



ESMA Strategic Orientation for the period 2020-2022. International Bulletin of February 2020.

On 9 January 2020, the European Securities and Markets Authority (ESMA) published the document containing the strategic orientation of this Agency for the period 2020-2022. This document is being disseminated as its previous strategic plan of 15 June 2015, covering the period 2016-2020, is nearing completion.

The ESMA Strategic Orientation for the period 2020-2022 takes into account the new developments introduced in the regulation applicable to the European Supervisory Authorities through Regulation (EU) 2019/2175, published on 27 December 2019. These Regulations reinforce the powers of these Authorities in relation to their coordination functions in the supervision of the different financial sectors. In addition, in the case of ESMA, the aforementioned Regulation has conferred on it direct supervisory powers over certain areas of activity in securities markets (in particular over EU and third country key benchmarks administrators, as well as over data service providers). Furthermore, and as a result of the reform of the European Market Infrastructure Regulation (EMIR), ESMA has also been assigned the task of supervising central counterparties (CCPs) from third countries when, because they are or may be considered systemic for the purposes of financial stability in the European Union or a Member State, they form part of the so-called Tier 2 category. All this allows this Authority to advance in the strategic lines designed in 2015 and increase its level of ambition both in the fulfilment of its mandate (protection of investors, market organisation and contribution to financial stability) and in the execution of its activities (risk detection, supervisory convergence, direct supervision of certain institutions and the development of a single rulebook for financial markets).

The main strategic lines of ESMA for the period 2020-2022 will contribute to mitigating the challenges facing the European Union by promoting: a) a greater base of retail investors to develop the Capital Markets Union; b) sustainable finance and long-term capital markets; c) digitalisation as an opportunity for market participants and regulators/supervisors; d) a greater influence of the European Union through ESMA on relevant bodies in the global financial markets; and e) monitoring of the principle of proportionality in the measures that ESMA may adopt in relation to the different sectors of the securities markets (according to criteria such as market or entity size subject to supervision, etc.).

As it did in its first strategic guidance document for the 2016-2020 period, ESMA has carried out an analysis of the environment that financial markets will face in the 2020-2022 period, which, according to the Authority, will be dominated by the following challenges: a) the fragility of the markets affected by an extremely low interest rate policy that entails a significant risk of overvaluation of financial assets; b) the new challenges in investor protection due to the impact of new technologies on the business models of financial service providers; c) the use of massive data by supervisors and the use of new tools in the areas of RegTech and SupTech; d) the development of the Capital Markets Union to especially promote the participation of retail investors and SMEs in financial markets; e) monitoring of the UN sustainable development goals by 2030; f) the increase in market fragmentation as a result of Brexit and the limitations established in international trade; and g) a competitive global framework characterised by a greater feeling of fatigue regarding the implementation of new regulatory measures.

Given this context, and as already indicated in the introduction, ESMA considers the following areas as basic elements in its strategy for the period 2020-2022:

- a) The promotion of a larger base of retail investors to develop the Capital Markets Union, which can only be achieved through better financial education and provided that the financial services industry manages to increase investor confidence. Additionally, ESMA will promote greater access for SMEs to capital markets.
- b) Sustainable finance and long-term capital markets, for which ESMA will promote greater transparency of the so-called sustainable factors (ESG) both in the field of issuers and market participants, helping investors understand the impact of ESG factors in their investment decisions. ESMA will include these factors in its four main activities already mentioned (risk assessment, supervisory convergence, the development of a single rulebook and direct supervision of certain market segments). Given its systemic importance, ESMA will collaborate in these aspects with the authorities responsible for financial stability.
- c) Digitalisation as an opportunity for market participants and regulators/supervisors. ESMA will examine both the implications of digitalisation for investor protection and for participants have adequate business continuity programmes. It will also pay special attention to the development of a solid legal framework for crypto-assets. ESMA aims to become a European financial data centre that is easily accessible to all stakeholders.
- d) Increase the influence of the European Union on the relevant bodies in global financial markets through ESMA (such as the International Organization of Securities Commissions (IOSCO)) in close cooperation with the competent national authorities.
- e) Promote proportionality in the obligations to be imposed in relation to the different sectors of the securities markets (in accordance with the market size or the entity subject to supervision, etc.). To this end, the new regulation of the European Supervisory Authorities has imposed the creation of a Proportionality Committee in each Authority to verify that the measures adopted by each Authority respect the principle of proportionality.

The execution of this strategy will be carried out through the four main ESMA activities mentioned above. Thus, in relation to the risk assessment of investors, markets and financial stability, ESMA considers that the starting point of any of its measures requires the use of a larger and more detailed set of data that will be available to it as a result of the powers assigned to it by the recent regulatory reform of the European Supervisory Authorities to promote evidence-based supervision by both ESMA and its members. The risk analysis based on access to more individualised data will allow a better determination of the Supervisory Priorities in the EU that ESMA must prepare on a three-year basis. In turn, so that retail investors can participate more in capital markets, ESMA will coordinate the financial education initiatives of its members and reinforce the analysis of retail investment, in particular, by identifying its risks through studies related to undue sales practices and distribution costs. To this end, ESMA will make use of the new power conferred on it by the regulations on the coordination of mystery shopping activities carried out by its members, which will facilitate the detection of inappropriate behaviour in the European Union. In order to carry out all these activities, ESMA requires continuous and simpler access to high-quality and detailed data, which is why the organisation believes that the EU needs a more decisive strategy in this regard. ESMA will address this goal through an ambitious constantly updated IT program.

In turn, this Authority will implement the new strategic orientation in its activity of promoting supervisory convergence through several actions:

- a) The development of a common supervisory and inspection culture focused on outcomes, by promoting the exchange of local supervisory experiences and the promotion of common responses; the development, in collaboration with the competent national authorities, of a principles-based EU supervision manual, as set out in the new regulation of the European Supervisory Authorities and the improvement of the inspection culture promoting the use of sanctioning capacities by its members.

b) The establishment of priorities for supervisory convergence through improved risk identification and data collection, including information received from market participants and investor complaints, which will allow ESMA to focus on the most relevant areas for market users by following a set of criteria already used by this organisation to determine areas of supervisory convergence and identifying the instruments at ESMA's disposal that are most effective in carrying out such convergence (opinions, recommendations, questions and answers and others).

c) Peer reviews by competent national authorities as a significant tool promoting supervisory convergence. Under the new regulation, the European Supervisory Authorities will be the coordinators of these assessments under the control of the Authority's Management Board (to date these assessments were coordinated by a national competent authority).

The revision of the ESMA Regulation, adopted and published in 2019, has assigned to this Authority, as noted above, the direct supervision of new areas of the European securities market for key benchmarks, third-country CCPs or data service providers, all in addition to the supervision already exercised over credit rating agencies and trade repositories. In carrying out this activity, ESMA will translate its strategy into risk-based and performance-focused supervision with a long-term impact, exercise effective direct supervision of the above-mentioned entities and more active cooperation with the local supervisory authorities of third country CCPs.

With regard to the development of the single regulatory code, ESMA will promote its new strategy by seeking to be a source of expertise on the EU's securities markets that facilitates the strengthening of regulation and a level playing field, avoiding regulatory arbitrage in this territory through greater collaboration with market participants. In addition, this Authority will ensure that the updating of the European financial regulations takes into account the principle of proportionality and will carry out regular reviews of the application of the technical standards and guidelines, both to observe whether this principle is being complied with and whether these are being implemented consistently. In addition, in these reviews, ESMA will pay special attention to the regulatory changes necessary to develop the Capital Markets Union, increase the attractiveness of European markets and promote sustainable finance or proportionality.

The new orientation will also affect ESMA as an organisation. In this regard, this Authority seeks to achieve greater leadership through better accountability (better key performance indicators) and increased transparency of its decisions. In addition, greater efficiency in supervision will be promoted through the introduction of improvements in IT, facilitating access to data for European authorities and market participants. In the field of human resources, ESMA will promote a policy of attraction and maintenance of highly qualified staff that allows the organisation to be prepared for new challenges. Finally, it will apply sustainability measures internally to reduce its environmental footprint.

Link of interest:

[ESMA Strategic Orientation 2020-22](#)