



European Securities and  
Markets Authority

# ESMA Strategic Orientation 2020-22





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Markets Authority

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## 1 Executive Summary

This Strategic Orientation 2020-2022 is established against the background of a changing landscape for ESMA, including movement of the regulatory cycle towards supervision and enforcement and a continued need to develop European Union (EU) capital markets, reinforced by the fact that the largest capital market will be leaving the EU. In addition, ESMA's Strategic Orientation 2016-2020 is coming to an end and with the expansion of the responsibilities of the Authority, there is the need to review ESMA's longer-term focus and objectives.

The EU needs strong capital markets, promoting economic growth and innovation. New and diversified funding sources to the benefit of new enterprises, including SMEs, are key to further growth and employment. To achieve reasonable returns on their savings, retail investors' participation in EU capital markets will be essential. This will only be possible when the financial services industry re-establishes trust in financial markets. Investors need to be sufficiently empowered, protected and have access to transparent and efficient financial products and services which they understand.

Our regulation and supervision needs to respond to, and benefit from, the increasing role of technology and sustainability in capital markets. In all its activities, ESMA will take proportionality into account and respond to differences in size, complexity and risk. For ESMA, openness of EU financial markets will continue to be an important goal. Moreover, in response to new mandates, we will step up our international activities and co-operation with third country authorities and international regulatory bodies.

An increasing priority for ESMA is to ensure the consistent implementation of the EU Single Rulebook across the Union, which is not only important for stimulating cross-border business and for protecting retail investors, but it is also crucial for the success of the Capital Markets Union and the EU Single Market. ESMA will work closely with national competent authorities (NCAs) and significantly step up its risk-based approach to supervisory convergence by focusing on supervisory outcomes and using innovative convergence tools like Common Supervisory Actions, and more effective peer reviews. ESMA's risk identification and data collection activities will increasingly be the starting point for more risk-driven supervisory convergence. Moreover, ESMA will further expand its function as a data-hub at EU-level.

ESMA strengthens its role as a direct supervisor, prioritising the areas posing the greatest risks to ESMA's objectives. We are leading in the sectors for which we have

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built up direct supervisory expertise and will build our reputation as a credible supervisor also in the new areas of direct supervision: securitisation repositories, securities financing transactions, critical benchmarks, data service providers, and third country central counterparties (CCPs). ESMA intensifies its risk-based, preventive approach to supervision and further improves its enforcement processes.

Together with national competent authorities and the EU Institutions, ESMA will continue to drive a better EU single rulebook for financial services by maintaining the existing high-quality approach or by updating it, where relevant, to reflect new developments, for example relating to financial innovation and sustainability, or to embed proportionality.

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## 2 ESMA – the EU’s Financial Markets Regulator

### a. ESMA’s mission

The European Securities and Markets Authority (ESMA) is the European Union’s financial markets regulator.

ESMA’s mission is to enhance investor protection and promote stable and orderly financial markets:

- **Investor protection:** to have the needs of financial consumers better served and to reinforce their rights as investors while acknowledging their responsibilities;
- **Orderly markets:** to promote the integrity, transparency, efficiency, and well-functioning of financial markets and robust market infrastructures; and
- **Financial stability:** to strengthen the financial system in order to be capable of withstanding shocks and the unravelling of financial imbalances while fostering economic growth.

ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active co-operation with NCAs (securities market regulators in particular), the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board (ESRB) and the Joint Committee of the European Supervisory Authorities (ESAs). ESMA has a unique position within the ESFS as it focuses on securities and financial markets at EU level.

### b. ESMA’s activities

ESMA achieves its mission through four activities:

- Assessing the risks to investors, markets and financial stability
- Completing a single rulebook for EU financial markets
- Promoting supervisory convergence
- Directly supervising specific financial entities

The purpose of assessing risks to investors, markets and financial stability is to detect in a timely fashion emerging trends, risks and vulnerabilities, and where possible opportunities, so that they can be acted upon. ESMA uses its unique position to identify market developments that threaten financial stability, investor protection and/or the orderly functioning of financial markets. ESMA’s risk assessments build on and complement risk assessments made by the other ESAs and national competent authorities (NCAs) and contribute to the systemic risk work undertaken by stability authorities like the ESRB, which increasingly focus on stability risks in financial markets.



The output of the risk assessment function feeds into ESMA's work on the single rulebook, supervisory convergence and the direct supervision of specific financial entities. We promote transparency and investor protection by making information available to investors via our public registries and databases and, where needed, by issuing warnings to investors. The risk analysis function closely monitors the benefits and risks of financial innovation in EU financial markets.

The purpose of completing a single rulebook for EU financial markets is to enhance the EU Single Market by creating a level playing field for investors, issuers and other market participants across the EU. ESMA contributes to strengthening the single rulebook for EU financial markets by developing Technical Standards and by providing advice to EU Institutions on legislative projects.

Supervisory convergence is the consistent implementation, application and supervision of the same rules using similar approaches across the EU. The purpose of promoting supervisory convergence is to ensure a level playing field of high-quality regulation and supervision without regulatory arbitrage or a race to the bottom between Member States. The consistent implementation, application and supervision of rules ensures the safety of the financial system, protects investors and ensures orderly markets. This activity is performed in close co-operation with NCAs. ESMA's position in the ESFS makes it well-placed to conduct peer reviews, thematic studies and common strategic priorities, set up EU data reporting requirements, produce draft opinions, guidelines and Q&As but also build a close network that can share best practices and train supervisors. Given the global nature of financial markets, ESMA also actively supports international regulatory and supervisory co-ordination.

ESMA is the direct supervisor of specific financial entities: It is already supervising credit rating agencies (CRAs) and trade repositories (TRs), including for securities financing transactions more recently, and will take over additional responsibilities for the supervision of securitisation repositories, critical benchmarks, data service providers, third country central counterparties (CCPs) and other third country firms in a number of different areas. These entities form significant parts of the EU's financial market infrastructure.



### 3 ESMA's Strategic Orientation

The Strategic Orientation sets ESMA's longer-term focus and objectives and is translated into concrete actions through the annual Programming Document and work programme. ESMA developed its first Strategic Orientation (for the period 2016-2020) in 2015 and regularly assessed the progress made towards executing it.

With the 2016-2020 period coming to an end, ESMA can look back at the successful development of the single rulebook, largely driven by the post-financial crisis agenda, and for establishing itself as a credible supervisor of CRAs and TRs, including effective supervisory actions and successful enforcement actions against supervised entities. Having a single rulebook is one thing, having the rulebook applied consistently in practice is another. Therefore, ESMA already significantly stepped up its supervisory convergence related activities, including issuing guidelines and Q&As, and conducting peer reviews, but could further promote supervisory convergence by adopting a more risk-based and outcome-focused approach.

ESMA is now developing its strategic orientation for 2020-2022, by taking into account the legislative amendments completing the review of the ESAs, which increase the focus on supervisory convergence, give a higher profile to investor protection and entrust the direct supervision of certain benchmarks and data service providers to ESMA. At the same time, there have been other legislative changes such as the introduction of EMIR 2.2, and the new Investment Firm Regime. One of the results of these changes is that ESMA will become the direct supervisor of certain systemically-relevant third country CCPs.

ESMA operates in a rapidly changing environment requiring strong co-operation with the European Parliament, the Council of the European Union and the European Commission. The EU financial markets and the political environment remain challenging:

- Markets continue to be fragile, with risks of overvaluation critically affected by the low interest environment and the related monetary policy. While these historically exceptionally low interest rates greatly impact financial markets, their precise effect in the medium to long term remain unknown;
- Investor protection challenges are changing in a world where technology is providing new opportunities and also creating new risks. Fundamentally changing business models in financial markets also potentially impact their orderly functioning and financial stability;
- Data has become essential for supervision in providing regulators with additional insights on market developments, and tools such as RegTech and SupTech provide promising opportunities;
- Funding should be mobilised, and be more equity based, to stimulate healthy economic growth through the continuous development of the Capital Markets Union (CMU). Retail investors and Small and Medium Sized Companies (SMEs) should benefit more from capital markets;





- Meeting the United Nation's (UN) Sustainable Development Goals (SDGs) by 2030 will be an important milestone for the Union in the combat against climate change. The development of sustainable finance will be a critical success factor to achieve these goals;
- Market fragmentation increases in a world where international co-operation is changing, driven by revised political priorities on trade, more limited global policy co-ordination and the United Kingdom's withdrawal from the EU; and
- The EU operates in a competitive global framework characterised by an increasing fatigue towards additional regulatory measures.



## **4 Strategic direction – facing the EU’s challenges**

ESMA’s strategic orientation aims to contribute to mitigating the challenges faced by the European Union (EU), its citizens and capital markets:

### **A large retail investor base to develop the Capital Markets Union**

To finance the economy and ensure economic growth and job creation, the Union will further develop its capital markets as an alternative to bank lending. Therefore, funding sources will need to be diversified, efficiency of capital markets increased, supervision strengthened and harmonised, and the attractiveness of EU capital markets for both EU and non-EU investors enhanced.

ESMA actively promotes the development of a large retail investor base to develop capital markets and to ensure long term financial planning which cannot be achieved by merely placing savings into deposits. To achieve a reasonable return on retail savings in the medium- to long-term, participation in the capital markets is essential. It will only be possible to mobilise investors if financial literacy is enhanced and if the financial services industry improves investors’ trust in financial markets and distributors and by reducing the costs associated with obtaining financial products.

To improve Small and Medium-sized Enterprises’ (SME) access to capital markets, ESMA advocates more proportionate and standardised disclosures for SMEs and the development of specific SME markets for high net worth investors.

### **Promote sustainable finance and long-term oriented capital markets**

Meeting the United Nation’s (UN) Sustainable Development Goals (SDGs) by 2030 will be an important milestone for the Union in the combat against climate change. The development of sustainable finance will be a critical success factor to achieve these goals.

ESMA will further develop its risk identification related to environmental, social and governance (ESG) factors. As part of this, ESMA will continue to promote transparency on ESG factors by issuers and market participants. This will help investors to better understand the impact of ESG factors on their investment(s) and help transparency on an investment’s contribution to a sustainable economy. ESMA will embed ESG factors across its four core activities.

Financial stability is essential for sustainable and strong financial markets. With the EU further developing its capital markets alongside bank lending, ESMA is aware of the increasing interest in financial stability risks in financial markets and co-operates closely with stability authorities like the European Systemic Risk Board (ESRB).

### **Digitalisation as an opportunity for market participants and regulators**

Financial technology is rapidly impacting markets. ESMA believes that technology can contribute to well-functioning financial markets and investor protection for example through more transparency, automated advice and the reduction of distribution costs. ESMA will



therefore actively examine the new opportunities technology might bring especially for investor protection and share expertise and know-how with national authorities.

ESMA will however, together with NCAs, also require EU market participants to acknowledge the risks that may stem from digitalisation by ensuring business continuity and the use of adequate and up-to-date technology, as well as adequate protection against cyberthreats, and through proper data protection and data quality management. The dangers of cyberthreats to the financial system as a whole and a sound legal framework for crypto-assets are increasingly becoming areas of focus for ESMA together with the other ESAs, the ESRB, the ECB and the European Commission.

Data has become essential for supervision in providing regulators with additional insights on market developments. It is important that all supervisors make use of financial data available within the Union. ESMA will take an active role in leading and co-ordinating activities among NCAs as regards adopting new technologies and approaches based on, for example, artificial intelligence, big data and SupTech.

### **The EU's voice in global financial markets**

Recent political developments such as the United Kingdom's decision to withdraw from the EU and disputes regarding international trade increase the risk of market fragmentation. Market interconnectedness however remains high and is in certain areas even growing. In a more fragmenting market, supervisors need to work even harder to ensure effective supervision of cross-border firms both at EU and international level.

Openness of the EU financial markets will continue to be an important goal. ESMA continues to promote global standards to regulate capital markets. ESMA will therefore further develop its co-operation with third country authorities to ensure investor protection, financial stability and well-functioning markets both bilaterally and multilaterally. ESMA will strengthen the EU contribution to and its position within the International Organization for Securities Commissions (IOSCO) and other international regulatory bodies in close co-operation with NCAs.

Given its strengthened mandate as a result of the ESA review, interactions with non-EU regulators will become more frequent, particularly in dealing with issues around equivalence of regulatory frameworks and in achieving day-to-day supervisory and regulatory co-operation, including data exchange. Furthermore, ESMA will develop its activities in co-operation with the European Commission in the area of monitoring of equivalence granted to third countries, to ensure a continuous level playing field, and protection against risks stemming from markets outside the EU. When doing so, ESMA will work closely with NCAs on the authorisation and supervision of third country firms to ensure a consistent approach and similar treatment between the EU and the third country.

### **Request for Proportionality**

Financing SMEs and innovative companies that want to grow is important for the international competitiveness of the Union and to support economic growth and job creation. Though the emphasis will remain on the need for a strong EU Single Rulebook as part of ESMA's



commitment to enhance investor protection and promote stable and orderly financial markets, ESMA will follow a proportionate approach in its activities by tailoring its initiatives to what is needed to achieve its objectives.

To foster the development of small companies and market players, ESMA will take into account the nature, scale and complexity of the risks inherent to the activities of these market participants when developing the EU Single Rulebook. ESMA will also engage in an active dialogue with national authorities on proportionality and ask for explicit feedback on costs and benefits when consulting stakeholders. ESMA will establish a dedicated proportionality committee.

ESMA is a risk-based supervisor which implies that the regulatory and supervisory effort will be more limited for smaller, less complex entities whilst more extensive for large and complex entities.



## 5 Strategic choices per activity

### a. Assessing risks to investors, markets and financial stability

***Risk assessment is part of the core work of supervisory authorities. ESMA's longer-term success rests upon the timely identification and correct assessment of relevant trends, risks and vulnerabilities. ESMA will therefore continue to strengthen its capabilities to identify and assess risks to investors and financial stability in the EU, building further on high-quality data. The risk assessment function drives the priority-setting of ESMA's regulatory and supervisory (convergence) activities.***

#### **Risk assessments as the starting point for priorities**

The challenge for all authorities is to complement and build upon each other's risk assessments and to act on the risks identified. ESMA's position differs from that of other authorities in the sense that we have a distinct EU and sectoral perspective aimed at investor protection, orderly markets and stability of EU financial markets. ESMA will strengthen its risk identification and its co-operation with national competent authorities and with other public authorities at EU and international level to achieve synergies and avoid overlaps.

For ESMA, in addition to input received through national authorities and stakeholders, proprietary risk assessment and data will increasingly form the starting point for setting its agenda and priorities, in particular in relation to promoting supervisory convergence and to supervising the entities under ESMA's direct supervision but also when developing its stress-testing activities. ESMA will increasingly make use of the growing volume and granularity of regulatory data. Common data sources, analytical approaches and methods that can be used by ESMA and national competent authorities will continue to support the enhancement of data-driven supervisory approaches in the coming years.

Developing a comprehensive view of risks in EU securities markets will then also provide valuable input for ESMA in developing its Union supervisory priorities for EU securities markets supervisors in close co-operation with all competent authorities. The Union supervisory priorities will be set with market risks in mind and will complement the national priorities set by the relevant authorities responsible for the supervision and subsequent enforcement of financial markets.

#### **Greater focus on risks to retail investors**

ESMA contributes actively to the European Union's initiatives establishing a Capital Markets Union (CMU). Developing a large retail investor base will help finance the economy and can ensure effective long-term financial planning by EU households.

Increasing retail investors' trust in EU financial markets will be crucial for the success of the CMU. In light of their importance and to further empower retail investors, ESMA will co-ordinate NCAs' financial education and financial literacy initiatives. ESMA will step up its *retail analytics* in particular in relation to risk identification and research into mis-selling practices and costs associated with obtaining financial products. ESMA's new co-ordination role on mystery



shopping will provide new insights on misconduct across the Union. ESMA will continue to evaluate the benefits and risks of financial innovation for consumers and for the financial system as a whole. ESMA will not hesitate to make use of its product intervention powers where needed.

ESMA believes that retail investors can benefit significantly from financial technology, for example through more efficient processes, more transparency and not least by reducing the costs of investment products. ESMA will, in co-operation with EBA, EIOPA and national authorities, develop a common approach to financial technology, focusing mainly on the impact of technology on investor protection.

### **ESMA as the EU securities markets data hub in a global context**

Our analytical framework and tools require continuous development to match the fast evolution of markets and risks, technologies and data capabilities. The timely detection and assessment of risks requires ESMA to have easy access to high-quality and granular data on the functioning of financial markets and on new developments in them.

The EU needs a bold financial data strategy. ESMA promotes data-driven supervision and rule-making based on advanced quantitative analytics and reliable market data. ESMA will increasingly become the data-hub for EU securities markets and will, among others, enhance the availability of information at EU level for investors, market participants and regulators via up-to-date ambitious IT and data strategies focusing on enhanced standardised datasets and allowing for the easy exchange and use of data.

To harmonise reporting requirements and promote the availability of high-quality data, ESMA aims to become the international leader in developing data reporting in securities markets by actively co-operating with standard-setting bodies at EU and international level. ESMA will work on linking data between different parts of securities markets and supporting the development of coherent and integrated financial data sets in the long-term. ESMA will strengthen its capacity to manage and analyse these growing volumes of data.

We will increase our interactions with NCAs to act as a data hub and to exploit economies of scale in data and statistics provisioning whilst respecting the respective institutional roles. Today NCAs delegate specific data related tasks (registries, databases) to ESMA. Further delegations should be assessed on a case-by-case basis.

#### **b. Promoting supervisory convergence**

**ESMA continues to protect the EU Single Market by promoting supervisory convergence focused on supervisory outcomes and using innovative tools. ESMA prioritises its supervisory convergence activity through risk-driven assessments and its commitment to consumer protection.**

The establishment of a single rulebook is a necessary, but by itself insufficient, activity to achieve a genuine single European capital market. Supervision and supervisory convergence need to ensure that investor protection, orderly markets and financial stability are achieved in practice. Supervisory convergence is essential to protect the EU Single Market, by creating a



level playing field and preventing regulatory arbitrage or a race to the bottom. Supervisory convergence does not mean that we will aim to converge to a 'one-size fits all' approach. It does mean that we promote the consistent and effective implementation, application and supervision of the same rules and use sufficiently similar approaches for similar risks. The overall goal is to strive for comparable supervisory and enforcement outcomes across the Union.

### **Build an EU common outcome-focused supervisory and enforcement culture**

ESMA supports subsidiarity. Supervision, and subsequent enforcement, provide best outcomes when the competent authority is close to the supervised entity. A large part of EU financial markets' supervision falls under the remit of NCAs. However, to protect the four freedoms essential for the EU Single Market, it is crucial that supervisory activity is well co-ordinated within the EU. Indeed, as market players might fall in the jurisdiction of multiple supervisors, NCAs need *to act as one* and co-ordinate their supervision in situations that involve more than one NCA to ensure smooth cross-border business.

ESMA should act as facilitator in these situations by developing itself as a hub for expertise sharing and for the development of common supervisory responses. ESMA will streamline its existing supervisory convergence activity by focusing on bringing together national supervisors, to discuss and exchange expertise on ongoing supervisory cases at national level. Such exchanges will be in line with ESMA's supervisory convergence priorities to ensure their practical contribution to mitigate market risks and investor detriment. ESMA believes that the areas where EU-wide initiatives would be helpful are, for example, those of market surveillance, investment firms, trading venues and the asset management sector. In this context, ESMA will promote cross-border information sharing and explore new convergence tools such as common supervisory actions and voluntary supervisory colleges.

To help national authorities in the daily supervision of financial markets and build on the experience being gathered through real supervisory case discussions, ESMA will, together with NCAs, also develop a Union Supervisory Handbook. ESMA will phase-in the development of such a principles-based Handbook by first prioritising the areas where there is a pressing need for enhanced co-ordination.

Supervision is as strong as the regulator's enforcement powers and their effective use. If measures cannot be enforced, they remain only words. ESMA wants to be a driving force in enhancing the EU's enforcement culture in relation to securities markets also by making adequate use of its own enforcement powers and tools such as its product intervention measures. The EU securities markets should have a reputation for being fair and orderly, and misbehaviour being actively enforced against.

### **Prioritisation through enhanced risk identification and data collection**

**Our overall aim is to achieve high and consistent standards of supervision throughout the EU, in close co-operation with NCAs, especially through exchanges between supervisors, Union supervisory priorities and peer reviews. However, it would not be realistic to aim for full convergence in the period 2020-2022 and this may not be needed**



## **in all areas to achieve our objectives.**

Building on its risk assessment and the data collected, combined with enhanced stakeholder outreach and complaints received from investors, ESMA will pro-actively identify, in close co-operation with NCAs, a limited number of high priority areas on which the greatest resource and the higher intensity tools will be focused. In setting its supervisory convergence priorities ESMA favours an outcome-based approach remediating specific market risks and resulting in better practices through using the appropriate convergence tool.

The following criteria will be used to prioritise ESMA's supervisory convergence-related activity and identifying the right instrument:

- Impact of supervisory effectiveness on NCAs and ESMA's objectives: scale of the problem and impact on those affected if results are not achieved, especially for retail investors;
- Value-added of co-ordinated approach at EU level: extent of passporting and cross-border activity, and the potential risk of regulatory arbitrage;
- Potential to increase efficiency: we can achieve the same result for the EU at less cost than where NCAs act separately;
- Opportunity for change: new economic circumstances, businesses, services, products or regulation imply that NCAs do not yet have a tried and tested solution;
- Relevance to NCAs: strengthening the network by focusing on areas relevant to the NCAs and their markets; and
- Feasibility: taking into account the stage of evolution of co-operation between NCAs and the stage of development of ESMA's expertise, as well as availability of ESMA and NCA resource.

ESMA will perform an analysis of the supervisory landscape with these criteria in mind. We will consult relevant stakeholders to strengthen this analysis over time to continue to drive focus on the most important convergence priorities.

## **Peer reviews as an important tool for supervisory convergence**

**ESMA will regularly take stock or measure the progress in achieving supervisory convergence by monitoring and following-up on the application of the EU Single Rulebook and the level of supervisory convergence. Peer reviews can contribute significantly to supervisory convergence.**

ESMA's peer reviews led by ESMA staff and conducted together with NCA senior supervisors serve a double purpose: they provide a thorough understanding of the application of the EU Single Rulebook and its effective supervision in practice and allow national competent authorities to learn from their peers. It is therefore important that the peer reviews provide a high-quality assessment of the actual supervisory practices. ESMA will increase the





independence of the peer reviews and will conduct systematic follow-up of the recommendations made in the context of the peer reviews.

ESMA will increase the number of peer reviews in line with its convergence ambitions. Peer reviews will become more outcome-focused: emphasis will be put on the effectiveness of supervisory and enforcement actions taken. ESMA will consider how to enhance its peer review methodology including flexible alternatives to peer reviews such as fast-track peer reviews, thematic approaches or a narrow-focused scope review, to accelerate the contribution such tools can make to consumer protection and in creating a common EU supervision and enforcement culture.

### **c. Direct supervision of specific financial entities**

**ESMA strengthens its role as a direct supervisor prioritising the areas posing risks to ESMA's objectives. We have the ambition to be world leading in the sectors for which we have built up direct supervisory expertise and to build our reputation as a credible supervisor also in the new areas of direct supervision. Therefore, ESMA intensifies its risk-based preventive approach to supervision and further improves its enforcement processes.**

ESMA's resources allocated to its direct supervisory activities will grow significantly reflecting that critical benchmarks, third country CCPs and data service providers will come under ESMA's direct supervision.

#### **A risk-based supervisor focused on outcomes with a long-lasting impact**

ESMA aims to be an outcome-focused supervisor. ESMA applies a risk-based approach in line with ESMA's mission to the supervision of activities of supervised entities and will establish a consistent supervisory approach for all its direct supervisory activities. ESMA runs a thorough registration process for new entities. Following registration ESMA conducts targeted investigations after a clear identification and prioritisation of risks. This risk-based approach requires a comprehensive analysis and extensive interaction starting from ESMA's risk assessment, involving policy, risk and supervisory teams within ESMA. We expect to expand our on-site presence in the coming years.

ESMA works on the basis of realistic and measurable supervisory targets and continuously evaluates its supervisory activities to further improve the effectiveness of its supervisory operations. We convey clear supervisory messages and opinions and focus on behavioural change in supervised entities.

ESMA applies enforcement in a proportionate and effective way where it contributes to achieving the desired supervisory outcome. ESMA will evaluate its enforcement activities to enhance efficiency and effectiveness, especially by reducing the time between first supervisory findings and the outcome of the enforcement activity.

ESMA will strengthen its co-operation with NCAs and with supervisors at international level, for entities operating on a cross-border basis and to support ESMA's involvement in supervisory colleges.



## **Credible direct supervisor of third country CCPs, critical benchmarks and data service providers**

ESMA aims to further strengthen its reputation as supervisor of CRAs and TRs, including for securities financing transactions more recently, and will establish itself as a credible supervisor of securitisation repositories, critical benchmarks, data service providers, third country central counterparties (CCPs) and other third country firms in a number of different areas. With the new entities coming under its direct supervision, ESMA will play a pivotal role in the oversight of critical pan-EU market infrastructures.

Though crucial for market functioning, some of the entities ESMA supervises are few in number and operating in a highly specialised environment. To ensure efficiency and effective impact, ESMA will improve the integration between its policy and supervisory activities and work closely with other supervisory bodies.

ESMA will improve enforcement processes and increase resources to ensure a timely and appropriate response in case of infringements.

## **Central counterparties – critical financial market infrastructure**

The amended European Market Infrastructure Regulation (EMIR) as recently agreed by the co-legislators introduces a new approach to the supervision of EU and third country CCPs. The new set-up will contribute to safeguarding financial stability once the United Kingdom has left the European Union. ESMA is then also committed to a smooth integration of the changes into its governance framework.

For its supervisory responsibilities vis-à-vis third country CCPs, ESMA will step up its risk identification and financial stability assessments. The smooth functioning of the system at global level will require enhanced and pro-active co-operation with third country supervisors.

Concerning EU-CCPs ESMA will promote supervisory convergence among the activities of NCAs. ESMA will therefore build up its resources as a centre of expertise for CCPs, to support national competent authorities in delivering convergent supervisory outcomes.

### **d. Completing the Single Rulebook for EU financial markets**

ESMA consolidates its position as an important source of expertise and strategic direction at EU level for securities markets regulation. We do this by co-operating closely with NCAs and engaging continuously with the co-legislators and market and investor stakeholders. ESMA drives evidence-based ex-post maintenance of EU acts.

## **ESMA as a source of expertise on EU securities markets**

The EU Single Rulebook work aims to enhance the EU Single Market by strengthening regulation and creating a level playing field across the EU. This work requires balancing the objectives of economic growth, stable financial markets and investor protection.

ESMA will continue to develop itself as a source of expertise and strategic direction on financial



market regulation recognised by its stakeholders – the EU institutions, market participants, investors, and citizens. As part of this development we will become more proactive in the regulatory value chain and offer advice on the strategic direction of the regulatory agenda. This includes identifying potential shortcomings in regulation and making use of no-action letters where necessary. ESMA will provide proactive advice to the European Commission, the European Parliament and the Council of the European Union on legislative initiatives. ESMA will particularly contribute to the establishment of the CMU and provide guidance on how to embody sustainability considerations in relevant EU financial legislation. ESMA will promote the coherent implementation of regulatory provisions and will further improve the legal high-quality of its regulatory processes and the transparency when developing regulatory provisions.

Strong stakeholder engagement has hugely contributed to ESMA's successful contribution to the development of a single rulebook for financial services. ESMA will continue to value stakeholder input, namely the direct interaction with the Securities and Stakeholder Markets Group (SMSG) and other stakeholders as part of the technical advice, guidelines and technical standards it develops. This will contribute to ESMA's aim to develop evidence-based and proportionate policies. ESMA will step up the feedback on the input received to public consultations.

### **Achieving a better EU Single Rulebook**

ESMA remains fully committed to the high-quality single rulebook for financial services across the Union which may need to be updated to reflect new developments or to embed proportionality. ESMA will contribute to the European Commission's planned post-implementation reviews of the major acts adopted as part of the post-financial crisis agenda and will prioritise the areas where further work is needed to ensure investor protection and well-functioning markets.

In relation to its own single rulebook activities, in line with the European Commission's *Better Regulation* initiative, ESMA will put in place regular post-implementation reviews of the technical standards and guidelines it has developed, as part of which stakeholders will be consulted. ESMA's co-ordination and convergence activity, as well as enhanced engagement on consumer protection, will also provide valuable input to evaluate the single rulebook. As part of such reviews ESMA will particularly assess whether changes to the rulebook are needed to develop the Capital Markets Union, enhance the attractiveness of EU capital markets, and/or to promote sustainable finance or proportionality.

ESMA aims to be an outcome-focused supervisor and regulator. Mitigating risks that might endanger the fulfilment of ESMA's mission whilst respecting the legal requirements and processes is more important than the tool used. After the successful completion of the single rulebook, ESMA will focus in the years to come more and more on the actual and consistent implementation of the requirements (see also our commitment to supervisory convergence). In those areas, ESMA will only make use of regulatory tools when the same objective could not be achieved through supervisory convergence and/or supervision.



## **6 ESMA as an organisation**

Over the coming years we will continue to develop ESMA into a professional regulatory and supervisory authority that is able to respond to the challenges and uncertainties that lie ahead. Within our own organisation we will improve flexibility and efficiency, further strengthen our accountability and transparency, as well as developing our people and enhancing core administrative processes.

### **Leadership through accountability and transparency**

ESMA takes a pro-active role in achieving its mission in close co-operation with NCAs and other public authorities within the ESFS. ESMA will take a leadership role within the ESFS and allocate necessary resources in relation to (i) financial technology, RegTech and SupTech, (ii) sustainable finance, (iii) investor protection, (iv) data reporting and (v) market infrastructure regulation and supervision.

ESMA is accountable to the European Parliament and the Council of the European Union. Working in the interest of EU citizens, ESMA will step up on its accountability and transparency whilst maintaining its independence. This will include regular meetings with, and feedback to, stakeholders (not least the SMSG) and pro-actively reaching out to stakeholders that might find it more difficult to actively follow and understand the vast range of activities ESMA is involved in, especially consumer associations.

ESMA will significantly expand its digital communication by creating a more responsive, informative and user-friendly website, driving its multimedia output across its digital channel. ESMA will continue to pro-actively communicate on its ongoing work and the acts affecting market participants. Whilst the specialised financial press with EU-wide coverage remains an important channel of communication for ESMA, the Authority aims to step up its visibility in national outlets.

ESMA ensures regular reporting on the meetings held by senior management and will increase transparency on its decision-making processes.

### **Efficiency through central IT and data facilities for EU authorities and markets**

Over the past years ESMA has taken the lead on IT matters, enhancing EU-wide access to data, for example as it relates to financial instruments reporting and access to trade repositories. Based on recent EU legislation, on the new direct supervisory competences allocated to ESMA and given the importance of having high-quality data available on a pan-European basis for the supervision of financial markets, IT will continue to be an important area for ESMA. ESMA will strengthen its internal and external registries, databases and filing systems and increase its data analysis capacity. ESMA will remain open for further projects delegated by NCAs when these can add value both to NCAs and from an EU perspective.

### **Staff is our key to success**

ESMA has the ambition to excel in its HR strategies to attract and maintain high-quality staff



through workforce planning, learning and development, work-career development and organisational culture. ESMA's talent strategy is focused on the right mix of skills and competencies to be a flexible, outcomes-focused organisation. With the additional responsibilities in terms of direct supervision and supervisory convergence, ESMA will strengthen its focus on supervisory capabilities and skills.

ESMA's recruitment should remain focused on being an attractive employer for highly technically skilled professionals committed to EU supervision of financial markets and its public interest objectives. ESMA's new competences and growth will also allow existing staff to develop within the organisation. We will further increase organisational flexibility through an increased use of cross-functional project teams to fulfil ESMA's key priorities.

ESMA aims to be a gender-balanced organisation. The Authority and its entire Staff promote inclusiveness and diversity and foster an open-minded organisational culture. ESMA will tackle any discrimination as set out in the EU Charter for Fundamental Rights such as those based on grounds of gender, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

### **Readying the organisation for new challenges**

ESMA will adjust its internal organisation to its new responsibilities following the ESA and EMIR review to ensure smooth and efficient running and effective delivery of its objectives. Enhanced planning, as well as agility to adapt to new challenges, will be key to position the Authority for the future.

With ESMA's new responsibilities also comes the need to adjust existing governance structures and decision-making processes, in particular through the set-up of the CCP Supervisory Committee. In order to continue transparent and clear decision making at Board level, preparation through relevant committees will remain important, involving all national competent authorities and the European Commission, and co-ordinating closely with the other ESAs.

### **A regulator reducing its environmental footprint**

ESMA aims to be a carbon neutral organisation, an ambition that is part of its Eco Management and Audit Scheme (EMAS) engagement. ESMA promotes responsible travelling by reducing its travel where possible, by preferring environmentally friendly travel means and by encouraging ESMA staff to commute emission-free to and from work. ESMA will continue to make increasing use of alternatives to the traditional physical meetings (e.g. video conferencing). ESMA will reduce its waste and make use of environmentally friendly materials in its offices and day-to-day operations.

ESMA has the ambition to become a paperless supervisor by 2025. By that moment ESMA's internal process will be paperless and ESMA will have no paper-based communication with its supervised entities or with national competent authorities.