ESMA 2015 work programme. November 2014.

ESMA has published, on the 30th September 2014, its work programme for 2015 recently approved by the Board of Supervisors that describes the strategic and operational objectives of its activities and is in line with the ESMA´s multiannual work programme 2013-2015.

The ESMA´s 2015 work programme is based on a budget of € 38,639,000 and a staff base of 202 people as per the budget approved by ESMA's Board of Supervisors on 6 February 2014 and subsequently submitted to the EU institutions. At the time of drafting the work programme, the budget prepared by the European Commission (hereinafter EC) and sent to the EU Council and Parliament for ESMA in 2015 is for €33,627,920 and 186 people. In order to prepare for the eventuality that ESMA will receive fewer posts than planned for in the work programme, annex 5 contains a list of the areas of work that ESMA would be unable to accomplish in 2015 with reduced resources: non-mandatory tasks (such as equivalence assessment of third country regimes or not maintaining the Questions&Answers that currently assist national supervisors in their interpretation of European law) are likely to be first cut whereas mandatory tasks, such as the convergence of supervision or the delivery of single rulebook work, may be delayed. The European Supervisory Authorities (ESAs) have sent, dated November 5, a joint letter to the resident of the ECOFIN sharing their concerns regarding the budgetary constraints.

ESMA´s planned activities in 2015 have three strategic objectives: i) investor protection, ii) financial stability, and iii) the orderly functioning of markets. The three strategic objectives are achieved through the following operational objectives**: 1. Convergence, 2. Risks monitoring and analysis, 3. Single rulebook, 4. Supervision, and 5. ESMA as an organization.** In the overall ESMA work programme the legislative tasks related to ESMA's convergence and single rulebook objectives are not addressed in great detail. A more detailed regulatory work programme is adopted by the Board of Supervisors in the first quarter of the year concerned. This sets out a full list of the technical standards, technical advice, opinions, guidelines and recommendations that ESMA will produce within the year.

Below the operational objectives are described in more detail:

1. Operational objective: Convergence

ESMA aims to ensure the consistent legislation through the issuing of guidelines, opinions and Question & Answers (Q&As). ESMA's work in the development of the single rulebook decreases in 2015 so ESMA will reallocate resources from the production of single rulebook to the supervisory convergence. ESMA has foreseen, inter alia, update the Q&As on the Transparency Directive, implement the guidelines on enforcement of financial information, and issue guidelines on alternative performance measures. Also ESMA will issue guidelines and/or Q&As on MiFID II / MiFIR, Regulation on Central Securities Depositories (CSDs) in the Market Abuse Regulation (MAR), legislation on investment funds and EMIR Regulation. ESMA shall publish an opinion on the passports to managers of Alternative Investment Funds (AIFM).

ESMA has identified several IT projects to be developed in the next three years; specifically, in 2015 the CRA

III programme will merge the CEREP and SOCRAT systems into a single database.

In the international area, ESMA will contribute where possible to IOSCO works, cooperate with third countries on CRA and trade repositories (TR) supervision, and assist the EC in preparing the Memoranda of understanding with third countries supervisors. In the European Union (EU), ESMA will be chairing the ESA´s Joint Committee, pay attention to the conclusions of the reform of the European System of Financial Supervision (ESFS), and contribute to the European Parliament, the CE and the Single Supervisory Mechanism.

The peer reviews on the application of existing EU legislation will be made following the new methodology of targeted reviews backed by on-site visits as an effective tool to gather and verify factual information. The reviews will cover the following topics: market makers (to be continued from 2014, suitability and prospectuses supervision. ESMA will in addition carry out follow up work on the market abuse supervisory practices and Money Market Funds Guidelines.

In the accounting and auditing area, ESMA will participate in the European Enforcers Co-ordination Sessions (EECS) and discharge its new responsibilities under the revised Audit Directive (technical assessment on public oversight systems of third countries and international cooperation between Member States and third countries).

Operational objective 2: Risk monitoring and analysis

ESMA work on monitoring financial activities will be focused on financial innovation. In the area of investor education, ESMA will play a role coordinating national initiatives. ESMA product intervention powers derived from MiFIR will be applicable form the beginning of 2017, so that in 2015 there remains a significant amount of preparatory work to facilitate the exercise of these powers of intervention. ESMA intends to continue issuing warnings when the circumstances require so for the compliance of its strategic objective of investor protection.

ESMA aims to: continue to improve its capacity of reporting on markets and systemic risks and its capacity of analysis, develop a proprietary market intelligence through continuous evaluation of market trends, manage its proprietary databases and be enable to fulfil mandates around financial stability supervision and regulation. ESMA will conduct research projects in cooperation with national authorities, the Joint Committee and the European Systemic Risk Board (ESRB). Research topics include: high frequency trading, Credit Default Swaps, CCPs, Exchange-Traded Funds, systemically important financial institutions other than banks and insurance companies, and shadow banking.

Operational objective 3: Single rulebook

ESMA´s single rulebook work is aimed at strengthening regulation and creating a level playing field across the EUA. It involves delivering technical standards, technical advice and, to some extent, guidelines on the application of EU law.

Related to MiFID II/MiFIR, ESMA shall prepare many draft technical standards, among others, on requirements on pre and post-trade transparency, algorithmic trading, non-discriminatory access, definition of ancillary activity, independent advice, incentives, intervention products, recordings telephone conversations and electronic communications, and better execution. Regarding MAD/MAR, ESMA is tasked to produce 15 technical standards and give advice to the European Commission (if it had not been completed in 2014), will also be involved in developing third country Memorandum of Understanding template and in the drafting of the Memorandum of Understanding with the European Agency for the Cooperation of Energy Regulators (ACER). It will also carry out an equivalence assessment of the European market abuse regime if it receives the mandate of the EC.

In early 2015 the publication of the regulation on the reporting and transparency of securities financing transactions is expected, so ESMA will have to deliver a number of technical standards. Regarding the CRA III Regulation, ESMA will draw up technical standards and technical advice, among other things, on the European Platform Rating, reducing reliance on CRA ratings, and regulation of structured finance products. In the area of corporate reporting, ESMA´s draft technical standards will establish the European Electronic Access Point (EEAP) and specify the common electronic reporting format (ESEF). ESMA has been designated as observer at the Council of the European Financial Reporting Advisory Group (EFRAG), whose main function is to provide advice to the EC on International Financial Reporting Standards (IFRS).

The proposed regulation on financial indices requires ESMA to provide advice to the EC on delegated acts, coordinate the development on cooperation arrangements with third countries, and participate in supervisory colleges and in the keeping of records of users and administrators of indices. The Central Securities Depositories (CSD) Regulation will be published in 2014 and ESMA will have to deliver about 30 technical standards covering the settlement discipline measures, access requirements, data reporting and internalized settlement. ESMA, once the EC has formally requested, will issue a technical advice on the parameters for calculation of cash penalties and the criteria under which the operations of a CSD of a host Member State should be considered of substantial importance for that member. It will also prepare the recognition process of third countries CSD that provide services in the EU.

ESMA is expected to be tasked with the development of technical standards on upcoming legislation in the area of investment funds (UCITS V, Money Market Funds and European Long-Term Investment Funds ELTIFs) to clarify the requirements of Level 1 and 2. It also will prepare a technical advice on the Regulations on European venture capital funds (EuSEF) and European Social Entrepreneurship funds (EuVECA). Related to transparency and prospectus, ESMA is expected to deliver the technical standards under Directive Omnibus II, will continue to work on equivalence assessment in order to better facilitate access to the EU market for third-country issues, and intends to conduct an evaluation to prepare a future re-cast of the prospectus Directive and Regulation, and will publish the indicative list of financial instruments subject to notification requirements. In the area of corporate governance, ESMA will review the practices concerning the proxy industry.

In relation to EMIR Regulation, ESMA needs to determine to classes of OTC derivatives subject to the clearing obligation and to review the technical rules on TR reporting based on the experience gathered. It is expected that the EC will request ESMA to provide technical advice on the EMIR review of Regulation be performed in 2015. About the Alternative Investment Funds Managers Directive (AIFMD), ESMA will advise on passport for fund and managers from third countries, and is working on system to allow EU AIFM to report using the same format. Related to Retail and Insurance-based Packaged Products (PRIIPS), ESMA will work together in the Joint Committee to prepare draft technical standards on the format and content of Key Information Document (KID) and methodologies for the risk and cost disclosure.

Operational objective 4: Supervision

ESMA will continue performing direct supervisory powers on CRAs, TRs, and will also have some direct responsibilities in relation to CCPs (participation in colleges). Regarding CRAs, ESMA is responsible for the registration and ongoing supervision of CRAS. Market intelligence and research on the identification on trends an industry risks is key to guiding ESMA´s supervisory activity based on the information reported by CRAs in CEREP and SOCRAT. TR supervision by ESMA aims to ensure compliance with the requirements of EMIR Regulation, enabling regulators to access data of the derivative contracts in order to fulfill their respective mandates. ESMA has the right to request information, conduct investigations and on-site inspections, and if necessary, to take enforcement measures. Related to CCPs, ESMA has direct responsibilities regarding the recognition of third-country CCPs providing clearing services within the UE and participates in all colleges of EU CCPs.

ESMA has different powers to act in cases of breach of regulation ranging from the issuance of public notices to the withdrawal of authorization and imposition of fines. ESMA maintains an Independent Investigation Officer for the instruction of the sanctioning proceedings.

Operational objective 5: ESMA as an organisation

ESMA will continue to grow in 2015, in line with the increase in its tasks, and as such the recruitment of quality staff will remain a priority. ESMA will implement a security system fitting the amount of sensitive data, work on the management and conservation of documents, concentrate on automatisation of communications, emphasize ESMA´s website as a key communication tool, and improve the planning of the CRAs and TRs annual budget and the management of the income and cost structure derived from the direct supervision.

T**he Joint Committee of ESMA, EBA and EIOPA** has also presented a **joint work program for 2015** that continues to give priority to the areas of investor protection and cross-sectoral risk analysis. Investor protection´s activities will focus on the following projects: developing of draft technical standards on PRIIPS (concretely on the KID), guidelines on cross-selling practices, and assessment of potential risks arising from automated financial advice. The cross-sectoral risk analysis will continue to present two bi annual reports on risks and vulnerabilities to the ECOFIN and to contribute to the work of the ESRB. The regulatory work will cover the following areas: securitization, financial conglomerates, anti-money laundering, External Credit Assessment Institutions (ECAI), CRA III Regulation , evaluation of acquisitions and increase of capital in the financial sector, benchmark setting processes, CSD Regulation, and impact assessment next work. The Joint Committee shall pro-actively cooperate with the EC and the countries of the European Economic Area (EEA) and the EFTA for the implementation of financial legislation.

If you want to read the ESA´s letter to the ECOFIN regarding budget for 2015, please, click on: http://www.esma.europa.eu/system/files/esas_2014-41_joint_esas_letter_to_eu_council_presidency_-_esas_budget.pdf

If you want to read ESMA work programme for 2015, please click on: http://www.esma.europa.eu/system/files/2014-1200_-_esma_2015_work_programme.pdf

If you want to read the Joint Committee of the ESAs 2015 work programme of the Joint Committee of the ESAs for 2015, please click on: http://www.esma.europa.eu/system/files/2014-1200_-_esma_2015_work_programme.pdf