



ESMA 2017 Work Programme. February 2017.

ESMA notified the key priorities of its **2017 Work Programme** to European institutions at the end of September 2016. The Programme consists of four sub-Programmes addressing the following issues: supervisory convergence, risk assessment, regulatory and supervision of institutions for which it has a direct supervisory remit. It will also be continuing work on the multi-annual IT Programme.

All of these Programmes are intended to further the objectives of ESMA's 2016-2020 *Strategic Orientation*.

The highlights of the Annual Programme include:

- 1) Converging practice on the implementation of the new rules for markets in financial instruments - **MiFID 2/MiFIR** - and market abuse - **MAR** -, including associated technology projects. ESMA will also considering opportunities for stress testing investment funds on a pan-European basis and potential methodologies to be used in such tests.
- 2) Ensuring the quality of data bases, an essential source for risk analysis.
- 3) Regarding the *Single Rule Book*, ESMA's contribution will focus on developing measures for the Benchmarks Regulation, Prospectuses and Securitisations.

The following sections give a brief summary of the Supervisory Convergence, Risk Assessment and Regulatory Work Programmes.

ESMA 2017 SUPERVISORY CONVERGENCE WORK PROGRAMME

For the second consecutive year, ESMA has published a **Supervisory Convergence Work Programme** (2017 SCWP).

The Programme takes as its starting point the main issues of the 2016 SCWP and, building on last year's experience, sets the following key priorities:

- 1) *Ensure robust, efficient and consistent application of the new EU level basic regulations for securities markets.* Specifically, work will focus on *MiFID 2/MiFIR* - still in the preparatory phase as implementation has been put back to 2018 - and on *MAR* - now in its implementation phase -.

This will demand substantial resources both from ESMA and National Competent Authorities (NCAs) to draft guidelines on how the rules should be applied, principally in a Q&A format. ESMA also expects to complete work this year on the supporting IT infrastructure, including the FIRDS, TRACE and TREM expansion projects.

- 2) *To improve the quality of data collected by NCAs under reporting obligations imposed by various regulations, such as MiFID 2/MiFIR, the Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EMIR) and the Directive on Alternative Investment Fund Managers (AIFMD), thereby improving the quality of supervision.*

- 3) *Safeguard the free movement of services by ensuring adequate investor protection when services are*

provided cross-border. ESMA, in line with the Capital Markets Union initiative, will facilitate cooperation between NCAs on supervisory activities. Specifically, it will continue work on sharing NCAs' experiences on supervising financial contracts for difference and other speculative products (including passporting) and will work on delegating functions in accordance with the Directive on Undertakings for Collective Investment in Transferable Securities (the UCITS Directive) and the AIFMD.

4) *Ensure effective convergence of supervision of central counterparties in the EU.*

ESMA's principal **working methods** to drive forward supervisory convergence will be discussion of specific cases among NCAs, supervisory briefings, as well as courses and workshops. These will be in addition to the 20 guidelines it plans to issue on MiFID and the Central Securities Depositories, Money Market Funds and Benchmarks Regulations.

ESMA will take part in **cross-sectional work** to develop contact lists in the NCAs in this regard. It will also focus throughout 2017 on better monitoring of identified cases of failure to apply guidelines or recommendations stemming from peer reviews and may use the procedure of breach of EU Law under ESMA Regulation, where appropriate. Further, regarding enforcement, ESMA will in 2017 be examining the procedures applied by NCAs and the sanctions they impose. It may also more closely investigate practices in respect of unauthorised firms.

The two ongoing **peer reviews** will be concluded in 2017: the first on compliance with financial regulations and the other on supervision of compliance. It is also planned to initiate a new review on compliance with guidelines for exchange traded funds and other fund-related issues. Resources permitting, ESMA may also launch a second review in 2017 on supervisory actions by NCAs in respect of derivatives reporting obligations under EMIR, depending on the results of the Action Plan and data quality.

Finally, as part of the current Programme, ESMA's Committees will define their working plans for supervisory convergence.

ESMA 2017 RISK ASSESSMENT WORK PROGRAMME

The **ESMA 2017 Risk Assessment Work Programme** lays out the risk assessment activities planned for 2017, comprising analysis, research, data collection and preparation of statistics. However, it should be noted that the priority accorded to the projects may change over the course of the year.

The scope of ESMA's risk assessment work is not confined to **risk monitoring and assessment** but also embraces **developing the IT systems and infrastructure** necessary for it to function. In 2017, ESMA's primary objective is to further develop its own data sources and the analytical use made of the data collected.

As regards risk monitoring, ESMA's Programme for 2017 contributes to and supports a large number of projects in the areas of regulation, supervision and convergence, as well as its own risk assessment remit.

In addition, ESMA publishes two regular reports discussing trends, risks and vulnerabilities: the semi-annual *Trends, Risks and Vulnerabilities Report* and the quarterly *ESMA Risk Dashboard*. The Authority also contributes to the semi-annual *Risk Report by the Joint Committee of the European Supervisory Authorities*.

ESMA's planned **risk assessment activities** pursue the following objectives: a) to improve external cooperation on research; b) to promote public availability, exploitation and analysis of ESMA's databases; and c) to promote better understanding of EU markets and their risks.

On securities markets, infrastructures and investor protection, the working areas identified for 2017 include the following ones: a) liquidity in EU securities markets; b) markets in securities financing transactions and repo markets; c) derivatives trading, market structures and risks; d) high frequency and algorithmic trading; e)

circuit breakers and trading halt mechanisms; f) leverage and liquidity in investment funds; g) risk indicators in alternative investment funds; h) costs and performance of investment products; and h) coordination of and contributions to ESMA's planned stress tests.

On financial innovation, ESMA will assess: a) trends among retail investors; b) risks and analysis for product intervention; c) monitoring of distributed ledger technology (DLT); and d) supervisory convergence on crowdfunding.

On data management, ESMA will be working on four main areas in 2017: a) to develop procedures for data management and statistical analysis of trade repository databases, initially to support transparency calculations and subsequently to enable publication of recurring statistical reports on activity and trading; b) to improve data quality on alternative investment funds; and c) to improve data quality on credit rating agencies, implementing an analysis of the available data and developing regular reports to support supervision and risk assessment.

On statistics, ESMA's objectives in 2017 are: a) to develop the statistical exploitation of its databases, particularly with a view to the obligation under the MiFID 2 regulatory technical standards to publish transparency requirements for securities and their sub-classes; and b) to produce statistical reports on the AIF industry and Credit Rating Agencies.

Finally, the 2017 Risk Assessment Work Programme also includes cooperative projects with other European and international bodies such as the European Systemic Risk Board, the Financial Stability Board and the International Organisation of Securities Commissions.

ESMA 2017 REGULATORY WORK PROGRAMME

The **2017 Regulatory Work Programme** consists of 54 separate measures that ESMA will prepare and publish in the course of the year, including regulatory and implementation technical standards and technical advice. In most cases, ESMA is obliged to publish its projects within a deadline set in the Level 1 regulation (Rules/Directives). But in others ESMA has discretion to decide if and when to proceed with the project.

The Programme includes the following regulatory measures:

Regulation on benchmarks for financial instruments and contracts: 14 developing measures.

Ten of the measures are regulatory technical standards covering the following points: a) information required for authorisation and registration of the benchmark; b) specifications of qualitative criteria for significant benchmarks; c) methods to ensure that input data used to calculate the benchmark are appropriate and verifiable and the contributor's internal oversight and verification procedures; d) content of the code of conduct and governance and control requirements for supervised contributors; e) data that benchmark administrators must provide to meet transparency standards on the index's calculation methodology; and f) oversight procedures within the administrator's organisation. ESMA may, at its discretion, issue the technical standard for the content and format of recognition requests by third-country administrators. The Programme also prescribes four implementation technical standards, two on data exchange procedures and two on templates for compliance filings by significant and non-significant benchmarks.

Prospectus Regulation (pending publication): 12 developing measures.

Although this Regulation has yet to be published – the EC proposal was on 30 November 2015 – the Programme includes six regulatory technical standards and another six technical advices on this matter. The technical standards will address the following points, among others: a) the presentation of key financial information for inclusion in the summary prospectus and required disclosures about any guarantors; b) requirements on publication and publicity for the prospectus; and c) the circumstances in which it is necessary to publish a

supplement to the prospectus. Technical advice will cover the following areas: a) criteria for the analysis and approval procedures for the universal registration document; b) loss of frequent issuer status; c) content and format of prospectus calendars; d) a new simplified regime for published information on secondary issues; e) content and format of the European Union Growth Prospectus; and f) procedures for the examination and approval of prospectuses.

Regulation on transparency of securities financing transactions and reuse: six developing measures.

ESMA will produce five technical standards and one technical advice. The technical standards will cover different aspects of the trade repositories that ESMA will operate. The advice, which is discretionary, will deal with regulating fees charged by ESMA for registration, recognition and supervision of trade repositories.

Regulation for simple, transparent and standardised securitisations (pending publication): six developing measures.

The EC draft Regulation (30 September 2015) was approved by the European Council on 2 December 2015. The Programme includes technical advice on due diligence requirements for institutional investors, risk retention and transparency requirements and transparency in the EU securitisation market. ESMA will also prepare another two regulatory and three more implementing technical standards.

Regulation on OTC derivatives, central counterparties and trade repositories (EMIR): four developing measures.

ESMA is planning four discretionary standards in this area. One would develop rules on when mandatory clearing applies and the three others would update a number of technical standards already in force on trade repositories.

MiFID 2: four developing measures.

Following the high number of guidelines issued in relation to this regulation in 2016, ESMA only plans three regulatory technical standards for this year, addressing the following matters: a) the scope of the consolidated tape provider for non-equity instruments; b) package orders for which there is a liquid market; and c) standards for determining which categories of derivatives must be traded on MiFID trading venues.

Market Abuse Regulation: three developing measures.

The Programme includes three technical standards on cooperation (information exchange and assistance), information exchange and the obligation to cooperate between ESMA and NCAs and their equivalents in the energy sector, as well as cooperation agreements between NCAs and third-country supervisors.

Money Market Fund Regulation (pending publication): three developing measures.

The Regulation on money market funds will be published imminently. ESMA intends to produce two technical advices: one on criteria for validating the creditworthiness assessment methods, criteria for quantifying credit risk and risk of issuer default and the concept of material change in this context, and another on quantitative and qualitative liquidity requirements for assets in reverse repurchase agreements.

ESMA will also issue: a) a regulatory technical standard on structured finance instruments in implementation of the **Credit Rating Agencies Regulation** (CRA 3); b) a regulatory technical standard on the European Single Electronic Format (ESEF) in relation to the **Transparency Directive** and c) a regulatory technical standard implementing the **Regulation on European long-term investment funds**, specifying common definitions and the calculation methods and common presentation formats for costs.

Links:

[ESMA 2017 Work Programme](#)

[ESMA 2017 Supervisory Convergence Work Programme](#)

[ESMA 2017 Risk Assessment Work Programme](#)

[ESMA 2017 Regulatory Work Programme](#)