groups of the International Organization of Securities Commissions (IOSCO). This also includes an active participation of ESMA in the Committee 6 on CRAs and in the Risks Committee of IOSCO as well as in the Committee on Payment and Settlement Systems (CPSS-IOSCO). ESMA has been an observer to the Board of IOSCO since February 2014 and its observership status will be formalized in September 2014.

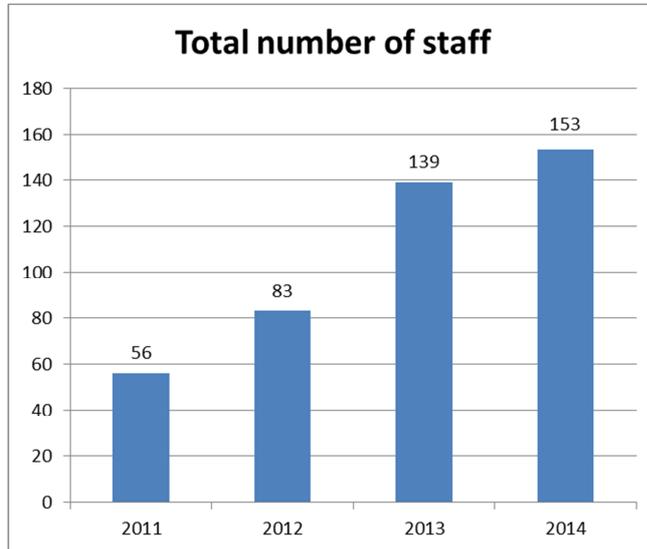
Moreover, during the last year ESMA negotiated and concluded agreements between EU securities regulators and their global counterparts with responsibility for the supervision of CCPs, TRs and AIFMs, including hedge funds, private equity and real estate funds:

- ESMA continued to negotiate the Memoranda of Understanding (MoUs) required by the AIFMD on behalf of the 31 EU and EEA national competent authorities³ for securities markets supervision and has now negotiated agreements with 50 non-EU authorities;
- ESMA is negotiating MoUs with 7 non-EU authorities responsible for supervision of CCPs that have applied for recognition under EMIR;
- ESMA is negotiating 2 MoUs related to access to trade repository data.

² Eg: development of an international Legal Entity Identifier (LEI) mechanism.

³ National securities regulators in the EU with responsibility for the supervision of the AIFMs, have signed over 1.000 supervisory MoUs with non-EU authorities.

6. ESMA as an organisation: (Year 2014: number of Staff as of 31 July 2014)

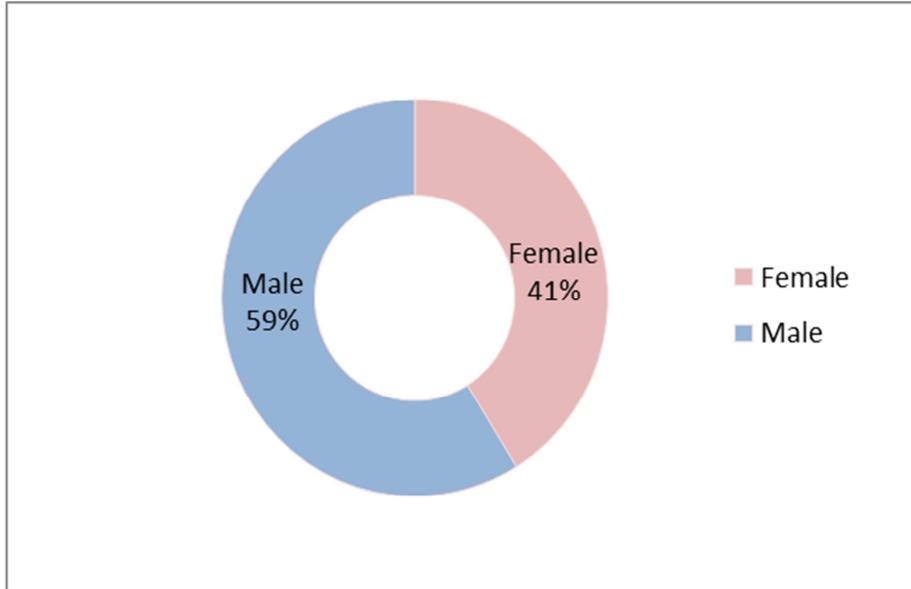


Staff per Division/Unit⁴:

	Credit Rating Agency Unit	Economic Research & Financial Stability Unit	Investment & Reporting Division	Legal, Cooperation & Convergence Unit	Markets Division	Operations Division	Senior Management	Total staff
TA	21	8	20	8	23	28	10	118
CA	4	2	2	2	2	5		17
SNE	2	3	6	4	2	1		18
Total	27	13	28	14	27	34	10	153

⁴ Senior Management includes the Chair and Executive Director and their office, Accounting, Communications and Internal Control.
TA – Temporary Agent, CA – Contract Agent, SNE – Seconded National Expert

Gender balance:



24 nationalities:

Country	Number of staff
Austria	1
Belgium	3
Bulgaria	3
Czech Republic	1
Denmark	2
Estonia	1
Finland	1
France	34
Germany	18
Greece	7
Hungary	3
Ireland	6
Italy	24
Latvia	2
Lithuania	2
Netherlands	3
Norway	1
Poland	3
Portugal	8
Romania	5
Slovakia	2
Spain	7
Sweden	1
United Kingdom	15
Total	153