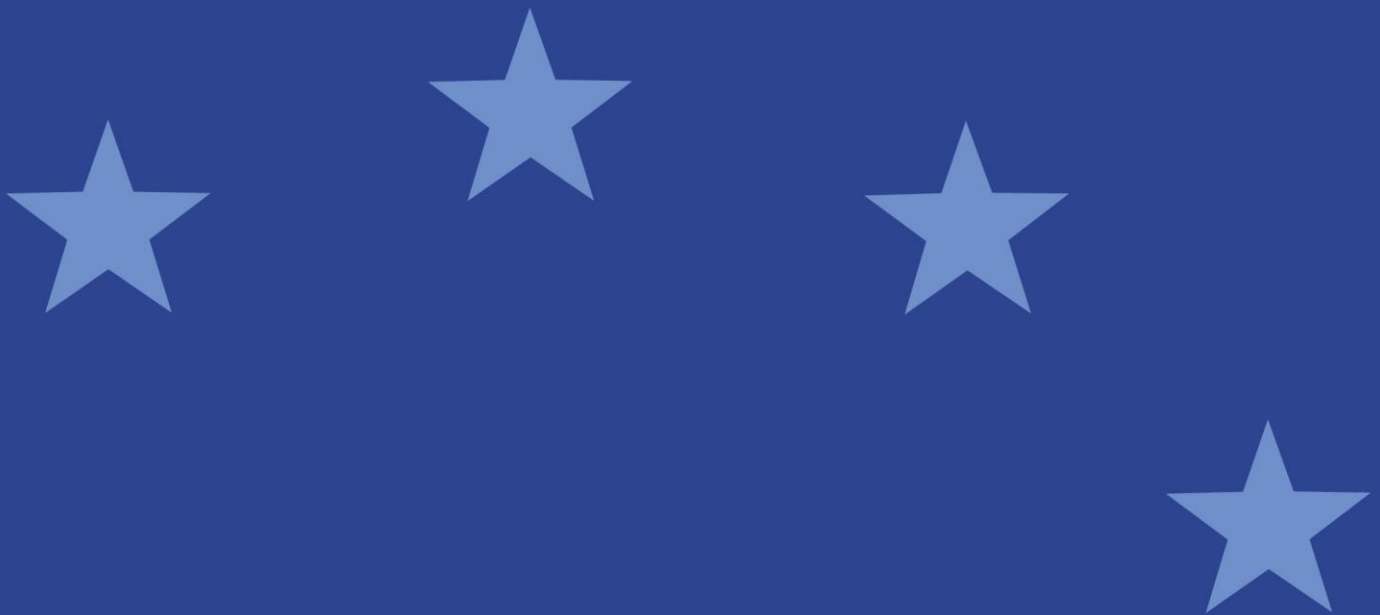




European Securities and  
Markets Authority

# 2023 Annual Work Programme





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# 1 General context and strategic priorities

In 2022 ESMA published its new multi-annual strategy covering the period 2023-28. The new strategy builds on the successful development of ESMA over its first decade, the implementation of significant legislative changes, material progress in supervisory convergence and the exercise of new supervisory mandates following the 2020 review of the European Supervisory Authorities (ESAs). It sets out ESMA’s long-term focus and objectives and was developed against the backdrop of a challenging economic and political environment including the after-effects of COVID, the war in Ukraine, and mounting inflation.

The strategy is built around three strategic priorities which are summarised below, and two thematic drivers described in section 2.1.



## 1.1 Fostering effective markets and financial stability

The strategic priority of effective markets and financial stability consists of the following four building blocks:

Fair and orderly markets: ESMA promotes the fair and orderly functioning of financial markets, safeguards the integrity of the EU Single Market by setting high standards of conduct and ensuring transparency to support efficient markets and investor confidence.

Contributing to strengthening the stability of the financial system: ESMA identifies and assesses market developments that pose threats to financial stability and cooperates with the

European Systemic Risk Board (ESRB), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) and national competent authorities (NCA).

Development of the EU Single Market: ESMA contributes to the development of a deep, efficient, liquid and accessible EU Single Market in financial services through the expansion of the single rulebook and consistent supervision.

The EU's voice in the global marketplace: ESMA promotes global standards and supports the closer integration of international markets and the continued openness of the EU single market. ESMA also acts as the voice of the European financial markets' supervisory community through its active participation in various international fora including the International Organization for Securities Commissions (IOSCO) and the Financial Stability Board (FSB).

## **1.2 Strengthening supervision of EU financial markets**

The second strategic objective covers supervision of the EU financial markets both at national and European level and is based on the following four building blocks:

Stronger common EU supervisory culture: ESMA develops and reinforces shared principles of supervision between ESMA and the NCAs.

Enhanced risk prioritisation and outcome-based supervision: ESMA uses an EU-wide risk supervisory convergence heatmap, stress-testing, stakeholder outreach and supervisory activities prioritisation to develop a shared understanding of the risks posed to EU financial markets.

ESMA's convergence approach: ESMA is shifting the focus of convergence activities towards effective coordinated supervision where relevant in addition to its efforts to ensure a consistent understanding and application of the rulebook.

ESMA Supervision: ESMA promotes a strong common supervisory culture, approach and methodology across all ESMA's direct supervisory mandates while adapting the supervisory strategy for each mandate to its specificity and level of maturity.

## **1.3 Enhancing protection of retail investors**

This strategic objective is based on four distinct building blocks:

Investor protection: Together with NCAs, ESMA ensures that EU retail investors are effectively and equally protected including from emerging risks stemming from new distribution channels or innovative products.

Retail investor engagement: ESMA engages with retail investors through coordinated communication with NCAs, using new communication tools and platforms.



Information/disclosure: ESMA works with the objective of ensuring that retail investors receive clear, reliable and understandable product information.

Retail participation: By contributing to the development of the EU regulatory framework, ESMA focuses on enabling long-term direct and indirect retail participation in the EU capital markets.

## 2 Work Programme 2023

ESMA's mission is to enhance the protection of investors and promote stable and orderly financial markets. The planned work relating to ESMA's two thematic drivers (i) *sustainable finance* and (ii) *technological change and data usage* is set out in Section 2.1. The rest of the work programme is presented in accordance with ESMA's activities. Outputs are divided into three categories: (i) ongoing work; (ii) annual outputs; and (iii) 2023 specific outputs, which are known at this stage and. The specific outputs include in particular:

- § technical standards and statutory guidelines;
- 👥 common supervisory actions and peer reviews; and
- 📖 technical advice, reports and other publications.

The ongoing work consists of outputs which are produced on an ongoing basis throughout the year. This includes, in particular, but not exclusively:

- 📄 guidance such as Q&As, opinions, supervisory briefings, and discretionary guidelines;
- 🚔 supervisory outputs such as registration decisions, investigations and enforcement actions;
- 🏢 data quality outputs such as data validation rules and technical reporting instructions; and
- 🌐 international work such as cooperation agreements with third-country supervisors, contribution to international standards and technical advice on equivalence as well as equivalence monitoring.

A description of each output type as well as a complete overview of ESMA's 2023 outputs by type is provided in Annex IV.



## 2.1 Thematic drivers

### 2.1.1 Enabling sustainable finance

<p>Key objectives</p>	<p>Deliver on the priorities set out in ESMA’s Sustainable Finance Roadmap 2022-24.</p> <p>Contribute to facilitating the financing of the EU transition towards a more sustainable economy, while preserving market integrity and financial stability as well as a high level of investor protection.</p> <p>Promote effective and consistent integration of sustainability-related factors in supervisory, convergence, risk assessment and regulatory activities.</p>
<p>In 2023, ESMA expects to be mandated to deliver several reports, technical advice and technical standards to support the regulatory framework for sustainable finance. This includes opinions on the new sustainability reporting standards under the Corporate Sustainable Reporting Directive (CSRD), initial work on the first set of technical standards mandated by the proposed Regulation for European Green Bonds as well as regulatory work as required under Sustainable Finance Disclosure Regulation (SFDR).</p> <p>In addition to the regulatory work, ESMA will continue to deliver on the priorities set out in its 2022-24 sustainable finance roadmap: (i) analysing the drivers of greenwashing and developing instruments and tools to enable national supervisors to best address this risk; (ii) building capacity through trainings to national supervisors based on a multiannual training plan or the development of a knowledge hub and develop supervisory guidance; and (iii) integrating environmental risks in the stress-testing framework, in collaboration with the other ESAs and the European Central Bank (ECB).</p> <p>ESMA continuously monitors the need for additional guidance under SFDR, Markets in Financial Instruments Directive (MiFID II), the Taxonomy Regulation, CSRD, and the Benchmarks Regulation with a view to promote convergence of supervisory approaches. In addition, ESMA contributes to the important work led by IOSCO on sustainable finance, including by co-leading IOSCO’s work on the functioning of carbon markets. ESMA is also an active member of the EU Platform on Sustainable Finance and contributes to the ESRB workstreams in the sustainable finance area as well as the relevant FSB and NGFS groups. In view of a possible future opinion of ESMA on the European Sustainability Reporting Standards, ESMA actively contributes to the European standard setting work of EFRAG in the area of sustainability reporting and monitors the work of the new International Sustainability Standards Board (ISSB).</p>	
<p>Main outputs</p>	<ul style="list-style-type: none"> <li>- 📄 Guidance and other tools promoting supervisory convergence under SFDR, MiFID II, Taxonomy Regulation, CSRD, the Benchmarks Regulation.</li> <li>- 🌐 Contribution to the EU Platform on Sustainable Finance, to IOSCO’s sustainable finance task force and to the</li> </ul>

	<p>development of European and international standards on sustainability reporting.</p> <ul style="list-style-type: none"> <li>- 🌐 Contribution to ESRB, FSB, IOSCO, NGFS workstreams on sustainable finance.</li> <li>- 📄 Amending RTS on the principal adverse impact framework and certain product disclosures under SFDR.</li> <li>- 📄 Technical standards as required under the European Green Bond Regulation.</li> <li>- 📖 Progress report to the EC on Greenwashing.</li> <li>- 📖 Monitoring and assessing the evolution of ESG markets through TRV reporting, risk analysis articles and specific research.</li> <li>- Trainings and other capacity building actions to strengthen supervision under the various sustainable finance legislations.</li> <li>- Integration of environmental risks into stress testing framework.</li> </ul>
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### 2.1.2 Facilitating technological innovation and effective use of data

Key objectives	<p>Adapt to digitalisation in financial markets by strengthening the single rulebook and promoting supervisory convergence.</p> <p>Foster convergence in the regulatory and supervisory treatment of new or innovative financial activities and technological innovation.</p> <p>Enhance the access to and quality of data and information by stakeholders, reinforcing ESMA's role as a data hub.</p>
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ESMA undertakes a wide range of activities facilitating technological innovation and integration of evidence and data as a basis for all its activities. ESMA monitors the developments related to innovation and technology, including SupTech, Regtech, Decentralised Finance (DeFi), artificial intelligence (AI) and open finance. It provides technical advice to the Commission and co-legislators, develops supervisory guidance, and takes product intervention measures, where considered necessary. ESMA also contributes to the European Forum of Innovation Facilitators (EFIF). ESMA contributes to the Supervisory Digital Finance Academy in coordination with the other ESAs to strengthen supervisory capacity in the area of digital finance.

As regards digital innovation, the Digital Operational Resilience Act (DORA), the Regulation on Markets in Crypto-Assets (MiCA) and the Regulation on a Distributed Ledger-Technology (DLT) pilot regime and the Regulation establishing a European Single Access Point (ESAP) are expected to result in several new mandates for ESMA. In addition, ESMA plays a key role in implementing the EU Strategy on Supervisory Data.

The implementation of MiCA is expected to require ESMA to deliver a significant number of guidelines and technical standards in 2023 and 2024 – many in close cooperation with EBA. In addition, ESMA will likely become responsible for adopting a series of non-binding opinions, producing regular reports and providing feedback to the Commission. ESMA is also expected to become responsible for ensuring coordination and cooperation among NCAs. Finally, ESMA will likely build and maintain a register with information about crypto-asset white papers, issuers of asset-referenced tokens (ARTs) and e-money tokens (EMTs), and complaint handling.

Many of ESMA’s mandates under DORA will also be implemented in cooperation with EBA and EIOPA. They include a feasibility study for the development of a system for centralising major ICT-related incidents reporting, the preparation for the oversight function foreseen for the three ESAs, and the development of several technical standards, guidelines and reports. The mandates will be delivered in 2023 and in 2024 and cover topics such as ICT risk management, incident reporting, threat-led penetration testing, and third-party risk management<sup>1</sup>.

The Regulation on a DLT Pilot Regime will begin to apply in 2023. It envisages various tasks for ESMA including the processing by ESMA of opinions on the permissions of DLT Market Infrastructures (MIs) by NCAs and the development of several guidelines. In 2023, ESMA will deliver guidance on data reporting and transparency requirements and guidelines on the templates for permissions under the DLT Pilot regime. Furthermore, ESMA will begin preparatory work on the first report to the EC on the practical application of the pilot which should be delivered annually as of 2024.

In 2023, the development and setting up of a European Single Access point (ESAP) will be central to ESMA’s work and will involve beginning the drafting of technical standards as well as engaging with the many different stakeholders involved in building of IT infrastructure.

As regards data, ESMA, together with other ESAs, will focus on the implementation of the EU strategy on supervisory data. The strategy aims to modernise the EU supervisory reporting and put in place a system that delivers accurate, consistent, and timely data to supervisory authorities at EU and national level, while minimising the aggregated reporting burden for all relevant parties. ESMA will, in particular, focus on the consistency and standardisation of data, enhancements of data sharing arrangements, improvements to the design of reporting requirements. This will facilitate the use of RegTech tools for reporting and SupTech tools for data analysis by authorities.

Main outputs	<ul style="list-style-type: none"> <li>- <b>§</b> Delivery of regulatory technical standards (RTS) and implementing technical standards (ITS) and guidelines as required under MiCA.</li> </ul>
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<sup>1</sup> Only outputs to be completed in 2023 are listed below

	<ul style="list-style-type: none"> <li>- § RTS and ITS under DORA including as relates to ICT risk management and third party risk management under DORA.</li> <li>- § Guidelines on the templates for permissions under the DLT Pilot regime.</li> <li>- 📄 Guidance on data reporting and transparency requirements.</li> <li>- Opinions on authorisation of DLT MI under the DLT Pilot regime.</li> <li>- 📖 Report on new data collection approaches under the DLT pilot regime for market infrastructures (depending on the request from the EC).</li> <li>- Delivering on / preparing for new responsibilities in relation to ESAP.</li> <li>- Contribution to the implementation of the EU strategy on supervisory data in EU financial services.</li> </ul>
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## 2.2 Investors and Issuers

This section covers ESMA’s work in 2023 in the areas of investment services, investment management, issuer disclosure, and as regards CRAs and benchmarks.

### 2.2.1 Investment services

Key objectives	<p>Contribute to the development of a single rulebook in the area of investment services, crowdfunding services and, following the adoption of MiCA, crypto-assets.</p> <p>Achieve greater convergence and consistency of NCAs’ supervisory approaches and practices in relation to investor protection taking into account technological developments and the evolution of the framework in relation to sustainable finance.</p> <p>Contribute to the application of the MiFIR third country regime, if and when relevant.</p>
<p>ESMA develops and reviews guidance and other supervisory convergence instruments in the area of investment services and crowdfunding services.</p> <p>Where ESMA identifies product risks to consumers and investors, ESMA has the power to employ its own product intervention powers as well as other measures such as opinions and public warnings. ESMA can also issue opinions on product bans issued by national supervisors.</p> <p>ESMA, furthermore, works with NCAs to promote financial education and to increase investors’ awareness of the risks connected to investment through social media in relation</p>	

to both market manipulation and investment recommendation and the provision of investment advice and other investment services.

In 2023, ESMA will focus on the co-ordination of new common supervisory actions (CSAs) under MiFID II, the launch of a mystery shopping exercise across the EU and participate in follow up activities concerning peer reviews in the investment services area (including specific follow up to recommendations provided to one NCA as a result of the peer review on the supervision of firms' cross border activities).

In 2023, ESMA also intends to contribute to the upcoming EU Retail Investment Strategy and supports targeted financial education initiatives in close co-operation with the other ESAs. ESMA will, furthermore, pay particular attention to the protection of retail investors in the context of the development of ESG products and the increased risk of greenwashing. Finally, ESMA expects to be mandated, together with EBA, to deliver technical advice to the European Commission on possible amendments to the Crowdfunding Regulation.

Main outputs

**Ongoing activities**

- 📄 Guidance on MiFID II/MiFIR, the Crowdfunding Regulation and IFR/IFD (in cooperation with EBA).
- Opinions on national product intervention (PI) measures.

**Annual outputs**

- 📖 Annual reports on sanctions under MiFID II and the European Crowdfunding Service Providers Regulation (ECSPR).

**2023 specific outputs**

- 👥 Report on 2022 CSA and mystery shopping on costs and charges.
- 👥 Follow-up of CSA on product governance.
- 👥 Coordination of 2023 CSA and mystery shopping.
- 👥 Follow up to the peer review on certain aspects of the compliance function under MiFID I (see section 2.5 Peer Review Work Plan).
- 💰 Review of technical standards on MiFID II/MiFIR.
- 📖 Technical advice on the application of the crowdfunding Regulation.

**2.2.2 Investment management**

Key objectives

Contribute to the single rulebook in line with the ongoing and upcoming reviews of the Alternative Investment Fund Managers Directive (AIFMD), European Long-term Investment Funds (ELTIF), Money Market Fund (MMF) as well as through the Joint Committee work on

	<p>Regulations on Packaged Retail and Insurance-based Investment Products (PRIIPs) and SFDR/Taxonomy Regulation.</p> <p>Achieve greater convergence and consistency of NCAs' supervisory approaches and practices in relation to the EU legislation on investment management, with a particular focus on improving investor protection and financial stability.</p>
	<p>ESMA promotes supervisory convergence of NCAs' practices by issuing and reviewing guidance and facilitating case discussions, workshops, CSAs and peer reviews in the investment management sector. ESMA contributes to international developments through its IOSCO involvement and negotiates AIFMD co-operation agreements with third-country authorities.</p> <p>Every year, ESMA publishes reports on Undertakings for Collective Investment in Transferable Securities (UCITS) and AIFMD sanctions and updates its guidelines on MMF stress testing taking into account the latest market developments. In 2023, this will include a review of the methodology in the guidelines on MMF stress testing.</p> <p>In 2023, the reviews of AIFMD, PRIIPs, SFDR, UCITS, MMF, European Venture Capital Funds (EuVECA), European Social Entrepreneurship Funds (EuSEF), and ELTIF are expected to lead to additional mandates for ESMA to develop guidelines, technical standards or technical advice. In addition, the Joint Committee (JC) has been asked to review the RTS under SFDR related to the principal adverse impact disclosure framework and certain financial product disclosures. Finally, the JC may be asked to provide technical input to the initiative announced by the European Commission in its renewed sustainable finance strategy to propose minimum sustainability criteria for financial products that fall under Article 8 of SFDR.</p> <p>In 2023, ESMA will extend the notification portal, originally developed for the purpose of the cross-border database, to enable NCAs to exchange notifications of cross-border marketing of funds. Additionally, ESMA will produce its second report on marketing requirements and marketing communications.</p> <p>Finally, in 2023, ESMA will start a CSA in the area of sustainability, covering the risk of greenwashing in the fast-growing area of sustainable investment management products. ESMA will also report on the outcome of the 2022 CSA on valuation of less liquid assets.</p>
<p>Main outputs</p>	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- 📄 Guidance as needed on AIFMD, PRIIPs Regulation, SFDR, UCITS Directive, MMF Regulation, EuVECA, EuSEF and ELTIF Regulation.</li> <li>- 🌐 International work through IOSCO/FSB.</li> <li>- 🌐 potential new AIFMD co-operation arrangements.</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 📖 Annual reports on UCITS and AIFMD sanctions.</li> <li>- 💰 Annual update of guidelines on MMF stress testing.</li> </ul>

	<ul style="list-style-type: none"> <li>- 📖 Biannual report on national rules on the marketing of investment funds.</li> <li>- 📖 Joint annual ESAs Report on voluntary disclosures under Article 18 SFDR.</li> </ul> <p><b>2023 specific outputs<sup>2</sup></b></p> <ul style="list-style-type: none"> <li>- 👥 Outcome of the 2022 CSA on valuation of less liquid assets</li> <li>- 👥 Coordination of a new CSA on sustainability.</li> <li>- § Technical Standards, Technical Advice and Guidelines as required following the reviews of AIFMD, PRIIPS, UCITS, MMF, EuVECA, EuSEF and ELTIF.</li> <li>- § Amending RTS on the principal adverse impact framework and certain product disclosures under SFDR.</li> <li>- § RTS on the notifications for cross-border marketing and management of AIFs and UCITS.</li> </ul>
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### 2.2.3 Issuer disclosure

Key objectives	<p>Contribute to the single rulebook under the Prospectus Regulation, the Shareholder Rights Directive II (SRD II), the Takeover Bids Directive, the Transparency Directive, and in relation to financial and sustainability reporting.</p> <p>Maintain an updated regulatory framework for digital reporting.</p> <p>Achieve greater convergence and consistency of NCAs' supervisory approaches and practices in relation to the areas mentioned above</p>
	<p>ESMA contributes on an ongoing basis to the development of the single rulebook and publishes guidance in the area of prospectus supervision, notifications of major holdings and corporate governance where applicable. ESMA also uses other supervisory convergence instruments such as supervisory case discussions, NCA trainings, and thematic studies in those areas as well as in financial and sustainability reporting.</p> <p>ESMA contributes to IFRS accounting standard-setting and the endorsement of IFRS standards by the EU as well as to sustainability-reporting standard setting in the EU through its observership at the EFRAG Financial and Sustainability Reporting Boards and Technical Expert Groups, as well as at the European Commission's Accounting Regulatory</p>

<sup>2</sup> ESMA will carry out a peer reviews on the depositary obligations in 2023. However, the reports are only expected to be finalised and published in 2024.

Committee. In addition, ESMA contributes to the International Accounting Standards Board's (IASB) pronouncements, in charge of developing those global standards, through comment letters and participation in the IFRS Advisory Council and the IFRS Taxonomy Consultative Group (ITCG). As regards international sustainability reporting standards, ESMA contributes to the ISSB consultations with an aim to ensuring inter-operability with the European sustainability reporting standards. In this respect, ESMA also contributes to related IOSCO workstreams.

Every year, ESMA publishes annual European Common Enforcement priorities in the area of issuer disclosure, reports on issuer disclosure enforcement and regulatory activities and supports NCAs in supervisory activities. Furthermore, ESMA updates the RTS and the related taxonomy files relating to the ESEF core taxonomy to be used for the preparation of annual financial reports in ESEF format, to reflect the most recent version of the IFRS Taxonomy and to include requirements to tag sustainability reporting.

ESMA also undertakes single rulebook work in the audit area by providing views on relevant International Standards on Auditing (ISA) and provides securities regulators' perspective on audit matters at the Committee of European Audit Oversight Bodies (CEAOB). As Chair of the CEOB Subgroup on International Equivalence and Adequacy, ESMA coordinates the work on performing new and monitoring previous equivalence and adequacy technical assessments of third country audit legal frameworks, subject to requests from the EC.

In 2023, ESMA will report on the implementation of SRD II as regards proxy advisors and shareholder identification, communication and voting.

## Main outputs

### Ongoing activities

- 📖 Guidance on the Prospectus Regulation and the Transparency Directive.
- 🌐 Technical positions and endorsement advice/opinions on International Financial Reporting Standards (IFRS), International Standards on Audit (ISAs) and new pronouncements on international and European Sustainability Reporting Standards.
- Opinion(s) on sustainability standards under CSRD.

### Annual outputs

- 📖 Statement on the corporate reporting European common enforcement priorities.
- 📖 Extracts of Enforcement of financial information decisions.
- 📖 Prospectus activity report.
- 📖 2022 Corporate reporting enforcement and regulatory report.
- 💰 Amendments to the RTS on ESEF and 2023 ESEF XBRL Taxonomy files



### 2023 specific outputs

- 📖 Report on the application of IFRS 15, Revenue from contracts with customers.
- 📖 Report on SRD implementation on proxy advisors.
- 📖 Report on SRD implementation regarding shareholder identification, communication and voting.
- 👥 Follow-up to the fast-track peer review in the context of Wirecard (see section 2.5 Peer Review Work Plan).

### 2.2.4 Benchmark providers

#### Key objectives

Assess any registration applications and ensure delivery within regulatory deadlines and quality standards.

Identify in timely manner - through the use of data-driven tools - the key industry trends, supervisory risks and concerns to support a risk-based, pro-active and outcome-focussed supervision of critical and recognised third-country benchmarks.

Request timely and effective remediation and adopt enforcement actions where breaches against the regulation are identified.

Develop tools in support of ESMA's and NCAs' supervisory activities and promote supervisory convergence across Europe.

Fulfil effectively ESMA's role and responsibilities as secretariat of the EURO Risk Free Rates Working Group and chair of the EURIBOR college of supervisors.

Since January 2022, ESMA has been responsible for the supervision of the administrators of EU critical benchmarks. EURIBOR remains the only benchmark recognised as critical in the EU and ESMA has supervisory responsibilities over its administrator, European Money Markets Institute (EMMI). ESMA's supervisory objective is to ensure EMMI maintains, amongst others, appropriate governance arrangements, methodologies, control framework and systems, policies and procedures including on conflicts of interest. ESMA carries out supervision in accordance with its data-driven risk-based approach described in section 2.5.1. The key areas of supervisory focus in relation to EURIBOR in 2023 will be the robustness and resilience of the EURIBOR benchmark methodology and the related EURIBOR's representativeness of the underlying market.

In addition, ESMA ensures convergence of supervision of benchmark administrators supervised at national level including through the issuance of guidance. Convergence work in 2023 is expected to focus on the areas of climate benchmarks, in particular the minimum standards of the methodology and sustainability-related benchmarks more broadly.

ESMA is the competent authority of recognised third-country administrators under the BMR recognition regime. ESMA assesses applications for recognition by eligible third-country

benchmark administrators and establishes co-operation arrangements with the competent third-country authorities as needed under the equivalence and recognition of third-country regimes. The BMR third-country regime, and more generally the EU regulatory and supervisory framework under BMR, could materially change depending on the outcome of the European Commission’s ongoing review on the scope of the BMR. The outcome of the Commission’s consultation on the BMR is expected in the summer of 2023 and may result in further work for ESMA in cooperation with NCAs.

ESMA chairs the EURIBOR college of supervisors, which is composed of the NCAs responsible for the supervision of EURIBOR’s panel banks and acts as the secretariat of the EURO Risk Free Rates Working Group.

In 2023, ESMA will also review the RTS on authorisation and registration under BMR to ensure it remains aligned with the regulatory framework and developments, including the changes introduced previously to the RTS on recognition.

Main outputs

**Ongoing activities**

- 📄 Guidance on the Benchmarks Regulation addressed to benchmark administrators and national competent authorities.
- 👤 Supervision of administrators of EU critical and third country recognised benchmarks.
- 🌐 Secretariat of the EURO Risk Free Rates Working Group, chair of the EURIBOR college of supervisors, negotiation of Memoranda of Understanding (MoUs) with third country authorities and technical advice to the Commission in the context of its equivalence decisions.
- Opinions to competent authorities on endorsement or national critical benchmarks, if applicable.

**2023 specific outputs**

- § Revision of the RTS on authorisation and registration.

**2.2.5 CRAs**


Key objectives

Ensure credit ratings in the EU are independent, objective and of high quality by conducting effective supervisory activities.

Assess any registration applications and ensure delivery within regulatory deadlines and quality standards.

Identify in a timely manner - through the use of data-driven tools - the key industry trends, supervisory risks and concerns to support a risk-based, pro-active and outcome-focussed supervision of CRAs.

	<p>Request timely and effective remediation and adopt enforcement actions where breaches against the regulation are identified.</p> <p>Engage with market participants to exchange views on market trends and CRA practices.</p>
	<p>To support an appropriate application of the CRA Regulation, ESMA delivers guidance to CRAs and technical advice to the European Commission as needed. In 2023, ESMA will work, among other, to improve CRAs' reporting of errors in credit rating methodologies as well as their practices with regards to the discontinuation and withdrawal of credit ratings.</p> <p>ESMA supervises CRAs in accordance with its data-driven risk-based approach described in section 2.5.1. In 2023, ESMA expects supervisory activities to focus in particular on the following topics:</p> <p>Considering the deterioration of the economic outlook, ESMA's supervision of CRAs will focus on the quality and independence of the rating process, and the rating performance for key asset classes. In this respect, it will be a priority to ensure that CRAs have sufficiently robust surveillance processes to monitor evolving market conditions. CRAs' disclosure of rating information will also be closely monitored to increase the transparency for users of ratings and rated entities. ESMA will continue to look at the role and functioning of CRAs' review function, in terms of level of challenge and robustness of process, as well as the incorporation of ESG factors. In addition, ESMA intends to assess the processes around rating models. ESMA will in particular focus on CRAs' business development in new markets including as relates to non-rating products as well as CRAs' outsourcing practices. In the context of the current geopolitical instability and the hybrid working environment, ESMA will engage with CRAs to ensure that identified concerns on information security and cloud outsourcing are adequately addressed. Finally, ESMA intends to address remaining concerns related to CRAs' control environment to enhance their effectiveness and ensure proper balance and independence across different functions.</p>
<p>Main outputs</p>	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- 📄 Guidance on the CRA Regulation addressed to CRA and NCAs as needed.</li> <li>- 👤 Supervision of CRAs.</li> <li>- 🌐 International work in the area of credit ratings and credit risk assessments through IOSCO, engagement with third country authorities and technical advice on equivalence and endorsement assessments as needed.</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- 💰 Revision of ITS on external credit assessment institution (ECAI) mapping for corporate ratings under the Capital Requirements Regulation (CCR) and Solvency II.</li> </ul>

-  Guidance around reporting of errors in credit rating methodologies and the discontinuation and withdrawal of credit ratings.

## 2.3 Markets and Infrastructures

This section describes ESMA's work in 2023 as regards direct supervision of several key market infrastructures: central counterparties (CCPs), Trade Repositories (TRs), Securitisation Repositories (SRs), and Data Reporting Service Providers (DRSPs). In addition, it includes ESMA's work to improve standards and ensure their convergent application in secondary markets, short selling, market abuse and over-the-counter (OTC) derivatives.

### 2.3.1 Central Counterparties (Third countries)

#### Key objectives

Recognition and tiering of third-country CCPs (TC-CCPs) and monitoring of the evolution of third-country regulatory frameworks and market developments.

Conduct ongoing monitoring of Tier 1 CCPs and enhanced scrutiny of risks related to EU activities.

Conduct ongoing supervision of Tier 2 CCPs, including compliance with the European Market Infrastructure Regulation (EMIR), validation of risk models and stress-testing exercise.

Address systemic risks resulting from TC-CCPs or clearing services deemed substantially systemic for the financial stability of the Union or one or more of its Member States (if any).

EMIR established a risk-driven approach to the recognition of TC-CCPs. ESMA reviews the applications of new TC-CCPs, determines their systemic relevance for the Union and negotiates supporting MoUs with the relevant jurisdictions, whenever the European Commission adopts a new equivalence decision. ESMA also reviews recognition decision when a TC-CCP decides to extend or reduce its activities in the EU.

In cooperation with third-country supervisors, ESMA monitors on an ongoing basis TC-CCPs and the risks related to their activities in the EU, their compliance with the equivalence and recognition decisions, as well as the regulatory and supervisory developments in the third-country. ESMA conducts direct supervision of the most systemically important CCPs (Tier 2) and ensures their ongoing compliance with relevant EMIR requirements including via stress tests, risk model validation and annual reviews as part of ESMA's supervisory approach for TC-CCPs (see also section 2.5.1).

Based on the conclusions of the annual assessment of the Tier 2 CCPs, ESMA will in 2023 engage with EU and national authorities as part of the expected EMIR Review to reduce reliance on the three clearing services identified as of substantial systemic importance and to reduce risks and vulnerabilities linked to the recognition of these clearing services.

Main outputs	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- 👤 Supervision of systemic T2 CCPs, including stress test and risk model validation</li> <li>- 🌐 International work including TC-CCP global college participation</li> <li>- 📊 Ongoing monitoring of TC-CCP data, including enhanced scrutiny for most active CCPs in the EU and compliance with TC-CCPs' recognition conditions.</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 📖 Annual confidential report on the regulatory and supervisory developments in equivalent third countries.</li> </ul>
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### 2.3.2 Central Counterparties (EU)

Key objectives	<p>Enhance supervisory convergence by developing a common supervisory culture and ensuring a consistent implementation of the EMIR regulatory framework for EU CCPs.</p> <p>Assess the resilience of CCPs to adverse market developments and identify potential risks for financial stability with the use of CCP stress tests and an enhanced supervisory database.</p> <p>Complete the single rulebook by reviewing existing RTS/ITS where necessary to cater for market developments and new risks and finalise RTS/ITS and guidelines with respect to the CCP Recovery and Resolution Regulation.</p>
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In order to promote convergence of supervision of CCPs across the EU, ESMA issues opinions on NCAs' supervisory decisions and validates significant changes to CCPs' risk models and parameters and issues guidance when needed. Furthermore, ESMA promotes consistency of supervisory outcomes for 14 EU-CCPs via the use of supervisory colleges gathering all relevant supervisors.

ESMA carries out stress-testing which is a key tool to ensure proper risk assessments of CCPs. It enables early identification of risks and helps ensure further convergence based on its findings. ESMA will continue improving its supervisory stress-testing framework and addressing new risks, such as operational and climate risks. ESMA will also strengthen its analytical capabilities to identify vulnerabilities in the EU financial system more broadly by leveraging the supervisory data it collects from CCPs as well as NCAs and other EU authorities to cover the wider clearing ecosystem (clearing members, clients, other connected FMIs).

ESMA has the obligation to run an annual peer review on EU CCPs. In 2023, the annual peer review will focus on concentration risks. ESMA will take stock of the progress in achieving

supervisory convergence by monitoring and following-up on the application of the recommendations of past peer reviews.

ESMA is responsible for monitoring and updating the CCP Single Rulebook and will in 2023 propose amendments as necessary based on the lessons learned from recent crises (anti-procyclicality, membership due diligence, concentration risks, etc.).

ESMA also provides input to the European Commission on the functioning and effectiveness of EMIR including the EU CCP supervisory framework, and the division of responsibilities between ESMA, the competent authorities and the central banks of issue, for the preparation of the Commission’s report under EMIR.

In 2023, ESMA will submit to the Commission the two last RTSs as mandated under the CCP Recovery and Resolution Regulation (CCPRRR) and will prepare a report assessing the staffing and resources arising from the assumption of its powers and duties under CCPRRR.

Main outputs	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- 📄 Guidance on EMIR addressed to CCPs and national supervisors of CCPs,</li> <li>- Opinions on NCA decisions on a range of topics, including on authorisation, extension of services, outsourcing and interoperability</li> <li>- Validations of CCP’s significant changes to risk models and parameters.</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 👥 Annual peer review (see section 2.5 Peer Review Work Plan).</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- Preparation of 5th iteration of CCP Stress Test for 15 CCPs.</li> <li>- 💰 RTS on the minimum elements that should be included in a business reorganisation plan.</li> <li>- 💰 RTS on the criteria that a business reorganisation plan is to fulfil for approval by the resolution authority.</li> <li>- 📖 Report on powers on staffing and resources arising from CCP RRR.</li> </ul>
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### 2.3.3 Data Reporting Service Providers

Key objectives	<p>Ensure the availability and integrity of transaction data provided by approved reporting mechanisms (ARMs) to NCAs for market monitoring, as well as the consistency, timeliness and integrity of data reported and published by APAs in collaboration with those NCAs that are responsible for supervision of market participants reporting through/to ARMs/APAs.</p>
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Assess any registration applications and ensure delivery within regulatory deadlines and quality standards.

Ensure a robust and consistent application of ESMA's data-driven, risk-based approach to the supervision of data reporting service providers (DRSP) and compliance by DRSPs with the relevant regulatory requirements.

Request timely and effective remediation and adopt enforcement actions where breaches against the regulation are identified.

Further enhance data quality of trade and transaction reporting, in cooperation with relevant NCAs.

ESMA supervises two types of DRSPs: Approved Publication Arrangements (APAs) and Authorised Reporting Mechanisms (ARMs). Once established, ESMA will also supervise DRSPs which are Consolidated Tape Providers (CTPs). In 2023, ESMA will start setting up the required processes and systems for the CTP selection procedure and for the future supervision of the CTPs.

DRSPs which meet the derogation criteria are supervised by the relevant NCA at national level. ESMA continuously works to improve cooperation with and among NCAs with a view to preventing divergent approaches as regards DRSPs supervision. ESMA performs an annual assessment of the DRSPs derogation criteria in order to identify the DRSPs subject to ESMA's supervision and the ones to be supervised by the relevant NCAs due to their limited relevance for the EU market. The outcome of the assessment consists of either a confirmation or a change to the current allocation of supervisory responsibilities over DRSPs between ESMA and the NCAs.

ESMA applies its data driven and risk-based approach to the supervision of DRSPs described in section 2.5.1. This involves implementing action plans to tackle firms' specific risks as identified following the risk assessment and ensuring firms' regulatory change implementations comply with its expectations. In addition, ESMA monitors the resource allocation by the firms to the DRSP business, incidents reported, as well as the IT performance and the capacity of the DRSP systems.

In 2023, ESMA will focus its supervisory activities on monitoring the adherence to regulatory requirements in terms of consistency, completeness, timeliness and accuracy of the data. One area of attention will be the consistency between transaction data reported to ARMs and trade data published by APAs. Regarding the DRSPs' IT processes, ESMA will focus in particular on the level of operational separation of the DRSPs from other lines of business, the implementation of cloud solutions by the DRSPs as well as the adequacy of the information security controls.

ESMA has established a comprehensive data quality framework ensuring continuous improvements to the integrity, consistency and completeness of all data within ESMA's remit, including the data which is reported to and made available by DRSPs. This is achieved by

identifying shortcomings through automated data re-validations carried out by ESMA as well as feedback received from data users.

Finally, to support an appropriate application of the regulatory framework, ESMA publishes guidance to DRSPs and technical advice to the European Commission as needed. In 2023, ESMA will assess the need for further guidance including on the provisions of periodic information to ESMA.

### Main outputs

#### Ongoing activities

- 📄 Guidance on MiFIR addressed to DRSPs, national supervisors of DRSPs and reporting entities.
- 👤 Supervision of DRSPs.
- 📊 Data quality engagement related to MiFIR transaction data including as reported by ARMs and published by APAs.

#### Annual outputs

- 📖 Assessment of the DRSP derogation criteria.

## 2.3.4 Trading

### Key objectives

Promote consistent application of EMIR, Market Abuse Regulation (MAR) and SSR as well as of MiFID II/ MiFIR requirements, in particular in relation to, the boundaries of multilateral systems, the provisions on market data, including guidelines on market data, and the transparency framework.

Provide technical advice and/or develop technical standards and guidance as a follow-up to the MiFID II/MiFIR review covering transparency, including the establishment of a consolidated tape, data reporting and market structure.

Monitoring market developments and evolution of net short positions at EU level, enhancing coordination in case of possible threats that may require the adoption of emergency measures under the SSR.

Monitoring developments in commodity derivative markets and assessing the need for potential policy recommendations to further support orderly markets and financial stability.

Accompany the implementation and ongoing compliance of the EMIR requirements in relation to clearing and risk mitigation requirements of OTC derivatives through active monitoring and by providing further guidance to market participants.

Continue to further adapt the single rulebook and ensure supervisory convergence in relation to the clearing obligation, the clearing threshold and risk mitigation techniques for OTC derivatives.



**Markets in Financial Instruments:** ESMA fosters convergence in the supervision of MiFID II/MiFIR requirements across the EU through regular exchanges among competent authorities, including sharing of practices and experiences on specific supervisory issues and by issuing guidance. To promote transparency, ESMA issues opinions on pre-trade waivers and on position limits established within the EU for agricultural and significant commodity derivatives. Moreover, ESMA issues annual reports on the use of pre-trade transparency waivers and deferred publication arrangements, and monitors and reports on equivalence decisions.

ESMA is mandated to analyse on a yearly basis whether it is appropriate to move to the following stage of the phase-in for the transparency requirements with regards to bonds and other non-equity instruments. ESMA also monitors market developments and market trends, assessing their impact on the functioning of EU markets (e.g., neo-brokers, new trading tools, trading protocols and technologies) and issues opinions or statements when needed.

The ongoing MiFIR review is likely to result in new mandates for ESMA to deliver in 2023 including technical advice and technical standards on transparency and the consolidated tape (CTP). Depending on the timing and outcome of the negotiations on the MiFIR review, ESMA will provide technical advice and/or draft technical standards specifying the input and output data for the consolidated tape and the synchronisation of business clocks. Furthermore, ESMA will prepare and possibly launch the selection procedure for the appointment of one or more consolidated tape providers covering different asset classes, including the further specification of the selection criteria such as governance, fees, revenue sharing models, business continuity requirements, reporting standards.

In the area of commodity derivatives, ESMA's 2023 work programme is affected by the uncertainty on the length and amplitude of the market stress linked to Russia's invasion of Ukraine. This is likely to impact on the follow-up work on ESMA's report on the EU carbon market and work on the guidance and supervisory convergence activities regarding the amended legislative framework on position limits and position management controls by trading venues.

In 2023, ESMA will launch a peer review on the application of the Guidelines on Market Data.

#### **Market Abuse and Short Selling:**

ESMA issues opinions on accepted market practices (AMPs) and publishes annual reports on AMPs and on administrative and criminal sanctions under MAR. ESMA also monitors market developments and the evolution of net short positions at EU level and enhances coordination in case of possible threats that may require the adoption of national measures under the SSR or use of EU intervention powers.

ESMA promotes supervisory convergence under MAR and SSR including by issuing guidance on organising case discussions on issues related to market integrity and coordinating NCAs' supervisory actions in relation to cross-border market abuse cases.

In 2023, ESMA will assess the need for new guidance on the disclosure of inside information in relation to the resolution regime for financial institutions as well as on public disclosure of financial information and on pre-hedging. In 2023 ESMA will, furthermore, carry out the follow-up to the peer review on suspicious transaction and order reports (STORs) that took place in

2019. A review of MAR as part of the Listing Act is likely to result in a mandate for ESMA to draft technical standards and guidance in 2023.

**OTC derivative clearing and risk mitigation techniques:** ESMA conducts a number of tasks to monitor the consistent implementation of and compliance with the clearing obligation, the clearing threshold and risk mitigation requirements. In particular, ESMA issues regular reports on the supervisory measures and penalties imposed by competent authorities in relation to counterparties' implementation and ongoing compliance with the EMIR requirements. ESMA also conducts analyses and organises dedicated supervisory case discussions regarding particular issues related to these EMIR requirements and issues and updates guidance. In addition, ESMA continuously monitors the functioning of OTC derivatives markets and conducts reviews or supervisory convergence initiatives in response to major developments.

In 2023 ESMA will maintain focus on monitoring the benchmark transition, which has led ESMA to adjust the scopes of the clearing obligation as well as the trading obligation. Furthermore, ESMA will monitor the application of the clearing obligation by pension scheme arrangements which are benefiting from a one-year implementation period which will expire in that year. Finally, ESMA will continue to provide technical input to European Commission regarding the targeted review of EMIR which it launched in 2022.

## Main outputs

### Ongoing activities

- 📄 Guidance on MiFID II, SSR, MAR and on EMIR including on the clearing obligation and the risk mitigation technique requirements, where necessary.
- Monitoring market developments, enhancing coordination in case of possible threats that may require the adoption of emergency measures under the SSR.
- Monitoring the ongoing implementation and compliance by counterparties with the EMIR clearing and MiFIR trading obligations.
- 🌐 International work including monitoring and reporting in the area of equivalence.
- Opinions on position limits and pre-trade transparency waivers.
- Opinions on third-country venue arrangements in respect of transparency and position limits.
- Opinions on MAR AMPs adopted by NCAs.

### Annual outputs

- 📖 Report on the supervisory measures and penalties imposed by NCAs regarding counterparties' compliance with EMIR.
- 📖 Annual reports on transparency waivers and on the use of deferred publication arrangements.
- 📖 Annual Report on AMPs under MAR.

	<ul style="list-style-type: none"> <li>- 📖 Annual Report on administrative and criminal sanctions under MAR.</li> <li>- 💰 Annual review of RTS 2 on transparency requirements.</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- 💰 Technical standards following the MiFID II/MiFIR, EMIR, MAR reviews and the potential SSR review.</li> <li>- 🗣️ Follow-up to the STOR peer review.</li> </ul>
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### 2.3.5 Central Securities Depositories

Key objectives	<p>Monitor and contribute to the consistent implementation and application of Central Securities Depositories Regulation (CSDR), in particular by providing guidance to market participants and NCAs, as well as through dedicated supervisory case discussions and the development of reports.</p> <p>Provide technical input in the context of the CSDR Review, and following the completion of this CSDR review, contribute to the single rulebook in the area of settlement and central securities depository (CSD) requirements by reviewing and/or by developing technical standards and ESMA guidance.</p> <p>Recognise third-country CSDs and monitor compliance with recognition decisions, if any.</p>
<p>The application of the settlement discipline regime on penalties and reporting started in 2022, whereas the buy-in regime was suspended. In 2023, ESMA will continue monitoring the implementation and the effects of this new regime, potentially providing further clarifications via guidance where needed.</p> <p>ESMA develops guidance and other supervisory convergence measures related to CSDR requirements and additional areas linked to the review of CSDR. Furthermore, ESMA reports annually to the Commission on various aspects of CSDR implementation. In 2023, these reports will potentially cover settlement efficiency and internalised settlement, cross-border provision of services and handling of applications. It should also be noted that the CSDR review might impact the number of reports to be prepared as well as bring additional mandates for technical standards to ESMA in 2023.</p> <p>ESMA also monitors various aspects of settlement on an ongoing basis through the level of internalised settlement and the level of CSDs' activity in host Member States, of CSDs' settlement activity per each currency and of CSDs' settlement efficiency. Finally, ESMA has responsibilities regarding the recognition of third-country CSDs providing notary or central maintenance services in relation to financial instruments constituted under the law of a Member State or establishing a branch in a Member State, if any.</p>	
Main outputs	<b>Ongoing activities</b>

	<ul style="list-style-type: none"> <li>- 📄 Guidance on CSDR, in particular in relation to the settlement discipline regime and potentially with regards to the CSDR Review.</li> <li>- 🌐 International work in respect of third-country CSDs, possible recognition decisions and monitoring of compliance with recognition conditions, if any.</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 📖 Annual Reports to the Commission on various aspects of CSDR implementation.</li> </ul>
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### 2.3.6 Securitisation Repositories

Key objectives	<p>Assess any registration applications and ensure delivery within regulatory deadlines and quality standards.</p> <p>Identify in timely manner - through the use of data-driven tools - the key industry trends, supervisory risks and concerns to support a risk-based, pro-active and outcome-focussed supervision of SRs.</p> <p>Request timely and effective remediation and adopt enforcement actions where breaches against the regulation are identified.</p> <p>Engage with market participants to exchange views on the securitisation market and the functioning of the transparency regime.</p> <p>Review ESMA's securitisation disclosure requirements with a view to ensuring further proportionality and the usefulness of the information for regulators and investors.</p> <p>Promote convergence amongst regulators in carrying out their supervisory responsibilities under the Securitisation Regulation, and amongst market participants in reporting data to Securitisation Repositories (SRs).</p>
<p>ESMA supervises Securitisation Repositories in accordance with its data-driven and risk-based approach to supervision (See Section 2.5.1). In 2023, ESMA's main supervisory objective for SRs will be enhancing the quality of the data reported to SRs and ensuring the continued access, integrity and availability of SR data. With respect to data quality, ESMA expects to focus its supervisory activities to assess the completeness and consistency of SR data, ensure correct implementation of validation rules and address feedback from users of SR data. In addition, ESMA expects that its supervisory work will continue to focus on the operational resilience of SRs, notably by monitoring IT and information security incidents reported to ESMA by SRs. Finally, ESMA will also focus on ensuring an effective governance and internal control framework within SRs.</p>	

To support an appropriate application of the regulatory framework, ESMA publishes guidance to SRs and technical advice to the European Commission as needed. In 2023, ESMA will continue its work to review the adequacy of its disclosure templates taking into account the conclusions of the European Commission's report on the functioning of the Securitisation Regulation, the usefulness of the information for regulators and investors, and the need for additional sustainability disclosures for securitisations and aims to publish a consultation paper with proposed amendments.

Finally, ESMA also contributes to the work of the Joint Committee Securitisation Committee and cooperates with the relevant supervisory bodies and market participants, including users of SR data by promoting the use of SR data, collecting feedback to identify data quality issues and fostering supervisory consistency.

Main outputs	<p><b>Ongoing</b></p> <ul style="list-style-type: none"> <li>- 📄 Guidance on the Securitisation Regulation addressed to originators, sponsors of securitisation, securitisation repositories and Securitisation Special Purpose Entities (SSPEs) and national supervisors.</li> <li>- 🏛️ Supervision of securitisation repositories.</li> <li>- 📊 Data quality engagement related to data that is reported to and made available by securitisation repositories.</li> <li>- Maintaining a public register of STS Securitisations.</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- 💰 Revision of RTS on securitisation disclosure requirement (Consultation Paper).</li> </ul>
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### 2.3.7 Trade Repositories

Key objectives	<p>Assess any registration applications and ensure delivery within regulatory deadlines and quality standards.</p> <p>Identify in a timely manner - through the use of data-driven tools - the key industry trends, supervisory risks and concerns to support a risk-based, pro-active and outcome-focused supervision of TRs under EMIR and the Securities Financing Transactions Regulation (SFTR) with a main focus on ensuring TR data quality, as well as the confidentiality, integrity and availability of EMIR/SFTR data.</p> <p>Request timely and effective remediation and adopt enforcement actions where breaches against the regulation are identified.</p> <p>Continue and further enhance the EU-wide data quality activities with regards to reporting entities to ensure increased quality, availability, and usability of the EMIR/SFTR data.</p>
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Finalise implementation of the EMIR Refit technical standards on reporting and data quality and the deployment of ISO 20022 XML standards through the full life cycle of derivatives reporting.

ESMA supervises Trade Repositories (TRs) in accordance with its data driven and risk-based approach set out in section 2.5.1. This involves implementing action plans to tackle firms' specific risks as identified following TRs risk assessment and ensuring firms' regulatory change implementations comply with its expectations. In addition, ESMA monitors the resource allocation by TRs to EMIR/SFTR, incidents reported, as well as the IT performance and the capacity of the TR systems.

In 2023, ESMA's main supervisory objective for TRs will be the enhancement of the quality of data. Similar to previous years, ESMA will publish an EMIR and SFTR data quality report to show the effectiveness of the collective supervisory efforts of ESMA and the NCAs supervising reporting entities. ESMA will focus its supervisory activities on monitoring the correct reconciliation of data and the adequate verification of accuracy and integrity of all EMIR/SFTR regulatory reports is carried out by TRs. Furthermore, will assess key aspects of TRs' IT processes including IT governance, the implementation of cloud solutions as well as the adequacy of the information security controls.

In 2023, ESMA will focus on the implementation of new EMIR Refit requirements by TRs as well as by reporting participants. Considering the scale and scope of changes in the reporting regime, EMIR Refit will likely lead to significant enhancements to the architecture of TRs' (and reporting participants') systems. In turn, ESMA will have to closely monitor the progress and appropriate implementation of these project to ensure a smooth go-live of the new regime. ESMA will also focus on the post-implementation monitoring of the reported TR data and monitor data availability, completeness, and integrity.

Main outputs

**Ongoing**

- 📄 Guidance on EMIR and SFTR addressed to trade repositories, reporting entities and national competent authorities.
- 👤 Supervision of trade repositories.
- 📊 Data quality engagement related to data including as reported to and made available by trade repositories.

**Annual outputs**

- 📖 Annual report on EMIR and SFTR data quality.

## 2.4 Risk Assessment

ESMA monitors market developments and new financial activities in its remit to assess risks to investors, markets and financial stability. The risk assessments are supporting the Authority’s objectives of promoting investor protection, orderly markets, and financial stability.

### 2.4.1 Risk Monitoring

#### Key objectives

Identify and assess financial market risks, report on these risks to the relevant institutions and inform the public on a semi-annual basis.

Sharing of analysis and coordination of financial stability related activities in EU and international bodies.

Identify opportunities and risks related to financial innovation and systematically monitor retail investor trends and ESG market developments.

ESMA publishes the bulk of its risk monitoring outputs through two publication series: the Trends, Risks and Vulnerabilities (TRV) risk monitoring reports (bi-annual risk monitor, statistics, structural market indicators) and the ESMA Statistical Report series.

TRV risk monitoring covers all aspects of ESMA’s remit, looking at securities markets, asset management, consumers, financial market infrastructures, market-based finance, ESG and financial innovation. As part of its monitoring, ESMA develops retail risk metrics and reviews product-related consumer trends, including cost and performance of retail investor products in the EU and ESG trends.

The ESMA Statistical Reports present – based on regulatory data within ESMA’s remit – markets and longer-term structural developments in these markets. The reports cover EU markets in derivatives, AIF, securities, MMF, prospectuses and credit ratings. In addition, we publish an annual report on the cost and past performance of EU long-term retail investment products.

ESMA contributes to and in some cases coordinates activities in EU and international bodies such as the ESRB, IOSCO, FSB and NGFS. Areas covered include non-bank financial intermediation, stress testing, leverage, market liquidity, ESG, crypto-assets, financial innovation and general international exchanges on risk monitoring.

To support its risk monitoring and analysis capabilities, ESMA continually works to enhance its data management and analytical capabilities to gain insights on risks on investors, regulatory databases (AIFMD, MiFID, Prospectus, etc.) and the new data collection mandates related to the supervision of the third-country CCPs, DSRPs, and critical benchmarks.

Key analytical priorities for 2023 include (i) the impact of commodity market developments linked to the Russian invasion, especially on orderly markets; (ii) financial market impacts of inflation and rising interest rates; (iii) financial stability and macroprudential considerations related to asset management; (iv) ESG developments, climate risk and greenwashing; (v) crypto assets, artificial intelligence, SupTech and technology risks, including outsourcing to third party providers.

ESMA monitors financial activities and retail investor trends on an ongoing basis.

Main outputs	<p><b>Ongoing</b></p> <ul style="list-style-type: none"> <li>- Monitoring developments and risks in financial markets across the entire ESMA remit, including product-related retail investor trends, financial activities and innovation.</li> <li>- Gathering of market intelligence and alternative data sources gathering (through e.g. webscraping or NLP).</li> <li>- 📖 ESMA Statistical Reports on EU markets in derivatives, AIF, securities, MMF, prospectuses and credit ratings.</li> <li>- 🌐 Contributions to financial innovation, risk monitoring, financial stability, retail investors and ESG workstreams in relevant international fora (ESRB, IOSCO, FSB, NGFS).</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 📖 Trends Risk and Vulnerabilities report (biannual).</li> <li>- 📖 ESMA Structural Market Indicators</li> </ul>
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## 2.4.2 Risk Analysis

Key objectives	Analyse key risks and vulnerabilities across the ESMA remit in depth to inform regulatory and supervisory activities.
<p>Risk analysis activities cover the entirety of ESMA’s remit and contribute to a wide range of projects as well as ESMA’s core activities such as regulatory impact assessments and topical studies for single rulebook measures, stress testing methods and analysis as well as risk metrics for supervisory and supervisory convergence work.</p> <p>ESMA publishes its risk analysis outputs mainly through two publication series: the Trends, Risks and Vulnerabilities (TRV) Risk Analysis article series and the ESMA Working Paper series (also with external contributions). TRV risk analysis articles are published throughout the year. Key 2023 analytical priorities are as described in section 2.4.1.</p> <p>ESMA working papers provide rigorous analytical work, sometimes involving external collaborators, addressing issues relevant to ESMA, providing a topical and in-depth complement to our continuous risk monitoring and TRV risk analysis articles.</p>	
Main outputs	<p><b>Ongoing</b></p> <ul style="list-style-type: none"> <li>- 📖 In-depth research and thematic analysis, based on specific ad hoc needs.</li> </ul> <p><b>Annual outputs</b></p> <ul style="list-style-type: none"> <li>- 📖 Trends Risk and Vulnerabilities Risk Analysis articles; and</li> <li>- 📖 ESMA Working Papers</li> </ul>



## 2.5 Supervision and Convergence

ESMA shares supervisory responsibilities with NCAs across the investment chain and undertakes a wide range of activities to supervise certain regulated entities and coordinate supervisory activities of and with NCAs.

ESMA directly supervises all EU CRAs, TRs and SRs as well as certain DRSPs, benchmark administrators (i.e., administrators of EU critical benchmarks and recognised third-country administrators) and third-country CCPs. ESMA has a risk-based, data-driven and outcome-focused approach to supervision across all its mandates.

In addition to the outputs and activities described under the sectoral sub-activities in sections 2.2 and 2.3, this section summarises the transversal work and deliverables which aim to develop and strengthen a common supervisory approach and effective supervisory action across different supervised entities and between supervisors.

ESMA is required by its founding regulation to publish a peer review work programme every other year. The last work programme was published in September 2021 as part of ESMA's annual work programme for 2022. Section 2.5.2 provides an update in relation with the peer review work programme.

### 2.5.1 Common supervisory approach and effective supervision

#### Key objectives

Create a sound and effective supervisory and enforcement culture.

Promote common understanding of the risks and problems posed to EU capital markets and their severity.

Promote the identification of clear supervisory objectives and outcomes.

Establish concrete supervisory actions on key priorities through the selection of the most effective tool.

Enhance the supervisory toolkit – including through use of advanced data analytics and forensic techniques - to promote the use of the most effective tools based on the desired outcome.

Create supervisory networks to promote continuous dialogue and exchange among NCAs on supervisory methods.

ESMA has adopted a risk-based and data-driven approach to supervision and prioritises its supervisory activities according to the level of risk identified and the outcomes it targets. This involves implementing action plans to tackle firms' specific risks as identified following risk assessment and ensuring firms' regulatory change implementations comply with its expectations. ESMA uses different supervisory tools to address risks, e.g., engagement with supervised entities, the development of policy tools, conducting investigations and requesting entities to implement a remedial action plan. Where breaches of the regulation have been identified, ESMA adopts enforcement actions, ranging from the issuance of

public notices to the imposition of fines and the withdrawal of the entity’s registration. As part of its ongoing supervision, ESMA assesses periodic and ad hoc notifications submitted by entities and assess registration applications under the different Regulations.

In order to promote the convergence of supervisory activities across the EU, ESMA uses a wide variety of instruments. This includes notably the issuance of guidance, the common assessments of concrete supervisory cases and the use of CSAs and peer reviews so as to develop strong and consistent supervisory practices. In 2023, ESMA will review its supervisory convergence toolkit to enhance clarity on the main tools and introduce a more structured approach to selecting convergence tools based on the desired outcomes across all sectors.


To achieve the objectives of supervisory convergence, ESMA additionally undertakes certain transversal activities. For example, every year since 2020, ESMA has identified a set of Union Strategic Supervisory Priorities (USSPs) to guide and coordinate the action of national supervisors. These priorities are selected through ESMA’s risk-based approach to supervisory convergence that aims to promote a common understanding among ESMA and national supervisors of the most critical supervisory risks and problems that deserve being prioritised through supervisory convergence activities. In 2023, ESMA will increase visibility on risks relating to arbitrage or divergence in implementation, interpretation and application of EU rules. ESMA will also focus on promoting outcome-focused (as opposed to activity-focused) supervisory actions as part of the identified USSPs.

In 2023, ESMA will, furthermore, continue developing trusted networks of supervisors to enable the exchange of information across NCAs including through the Voluntary Supervisory Colleges (VSCs) framework. The VSCs is a means to ensuring consistent supervision of groups of financial market participants operating in multiple member states.

Closer cooperation will also be facilitated with the set-up, jointly with the ESAs, of a cross-sectoral system for the exchange of information among competent authorities on the holders of qualifying holdings, directors and key function holders assessed for fitness and propriety.

In 2023, ESMA also aims to improve reporting to ESMA’s sanctions registers and public messaging in collaboration with national enforcement specialists.

<p>Main outputs</p>	<p><b>Ongoing Activities</b></p> <ul style="list-style-type: none"> <li>- 🏢 For supervised entities, ESMA produces a wide range of outputs on an ongoing basis including risk assessments, supervisory strategies and handbooks, annual reviews, remediation action plans, investigations and on-site inspections, thematic reports, reports to internal investigative officer in case of suspected breaches, and decisions regarding applications for registration, recognition or certification.</li> <li>- Identification of supervisory risks and problems leading to prioritisation of convergence initiatives.</li> <li>- Identification of Union Strategic Supervisory Priorities (USSPs), conduct of coordinated supervision, follow-up and drawing conclusions on actions taken.</li> </ul>
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	<ul style="list-style-type: none"> <li>- Exchanges and improvements on supervisory methods and approaches, with increased focus on cross-sectoral and cross-border topics.</li> <li>-  Coordinated supervision of big broker-dealers and asset managers through a reinforced used of Voluntary Supervisory Colleges.</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- Implementation of system for the sectoral and cross-sectoral exchange of information on the fit and proper assessments.</li> </ul>
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### 2.5.2 Peer Review Work Plan

Peer reviews are an important tool for supervisory convergence which focus on achieving an equally high level of supervisory outcomes and on promoting investor protection, orderly markets or financial stability. ESMA performs two types of peer reviews: discretionary peer reviews and mandatory peer reviews. Discretionary peer reviews are exercises performed on topics set by ESMA on the basis of an assessment of key risks. Discretionary peer reviews are run jointly with the NCAs, whereas mandatory peer reviews are required by sectoral EU legislation. ESMA also follows up on the recommendations made in the context of previous peer reviews.

This Peer Review Work Plan identifies the topics for peer reviews and follow-ups to be conducted in 2023. This is based on the two-year Peer Review Work Plan 2022-2023 that ESMA published in last year’s Annual Work Programme.

Key objectives	<p>Promote consistent and high-quality supervisory outcomes.</p> <p>Promote investor protection, orderly markets or financial stability through convergence in the EU.</p>
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#### **Mandatory Peer Reviews**

In 2023, ESMA will carry out the yearly peer review on the supervision of CCPs. These peer reviews are mandated under EMIR, to further strengthen consistency in supervisory outcomes. ESMA conducts every year a peer review of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs. In 2023, ESMA will conclude the 2022 CCPs supervision peer review focusing on due diligence on clearing members. In 2023, the annual peer review is expected to focus on concentration risk.

#### **Discretionary peer reviews**

In 2023, ESMA expects to carry out a discretionary peer review on the depositary obligations under the UCITS Directive and AIFMD. The peer review would focus on the oversight and safekeeping functions of depositaries, which play a key role for the protection of investors.

ESMA will also launch in 2023 a peer review on the application of the Guidelines on Market Data, in relation to the supervision of requirements linked to the provision and the cost of market data.

When the above peer reviews will be finalised, ESMA plans to launch a peer review on delegation and outsourcing. The exact scope of the peer review, including sectors to be covered, will be further defined notably in light of the outcome of the peer review on NCAs' handling of relocation to the EU in the context of the UK's withdrawal from the EU.

In addition to the above peer reviews and in case of urgency or unforeseen events, when a peer review is considered the appropriate tool, ESMA may also decide to carry out a fast-track peer review as a flexible alternative to standard peer reviews.

<b>Main outputs</b>	<p><b>2023 specific outputs<sup>3</sup></b></p> <ul style="list-style-type: none"> <li>- 🧑🏫 Mandatory 2022 peer review on CCP due diligence on clearing members.</li> </ul>
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### Follow up to previous peer reviews

<b>Key objectives</b>	Assess the adequacy and effectiveness of the actions undertaken by NCAs in response to the follow-up measures of a peer review.
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ESMA will conclude in 2023 the follow up on the peer review on certain aspects of the compliance function under MiFID I. It will also follow up on the:

- peer review on the collection and use of STORs under MAR as a source of information in market abuse investigations,
- fast track peer review on the application of the guidelines on the enforcement of financial information by BAFIN and FREP in the context of Wirecard, and
- peer review on CCP supervision.

<b>Main outputs</b>	<p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- 🧑🏫 Follow up to the peer review on certain aspects of the compliance function under MiFID I</li> <li>- 🧑🏫 follow-up to the peer review on suspicious transaction and order reports (STORs).</li> </ul>
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<sup>3</sup> ESMA expects to finalise and publish in 2024 the reports of the peer reviews on the depositary obligations and on the Guidelines on Market Data.

- Follow-up to the fast-track peer review in the context of Wirecard.

## 2.6 ESMA as an organisation

This part includes the horizontal activities, which support the organisation and enable ESMA to fulfil its mission. It refers to work to be conducted in the areas of stakeholder relations, communication, governance, strategic planning and reporting, and risk management, assurance and accountability.

### 2.6.1 Governance and External Affairs

#### Key objectives

Ensure robust functioning of ESMA's governance bodies and strong internal governance and internal control.

Steer strategic direction for the Authority and provide annual and multi-annual planning and reporting.

Ensure effective external communication and engagement with stakeholders.

Ensure robust and trusted inter-institutional relationships, primarily with the European Union Institutions and contribute to ESMA's accountability and transparency.

Maintain strong relations and cooperation with international regulatory bodies (IOSCO, FSB) and non-EU securities regulators.

ESMA provides support to ESMA's governance bodies, including the Board of Supervisors, the Management Board, the Joint Committee and the Securities and Markets Stakeholders Group (SMSG). ESMA develops an annual communications work plan which sets out ESMA's communications priorities and outreach approach to key external and internal audiences. It also develops and implements the corporate external and internal communications strategy. ESMA publishes information about ESMA's engagement with external stakeholders. ESMA develops and regularly reviews its internal policies and procedures in accordance with the organisational best practices and undertakes an annual risk assessment and assessment of the ESMA's control framework.

ESMA provides advice to the European Commission, the European Parliament, and the Council on legislative initiatives and engages on an ongoing basis with them through various groups and committees including through regular participation in hearings/scrutiny proceedings of the European Parliament and Budgetary Discharge processes.

ESMA maintains strong relations and cooperation with international regulatory bodies (IOSCO, FSB) and non-EU securities regulators. ESMA also engages with these authorities

as part of its ongoing equivalence monitoring activity and overall monitoring of regulatory and supervisory developments in third countries. ESMA publishes an annual Equivalence Monitoring Report.

In 2023, ESMA will focus on implementing its new 2023-2028 strategic orientation. Furthermore, ESMA will design and launch a new website and a new intranet, which will facilitate increased digital and multimedia output.<sup>4</sup>

### Main outputs

#### Ongoing Activities

- Proportionality recommendations
- Stakeholder management and communication
- Support ESMA's governing bodies
- 🌐 Contribution to EU institutions and international fora work.
- Update/review internal ESMA policies/processes.

#### Annual outputs

- 📖 2024-2026 Programming Document.
- 📖 2024 Annual Work Programme.
- 📖 2024 Joint Committee Annual Work Programme.
- 📖 2022 Annual Report.
- 🌐/📖 2023 Confidential Equivalence Monitoring Report.

## 2.6.2 Legal and Compliance

### Key objectives

Identify and minimise the legal risks of ESMA's actions and defend the Authority in case of legal challenge.

Advise on and enhance the legal drafting and soundness of legal acts adopted by ESMA, notably through the sign-off process of draft technical standards and legal review of Guidelines.

Lead enforcement actions on firms directly supervised by ESMA.

Foster convergence of NCAs' enforcement practices.


Promote a strong compliance and integrity culture at ESMA on Ethics and conflict of interest policies, professional secrecy and data protection rules as well as good administration principles.

<sup>4</sup> ESMA plans to establish close cooperation and maintain close relations with the Anti-Money Laundering Authority (AMLA) that is planned to be established based on the AMLA Regulation, currently under negotiations.

	<p>Facilitate the settlement of disagreements between NCAs in cross-border situations.</p>
	<p>ESMA carries out systematic legal review of all key documents to ensure the legality of ESMA’s decisions and activities. Successful representation of ESMA before the EU Ombudsman, the Board of Appeal and the Court of Justice of the EU is key for the support of ESMA’s decisions and the protection of Union interests.</p> <p>In enforcement actions on directly supervised entities, the Independent Investigation Officer investigates potential infringements. ESMA adopts enforcement decisions where infringements are established and ensures that its enforcement actions have a deterrent effect and lead to lasting changes in the supervised entities’ behaviours.</p> <p>ESMA undertakes a wide range of activities to ensure compliance of ESMA as an organisation with all relevant regulations including on personal data and rules of professional secrecy including assessing regular requests basis for disclosure of ESMA documents under the professional secrecy rules.</p> <p>In addition, ESMA has the power to initiate breach of Union law investigations against national supervisors which fail to implement applicable legislation. In this regard, ESMA remains committed to enhance the effectiveness of the breach of Union law process as a convergence tool. On the processing of complaints, ESMA will promote a better use of the reporting channels to improve the ratio of admissible versus non admissible complaints.</p> <p>To ensure that ESMA acts as a transparent and accessible organisation, ESMA maintains and updates a public register of rules, policies and of ESMA’s public interactive single rule book (ISRB). ESMA is exploring the possibilities to use an IT system employed by the European Commission to improve the functionalities, scope and user-friendliness of the ISRB.</p> <p>In 2023, a specific effort will be made to provide training and raise awareness of staff about ethical conduct and rules as part of ESMA’s 2022-2025 anti-fraud strategy. Equally, the EU Ombudsman has opened inquiries into ‘revolving doors’ issues, which might be (mutatis mutandis) relevant for ESMA. Depending on their outcome, ESMA will assess if and how to revise its practices and/or internal policies.</p>
<p>Main outputs</p>	<p><b>Ongoing Activities</b></p> <ul style="list-style-type: none"> <li>- Legal advice on institutional issues, on supervisory measures and actions, and on potential breach of Union law, investigations reports, settlement decisions and/or recommendations for the Board.</li> <li>- Legal review of Technical Standards and Guidelines and of individual binding decisions and acts of general application, and of tools pursuing convergence such as Opinions.</li> </ul>

	<ul style="list-style-type: none"> <li>- Independent enforcement investigations and robust enforcement actions. Publication of the statements of findings and the enforcement decisions.</li> <li>- Submissions and representation of ESMA in any litigation case and expert views in preliminary rulings' cases.</li> <li>- Maintenance ESMA's Data Protection register.</li> </ul>
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### 2.6.3 Data Reporting and Management

Key objectives	<p>Enhance the access to data and information by stakeholders reinforcing ESMA's role as a data hub.</p> <p>Promote efficiency, transparency, and cooperation in data policy, and reduce reporting burden by promoting the use of data standards, new technologies and reporting innovations.</p> <p>Enable systematic use of data for evidence-based policy development, direct supervision, supervisory convergence, and risk assessment.</p>
<p>By exploiting synergies with the existing supervisory processes, ESMA, in cooperation with NCAs, concentrates on addressing the most significant issues impacting the overall quality of data at EU level.</p> <p>In 2023, as in previous years, the described efforts will support a further increase in the systematic use by ESMA and NCAs of the data to support with evidence their activities. In that respect, the common work on statistical analyses will keep contributing to the relevant risk assessment areas, single rulebook developments and supervisory convergence measures. This will be reinforced with further integration of data across different reporting regimes by developing ESMA's data dictionary, master data management and reinforcing the distribution of statistical information through machine readable means. To further enhance usability of the data, ESMA monitors the quality of the submitted data, sharing regularly issues with NCAs through established data quality frameworks that foresee the enforcement of remedial actions by supervisors.</p>	
Main outputs	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- Maintenance of ESMA's data processing and storage systems including publications of registers and MiFID calculations.</li> <li>-  Coordination of EU-wide Data Quality activity across all granular reporting regimes and overviews on usability status of main datasets reported to ESMA.</li> <li>- Data and statistical analyses to support policy, risk assessment, supervisory convergence and direct supervision activities.</li> </ul>



	<ul style="list-style-type: none"> <li>- Implementation of ESMA Data Dictionary for selected datasets.</li> <li>- Dissemination of statistics in machine-readable formats.</li> </ul> <p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- Transition of data management and statistical operations to the new big data system at ESMA.</li> </ul>
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## 2.6.4 Human Resources

Key objectives	<p>Deliver HR services, enabling ESMA to attract, train, develop and retain the talents required to successfully perform its tasks and achieve its objectives, and ensuring efficient HR administration while at the same time fulfilling the regulatory requirements of an EU authority, in the context of a larger organisation.</p>
	<p>The Human Resources function supports the staff and works to promote ESMA as an attractive and inclusive employer.</p> <p>In 2023, ESMA will need to complete the staffing of posts linked to ESMA’s new powers and responsibilities. Given ESMA’s new mandates and challenges, it is of utmost importance for ESMA to ensure it has the right skills and expertise. In this respect, ESMA will develop a competency framework. ESMA will adopt a new HR strategy by the end of 2022 and will be rolling it out in 2023. An important aspect will be to take into consideration the large number of newcomers onboarded in the recent past and adjusting processes to the size of ESMA.</p> <p>ESMA will work on ways to further strengthen its approach to diversity and inclusion. Developments in this field are planned over the next few years, through a variety of initiatives aimed at fostering a culture where diversity is regarded as a source of enrichment, innovation and creativity, and where inclusion is promoted by managers and all staff.</p> <p>The Human Resources function supports ESMA staff in their development and HR needs, notably by promoting internal mobility and offering a wide range of training and learning opportunities, including for management, both on-site and via agile and customisable e-learning sessions.</p> <p>Last, the organisation will continue to streamline and digitalise its internal HR procedures, in particular by implementing more modules of Sysper, the Commission HR database deployed in production at ESMA since mid-2022.</p>
Main outputs	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- Implementation of the staffing and training plan.</li> <li>- Adoption of an HR strategy.</li> </ul>

- Further implementation of Sysper (HR information system of the European Commission).

## 2.6.5 Finance and Procurement

### Key objective

Continuing enhancing the efficiency of ESMA's financial and procurement processes and ensuring their accuracy and regularity in light of the EU Financial Regulation.

ESMA collects fees from seven different types of supervised entities (CRAs, TR under EMIR, TRs under SFTR, SRs, Third Countries CCPs, Benchmark administrators and DRSPs) on top of the EU subsidy and the NCAs' contribution. Moreover, ESMA will start preparing for the integration of the new mandates foreseen by the Commission's proposal for DORA, MiCA and ESAP. In 2023, ESMA's budget will continue to grow in terms of complexity requiring the important effort to ensure an efficient, smooth and accountable functioning of ESMA's overall funding system.

For this purpose, ESMA plans to work with the European Commission on a proposal for a new fee funding model allowing to adapt its resources/funding based on market risks, while ensuring fairness and proportionality across the supervised entities as well as reasonableness and a certain level of stability of the relative proportion of the fees.

ESMA will continue to benefit for its budget and costing activities from its recently implemented flexible, fully re-scaled and cloud-based Activity-Based Management tool.

### Main outputs

#### Ongoing activities

- Revenue collection including fee management.
- Procuring goods and services.
- Financial contract management.
- Payments and reimbursements.

#### Annual outputs

- Budget planning, management and costing.

## 2.6.6 Corporate Services

### Key objectives

Provide proactive and effective support by ensuring the smooth running of the facilities and the acquisition of goods and services, in accordance with the EU public procurement rules and procedures.

Ensure the health and safety of ESMA staff and visitors.

	<p>Provide support to ESMA’s core business by offering an appropriate working place for staff and visitors, organising missions and events, and managing a secure, robust, efficient and collaborative document management system fulfilling the regulatory requirements and business needs of an EU authority.</p>
	<p>The Corporate Services will contribute to ESMA as an organisation improving its environmental performance through its Eco-Management and Audit Scheme (EMAS) certification. The lessons learned from the COVID-19 pandemic will also be taken into account in 2023 to improve the working place to move towards sustainability.</p> <p>The expected tasks of mission management, meeting organisation and catering services, planning and reporting, the possibility to further improve the events, visitors’ handling and document management will also benefit from the implementation of new tools (e.g., visitors’ management or desk use) notably to reflect the post-COVID-19 situation and to adapt to new ways of working and a larger organisation</p>
<p>Main outputs</p>	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- Maintenance of ESMA’s premises.</li> <li>- Environmental performance monitoring and improvement (EMAS maintenance).</li> <li>- Corporate services support for staff and visitors.</li> <li>- Annual, quarterly and monthly reports on the Support Functions activities.</li> </ul>

### 2.6.7 Information and Communication Technologies

<p>Key objectives</p>	<p>Promote supervisory convergence and manage financial information through building and maintaining relevant IT systems, with the objective to collect, exchange, analyse and disseminate securities and financial markets information as required by relevant EU legislations.</p> <p>Manage financial information, collect, exchange, analyse and disseminate securities and financial markets information as required by EU legislation.</p> <p>Contribute to ESMA’s operations by leveraging information technologies, by delivering IT services and solutions, and advise and collaborate to deliver ESMA’s objectives. Provide effective and proactive ICT support to staff and manage ESMA’s ICT resources in a flexible and efficient way.</p>
	<p>In 2023, key IT deliverables will include the design and development of the ESAP and the preparatory work for the implementation of DORA which will require harmonisation of</p>

incident reporting, digital operational resilience testing and oversight of critical third-party providers (CTPPs). ESMA will furthermore, consolidate and the extension of the markets data platform (Big Data) set up for the purpose of DRSP supervision with other mandates and datasets such as: Third Country and EU CCP positions data, Trade Repositories (EMIR, SFTR, STS) transaction data, MiFID II data (Financial Instruments Reference and Transparency). Finally, ESMA will make investments to be able to support the future regulation on a pilot regime for market infrastructures based on the DLT.

ESMA will in 2023, extend the use of MS Teams in order to support its staff and governing bodies to work remotely. ESMA will also run projects to increase organisational flexibility and strengthen core administrative processes, including a new whistle-blowing solution, a new stakeholder management tool (CRM), migration to the Commission’s mission management tool (MIPS) or the improvements to the Activity Based Management / Activity Based Costing tools.

Activities planned for 2023 onwards also include the reinforcement of cybersecurity and resilience of our IT systems. Finally, ESMA will also contribute to the revised CERT-EU legal framework and comply with the EU Security Union Strategy to ensure the presence of common cybersecurity rules and measures.

ESMA’s multi-annual IT Work Programme is steered by the following objectives:

1. Increase ESMA’s data capacity which requires investments and new skillsets and changes in both the ICT Unit and the other departments within the organisation.
2. Continue to implement new regulatory IT projects stemming from the Capital Markets Union agenda, such as the cross-border distribution of investment funds directive, or the regulation on European crowdfunding service providers for business; and
3. Support the growth and the efficiency of ESMA by prioritising activities that can deliver quick wins and benefit for the whole organisation.

Main outputs	<p><b>Ongoing activities</b></p> <ul style="list-style-type: none"> <li>- ICT digital workplace tools delivery, supported by communication, change management, and user support processes.</li> <li>- Document management system.</li> </ul>
	<p><b>2023 specific outputs</b></p> <ul style="list-style-type: none"> <li>- Execution and delivery of the IT projects and programmes related to supervisory convergence and direct supervision objectives, according to the defined programme and project management processes and methodologies.</li> </ul>



## Annex I. Human Resources

On 31 January 2022 ESMA provided a multi-annual 'Programming Document' to the EU Institutions. This included a multi-annual work programme with financial and staffing outlook for 2024 and 2025, as well as a detailed annual work programme with a budget and staffing request for 2023.

The following tables replicate ESMA's 2023 budget request, as approved in the Single Programming Document for 2023-2025. ESMA's resources for 2023 will become final once the EU budget is decided upon at the end of 2022 by the Budget Authority<sup>5</sup>.

2023 draft Establishment Plan (temporary posts)			
AD 16	1		
AD 15	3	AST 11	
AD 14	1	AST 10	
AD 13	2	AST 9	
AD 12	9	AST 8	
AD 11	11	AST 7	
AD 10	29	AST 6	4
AD 9	45	AST 5	9
AD 8	39	AST 4	
AD 7	40	AST 3	
AD 6	38	AST 2	
AD 5	32	AST 1	
AD total	250	AST total	13
<b>GRAND TOTAL</b>		<b>263<sup>6</sup></b>	

Contract Agents (FTE)	2023 draft estimate
Function Group IV	62
Function Group III	29
Function Group II	
Function Group I	
<b>Total</b>	<b>91<sup>6</sup></b>

Seconded National Experts (FTE)	2023 draft estimate
<b>Total</b>	<b>26</b> <sup>Error! Bookmark not defined.</sup>

<sup>5</sup> The Budget Authority is formed by the Council of the European Union and the European Parliament

<sup>6</sup> The 2023 draft general budget of the European Union COM(2022) 400 – June 2022 foresees 82 Contract Agents and 30 SNE. In the past years, it has not been possible to recruit the authorised number of SNE and ESMA is intensifying its efforts to further reduce the gap. The number of Contract Agents is currently under discussion between ESMA and the European Commission.



## Annex II. Draft budget

The following tables replicate ESMA's 2023 budget request, as approved in the SPD 2023-2025. The draft budget will not be final until agreed by the Budgetary Authority and by ESMA's Boards in the end of this year<sup>7</sup>.

<b>REVENUE</b>	
Fees from CRAs	10,029,962
Fees from TRs under EMIR	1,894,842
Fees from TRs under SFTR	854,120
Fees from SR	401,659
Fees from EMIR 2.2	4,792,351
Benchmarks	663,685
DRSP	2,900,000
Critical ICT Third-Party Providers (DORA)	1,370,572
EU contribution	18,235,862
Contribution from National Competent Authorities	28,601,700
Contribution from EEA/EFTA	885,501
Contribution for delegated tasks	3,334,000
<b>TOTAL REVENUE</b>	<b>73,964,254</b>

<b>EXPENDITURE</b>	
Staff expenditure	45,515,474
Infrastructure and administrative expenditure	8,113,300

<sup>7</sup> Notably, the level of 2023 revenue sources may be slightly adjusted at the light of the high inflation and of the recent developments concerning the fee-related areas. ESMA's final budget for 2023 will be published in ESMA's website and in the EU Official Journal in the beginning of next year.



Operating expenditure	16,935,480
Delegated tasks	3,400,000
<b>TOTAL EXPENDITURE</b>	<b>73,964,254</b>





## Annex III. ESMA's Key Performance Indicators

Activity	Key Performance Indicator	Annual Target
Promoting supervisory convergence	Reported non-compliance rate with GLs	N/A
	Peer reviews & follow-ups	7 <sup>8</sup>
Assessing risks to investors, markets and financial stability	Risk monitoring reports delivered against work plan	10
	Number of risk issues analysed	8
Maintenance of single rulebook for EU financial markets	Percentage of technical standards reviewed	N/A
Supervision of specific financial entities	Percentage of risk scenarios which triggered a supervisory action and resulted in a drop in the risk following the action	≥70% <sup>9</sup>
	The time a firm takes to proceed to remedial actions following ESMA's supervisory action	>75% <sup>10</sup>
	Number of resources spent per identified risk issue	≥75% <sup>11</sup>
	Number of cases meeting the time designated for the overall enforcement process	≥50%
Data related KPIs	Coverage of ESMA databases under central data management	90%
IT-projects related KPIs	% of projects' phases delivered compared to planned	80%
	% projects budget execution for the current year	95%
	% maintenance budget execution for the current year	95%
	% of open tickets versus closed (YTD)	>95%
ESMA as an organisation	% Rate of implementation of Commitment Appropriations	>95%
	% Rate of cancellation of Payment Appropriations	<5%

<sup>8</sup> 4 peer reviews and 3 follow-ups are expected for 2023. The target will be amended for the years 2024-2025, to be aligned with the adopted Peer-Review Work Plan (PRWP)

<sup>9</sup> The percentage of the risk scenarios that result in a drop of the risk level is equal to or greater than 70%

<sup>10</sup> For 70% or more of the relevant cases, firms respond to ESMA remedial actions on time.

<sup>11</sup> The sum of effort with Tier 1 and Tier 2 priority is equal to or greater than 75%



Activity	Key Performance Indicator	Annual Target
	% Rate of payments executed within legal/contractual deadlines	>95%
	% Average vacancy rate	<10%
	% Completion of the activities of the Annual Work Programme	>85%
	% Rate of implementation of audit recommendations	>85%



## Annex IV. Overview of ESMA 2023 outputs by output type

This Annex provides an overview of ESMA's deliverables by output type including along with a brief description of each type.

### Draft technical standards and statutory guidelines §

In response to specific legal mandates, ESMA provides draft implementing technical standards and draft ITS and RTS. Guidelines which are developed in response to a specific legal mandate are included in this category. The new and revised technical standards to be delivered in 2023 which are currently known are listed in the table below.

Sub-Activity	Technical Standards and statutory Guidelines to be delivered in 2023
Sustainable finance	<ul style="list-style-type: none"> <li>RTS on the principal adverse impact framework and certain product disclosures under SFDR.</li> </ul>
Facilitating technological innovation and effective use of data	<ul style="list-style-type: none"> <li>New RTS on ICT risk management (DORA).</li> <li>New ITS and RTS on third party risk management (DORA).</li> <li>New guidelines on the templates for permissions (DLT Pilot)</li> </ul>
Investment Management	<ul style="list-style-type: none"> <li>RTS on the notifications for cross-border marketing and management of AIFs and UCITS.</li> <li>Update of guidelines on MMF stress testing (annual).</li> </ul>
Issuer Disclosure	<ul style="list-style-type: none"> <li>Revised RTS on ESEF (annual)</li> </ul>
Benchmark Providers	<ul style="list-style-type: none"> <li>Revised RTS on authorisation and registration of benchmark providers.</li> </ul>
CRAs	<ul style="list-style-type: none"> <li>Revised ITS on ECAI mapping of corporate ratings under CRR and Solvency II.</li> </ul>
EU CCPs	<ul style="list-style-type: none"> <li>New RTS on minimum elements to be included in a business reorganisation plan.</li> <li>New RTS business reorganisation plan criteria for approval by the resolution authority.</li> </ul>
Trading	<ul style="list-style-type: none"> <li>Revised RTS 2 on transparency requirements (annual)</li> </ul>
Securitisation Repositories	<ul style="list-style-type: none"> <li>Revised RTS on securitisation disclosure requirement (consultation paper)</li> </ul>

In addition to the technical standards listed in the table above, there are several directives and regulations currently under review which are likely to result in additional mandates for ESMA to revise existing technical standards or develop new ones in 2023.

## Technical Advice, reports and other publications

In response to specific legal mandates, ESMA provides technical advice and analysis to the European Commission on the application and potential improvement of the legislation within ESMA's remit. This includes several annual publications as well as ad-hoc reports and technical advice on specific issues. The reports to be delivered in 2023 which are currently known are listed in the table below. However, there are several directives and regulations currently under review which are likely to result in additional mandates for ESMA to deliver reports and technical advice.

Sub-Activity	2023 Technical Advice and reports to the EC
Sustainable Finance	<ul style="list-style-type: none"> <li>Progress report to the EC on Greenwashing mandate.</li> </ul>
Investment Services	<ul style="list-style-type: none"> <li>Technical advice on the application of the crowdfunding Regulation.</li> </ul>
issuer disclosure	<ul style="list-style-type: none"> <li>Report on the application of IFRS 15: Revenue from contracts with customers.</li> <li>Report on SRD implementation on proxy advisors.</li> <li>Report on SRD implementation regarding shareholder identification, communication and voting.</li> </ul>
EU CCPs	<ul style="list-style-type: none"> <li>Report on powers on staffing and resources arising from CCP RRR.</li> </ul>
Third-country CCPs	<ul style="list-style-type: none"> <li>Annual confidential report on the regulatory and supervisory developments in equivalent third countries.</li> </ul>
Investment Management	<ul style="list-style-type: none"> <li>Biannual report on national rules on the marketing of investment funds.</li> </ul>
DSRPs	<ul style="list-style-type: none"> <li>Annual assessment of the DRSP derogation criteria.</li> </ul>
Trading	<ul style="list-style-type: none"> <li>Annual reports on transparency waivers and on the use of deferred publication arrangements.</li> <li>Annual Report on AMPs under MAR.</li> </ul>
Central Securities Depositories	<ul style="list-style-type: none"> <li>Annual Reports to the Commission on various aspects of CSDR implementation.</li> </ul>
Governance and External Affairs	<ul style="list-style-type: none"> <li>2024-2026 Programming Document.</li> <li>2024 Annual Work Programme.</li> <li>2024 Joint Committee Annual Work Programme.</li> <li>2022 ESMA Annual Report.</li> <li>2023 Equivalence Monitoring Report.</li> </ul>

Every year, ESMA publishes a set of publications with information about supervision and enforcement and data quality activities carried out in specific sectors, which are summarised in the table below.



Sub-Activity	Annual publications on supervision and enforcement activities
Investment Services	<ul style="list-style-type: none"> <li>Annual reports on sanctions under MiFID II and ECSPR</li> </ul>
Investment Management	<ul style="list-style-type: none"> <li>Annual reports on UCITS and AIFMD sanctions</li> </ul>
Issuer Disclosure	<ul style="list-style-type: none"> <li>Extracts of Enforcement of financial information decisions (Annual).</li> <li>Annual prospectus activity report.</li> <li>Annual corporate reporting enforcement and regulatory report.</li> <li>Annual statement on the annual common enforcement priorities.</li> </ul>
Trading	<ul style="list-style-type: none"> <li>Report on the supervisory measures and penalties imposed by NCAs regarding counterparties' compliance with EMIR.</li> <li>Annual Report on administrative and criminal sanctions under MAR.</li> </ul>
Trade Repositories	<ul style="list-style-type: none"> <li>Annual report on EMIR and SFTR data quality.</li> </ul>

Finally, ESMA carries out a range of activities to monitor and analyse market risks related to its mandates. The outcome of this work is published as part of two periodical publications.

Sub-Activity	Annual risk publications
Risk monitoring and analysis	<ul style="list-style-type: none"> <li>Trends Risk and Vulnerabilities report (biannual).</li> <li>ESMA Statistical Reports.</li> <li>ESMA Structural Market Indicators.</li> </ul>

## Peer Reviews and Common Supervisory Actions (CSAs)

Peer reviews and CSAs are important tools for promoting supervisory convergence.

The full list of peer review work planned for 2023 is available in section 2.5.2.

The CSA is the application of a common assessment framework on supervisory questions in a priority area among national supervisors as well as ongoing exchanges between supervisors on these questions.


Sub-Activity	2023 reports and follow-ups on CSAs
Investment Services	<ul style="list-style-type: none"> <li>Report on 2022 CSA and mystery shopping on costs and charges.</li> <li>Follow-up of CSA on product governance.</li> <li>Coordination of 2023 CSA and mystery shopping.</li> </ul>
Investment Management	<ul style="list-style-type: none"> <li>Outcome of the 2022 CSA on valuation of less liquid assets</li> <li>Coordination of a new CSA on sustainability.</li> </ul>



## Guidance

ESMA has the power to provide guidance to competent authorities and market participants on how to comply with and supervise the rules and regulations within its remit using different legal instruments. Depending on the addressee and the nature of the topic, ESMA commonly publishes guidance in the form of:


- Q&As;
- opinions;
- statements;
- supervisory briefings; and
- ESMA own-initiative guidelines and recommendations.

ESMA constantly reviews, revises, adds and repeals guidance across all areas to ensure that ESMA guidance is easy to navigate, consistent, complete and up-to-date in light of new developments in regulation, technology, risks, business models and investor needs. Guidance is a cornerstone of ESMA's supervisory convergence efforts to achieve effective and consistent high quality supervisory outcomes across the EU. The following symbol  is used whenever the new and revised guidance is among the regular outputs under a given activity.

## Direct Supervision

ESMA directly supervises all EU CRAs, TRs and SRs as well as certain DRSPs, benchmark administrators and CCPs. ESMA has a risk-based and data-driven approach to supervision across all its mandates. As part of its supervisory activities, ESMA produces on an ongoing basis a wide range of outputs including in particular

- risk assessments,
- supervisory strategies,
- remediation plans for supervised entities,
- investigations,
- thematic reports,
- reports to internal investigative officer in case of suspected breaches, and
- decisions regarding applications for registration, recognition or certification.


The following symbol  is used to refer to the common outputs associated with all the areas of ESMA's direct supervision.

## Data quality engagement

The monitoring and control of the quality of regulated data flows within ESMA's direct and indirect remit are a central part of ESMA's ongoing tasks. Data quality is in some cases undertaken as part of a direct supervision mandate and may involve the use of guidance instruments such as Q&As and guidelines. However, it is also an activity for which ESMA uses a set of dedicated tools which are continuously updated and revised including:




- data validation rules;
- dashboards;
- XML schema;
- technical reporting instructions; and
- data quality methodologies and action plans.

The following symbol  is used to indicate where data quality is among the regular outputs under a given activity.

## International work

ESMA closely engages and cooperates with securities and markets supervisors from around the world to ensure consistency in rules and their supervision including through international fora such as IOSCO and the FSB. In addition, EU law provides for a number of special regimes (equivalence, endorsement, passporting and recognition) which allow for certain supervised entities based outside the EU to get access to the single market when a number of conditions are met. ESMA delivers on an ongoing basis and on requests from the Commission, from market participants or from third-country supervisors a set of outputs to develop and maintain these regimes including:

- technical advice to the Commission on equivalence, adequacy, endorsement, or recognition of a third-country regulatory framework;
- cooperation agreement, or MoU, with the supervisors in third countries competent to supervise the entities benefiting from one of these regimes; and
- contribution to the development of analysis, reports and international standards.

The following symbol  is used to indicate where these are among the regular outputs under a given activity.



## Annex V. Acronyms

AIFMD	Alternative Investment Fund Managers Directive
APAs	Approved Publication Arrangements
ARMs	Approved Reporting Mechanisms
BMR	Benchmarks Regulation
CCP	Central Counterparty
CEAOB	Committee of European Audit Oversight Bodies
CRA	Credit Rating Agency
CRAR	Credit Rating Agency Regulation
CSDR	Central Securities Depositories Regulation
CSDs	Central Securities Depositories
CSRD	Corporate sustainability Reporting Directive
DQAP	Data Quality Action Plan
DRSP	Data Reporting Service Providers
EBA	European Banking Authority
ECAI	External Credit Assessment Institution
ECB	European Central Bank
EFRAG	European Financial Reporting Advisory Group
EIOPA	European Insurance and Occupational Pensions Authority
ELTIF	European Long-term Investment Funds
EMIR	European Market Infrastructure Regulation
ESAs	European Supervisory Authorities
ESEF	European Single Electronic Format
ESG	Environmental, Social and Governance
ESRB	European Systemic Risk Board





EuSEF	European Social Entrepreneurship Funds
EuVECA	European Venture Capital Funds
FSB	Financial Stability Board
FTE	Full Time Equivalent
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
IIO	Independent Investigation Officer
IOSCO	International Organization of Securities Commissions
ISA	International Standards on Auditing
ITS	Implementing Technical Standard
JC	Joint Committee
LEI	Legal Entity Identifier
MAR	Market Abuse Regulation
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MMFR	Money Market Funds Regulation
MMFs	Money Market Funds
MoU	Memorandum of Understanding
NCA	National Competent Authority
OTC	Over-the-counter
OTFs	Organised Trading Facilities
PRIIPs	Regulations on Packaged Retail and Insurance-based Investment Products
RTS	Regulatory Technical Standards
SFDR	Sustainable Finance Disclosure Regulation
SFTR	Securities Financing Transactions Regulation



SR	Securitisation Regulation
SSR	Short Selling Regulation
STS	Simple, Transparent and Standardised (Securitisation)
TC-CCP	Third Country Central Counterparty
TR	Trade Repository
TS	Technical Standard
UCITS	Undertakings for Collective Investment in Transferable Securities