ESMA work programme for 2014. November 2013.

ESMA has published, on the 30th September 2013, its work programme for 2014 recently approved by the Board of Supervisors on the basis of a proposal by ESMA´s Management Board. The work programme for 2014 describes the strategy and the goals ESMA pretends to achieve and is in line with ESMA´s 2013-2015 Multi-Annual Work Programme.
To achieve its objectives, ESMA has submitted to the EC a budget proposal with an amount of 32.5 million euros and a staff base of 195 people. ESMA´s revenues come from the EC, the national competent authorities and CRAs fees and, in 2013 for the first time, funding has also been generated from Trade Repositories (TRs) fees contribution. The EC has presented a revised proposed budget that cuts down ESMA´s request for its 2014 budget. If it is the case that the EC revision is finally approved, ESMA presents in annex 5 the list of task that will not be possibly completed with the EC proposed budget.

In the overall ESMA work programme the legislative tasks related to ESMA´s convergence and single rulebook objectives are not addressed in great detail. Annex 4 details a bit more ESMA´s works and documents for 2014 and, in the first quarter of next year, ESMA publishes a full list of the technical standards, technical advice and guidelines and recommendations that ESMA will produce within the year (the regulatory work programme). ESMA´s planned activities for next year referred to the following objectives:

1. Objective: Convergence.

Related to corporate reporting, ESMA will issue guidelines on enforcement that national authorities should apply to ensure coordination of enforcement actions, will monitor the developments in International Financial Reporting Standards (IFRS), and will work on further development of some aspects of the transparency Directive such as the network of Officially Appointed Mechanisms (OAMs) and the potential role of the eXtensible Business Reporting Language.

Peer reviews on the application of existing EU legislation will be of two kinds: a) on supervisory practices, concerning a sample of national authorities using on-site visits; and b) on general compliance with guidelines and recommendations and, concretely, peer reviews will cover High Frequency Trading guidelines and suitability and compliance function in the MiFID guidelines.

At international cooperation area, ESMA work will be focused on CRAs, Trade Repositories, and supervisory issues. ESMA will also play a central role in assessing the equivalence of third country supervisory regimes, will provide advice to the EC and assist in redacting MoUs with third countries when required. An important tool for supervisory convergence is the issuing of Questions&Answers that ESMA plans to publish in 2014 on short selling, transparency and prospectus.

2. Objective: Financial consumer protection.

ESMA has, in the draft MiFIR, two roles related to the product intervention: 1) coordinating the actions taken by competent authorities that could set permanent bans on financial products, activities or practices; and 2) setting itself temporary bans on those products, activities or practices, such as prohibition or restriction on the marketing, distribution or sale of certain financial instruments. ESMA will continue the preparatory work of product intervention forms. About the Packaged Retail Investment Products (PRIPs), ESMA will work on the content and format of the Key Information Document (KID) and, with the other ESAs, on the methodology for the calculation of the risk and cost disclosures in the KID.

3. Objective: Financial Stability.

ESMA, in coordination with the European System of Financial Supervision (ESFS) and the European Systemic Risk Board (ESRB), will work in the detection and research of innovative products or processes such as, for example, the crowdfunding, and will continue issuing its semi-annual “Report on Trends, Risks and Vulnerabilities”. ESMA

economic research will cover benchmarks legislation and inter-bank reference rate reform.

4. Objective: Single rulebook.

The main project ESMA will have to undertake in 2014 is the implementation of the review of MiFID which is currently being negotiated in the European Council and Parliament. ESMA expects to be involved in preparing a large number of important and highly complex implementing measures that will take the form of ESMA technical standards or advice to the EC on delegated acts. The same happens with MAD whose preparatory works will run in parallel to the MiFID review work stream.

ESMA´s focus in 2014 in the investment funds area will be divided between: 1) on-going work on key elements of the Alternative Investment Fund Managers Directive (AIFMD) framework; 2) the new Undertakings for Collective Investment in Transferable Securities (UCITS V); 3) the Regulations on European Venture Capital Funds and European Social Entrepreneurship Funds, on the rules of management of conflicts of interests and the establishment of a public database of entities by ESMA.

ESMA´s work on corporate finance will include work on the Prospectus Directive (registration and publication in ESMA´s website of all approved prospectuses, supplements and passports), the transparency Directive (new proposals on corporate governance) and the Takeover Bids Directive.

ESMA must submit its draft regulatory technical standards required under the CRA III Regulation by June 2014 and will be actively involved in IOSCO´s work on the review of IOSCO´s Code of Conduct for CRAs. ESMA also will have to draft around 30 technical standards and other measures under the Central Securities Depository Regulation which is still under negotiation. Likewise, ESMA will develop technical standards in relation to audit matters (although this work would require five staff out of the 195 staff that ESMA has requested for 2014), will draft guidelines on Exchange Traded Derivatives reporting, as well as technical standards on bilateral margins (EMIR) and on capital requirements Regulations. Under the short selling Regulation, ESMA will need to draft a template for a Memorandum of Understanding between EU and third country regulators.

5. Objective: Supervision.

The increase of the number of registered and certified CRAs and the establishment of supervisory colleges for CRAs which are globally active will require more resources within the CRA Unit and ESMA as a whole. ESMA will continue the registration of applicants of Trade Repository (TR), will increase its supervisory efforts towards the TRs authorised in 2013, will take part in Central Counterparties (CCPs) colleges, and will enter in to the relevant Memorandums of Understanding with the foreign competent authorities for recognizing third country CCPs and TRs. ESMA will also issue regulatory technical standards determining the classes of derivatives subject to the clearing obligation.

6. Objective: ESMA as an organization.

ESMA has planned important IT projects: 1) will establish systems to register and report on CCPs and TRs; and 2) will feature a new version of the Transaction Reporting Exchange Mechanism (TREM 4.0) to respond to the changes in MiFID and MAD. Several on-going projects related, for example to the AIFMD, have been launched in 2013 and will be delivered in 2014. Next year ESMA will still be classed as a start-up agency whose budget, that requests the recruitment of 35 experts, reflects the considerable workload resting to finish the set-up stage of the organization.

The **Joint Committee of ESMA, EBA y EIOPA** has also presented a **joint 2014 work programme** that will continue to give high priority to the areas of consumer protection and cross-sectorial risk analysis. Consumer protection will be focused on the next objectives: selling practices and conduct of business applying to PRIPs, complaint-handling guidelines for EBA and ESMA based on EIOIPA´s guidelines, self-placement (sale of securities issued by the financial institution), guidelines on cross-selling practices, and commercial comparison webs where you can compare or buy financial products. In addition, the Joint Committee will continue to present two reports on Risk and Vulnerabilities to the ECOFIN. Other regulatory joint works will be referred to: financial conglomerates, anti-money laundering, risk mitigation techniques for OTC derivatives not cleared by a CCP, External Credit Assessment Institutions (ECAIs), benchmark setting processes, and the impact assessment network. Joint Committee supervisory work will be targeted on financial conglomerates and in the Joint Committee´s role on the Systemically Important Financial Institutions (SIFIs).

If you want to read the ESMA 2014 work programme, please, do click on: http://www.esma.europa.eu/system/files/2013-1355_esma_2014_work_programme.pdf

If you want to read the 2014 work programme of the Joint Committee of the ESAs, please, do click on: http://www.esma.europa.eu/system/files/jc-2014-051_2014_work_programme_of_the_joint_committee_of_the_esas.pdf