European Securities and Markets Authority

Annual Report 2020

15 June 2021

ESMA20-95-1381

esma European Securities and Markets Authority

Annual Report 2020

Printed by Bietlot in Belgium

Photo credits: © ESMA: pages 8, 12, 26
© iStock: cover pages, pages 16, 20, 22, 30, 36, 39, 60, 72, 74, 77, 80, 82, 88

Manuscript completed in June, 2021

Luxembourg: Publications Office of the European Union, 2021

Print	ISBN 978-92-95202-48-1	ISSN 2443-6739	doi:10.2856/249343	EK-AA-21-001-EN-C
PDF	ISBN 978-92-95202-49-8	ISSN 2443-6747	doi:10.2856/0858	EK-AA-21-001-EN-N

Contents

Steven Maijoor

CHAIR

EUROPEAN SECURITIES AND MARKETS AUTHORITY

Chair's foreword

This 2020 annual report of the European Securities and Markets Authority (ESMA) is somewhat symbolic of change. It marks the end of a year different from any we have known before and one that has shown us how swiftly we are able to adapt to changing circumstances. It marks the end of ESMA's first decade of existence and the start of a new chapter in its life as an established regulatory and supervisory authority. It also marks the end of a period often focused on the United Kingdom's withdrawal from the EU and the start of a period in which ESMA will be able to focus on strengthening the capital markets union with sustainable and innovative financial markets.

The year 2020 began with the entry into force of the revised version of ESMA's founding regulation (known as the ESMA regulation) and the amendments to the European market infrastructure regulation (EMIR 2.2), updating ESMA's governance and bringing many new mandates to the organisation, which are increasingly shifting ESMA's focus towards supervisory convergence and direct supervision.

With the EMIR amendments, ESMA has established the Central Counterparty (CCP) Supervisory Committee. With Klaus Löber at its helm (as permanent Chair) and two independent members, the committee's task is to lead ESMA in its responsibility to recognise third-country CCPs and supervise systemically important third-country CCPs, as well as to promote supervisory converge as regards EU CCPs.

The European Supervisory Authorities' (ESAs') review has brought overarching changes to the functioning of ESMA. The inclusion of the notion of proportionality in the ESMA regulation is one such change. Looking forward, ESMA has, with the creation of the Advisory Committee on Proportionality, an additional tool to continuously consider how its acts affect the variety of market participants in the EU and particularly the smaller industry players.

Similarly, our founding regulation now requires ESMA to always take account of sustainability and technological innovation when carrying out its tasks. In practice, this has been visible through, for example, ESMA's substantial input in the European Commission's sustainable finance strategy and its focus on the delivery of technical standards under the sustainable finance disclosure regulation. In the area of technological innovation, we have published guidelines on outsourcing to cloud service providers, taking extensive stakeholder feedback into account.

ESMA's reinforced supervisory coordination role was quickly put to the test this year. The heavy impact of COVID-19 on the overall economy and on financial markets required ESMA to engage in extensive supervisory coordination. In addition, ESMA performed its very first fast-track peer review to look into the collapse of Wirecard AG, identifying deficiencies in the application of the *ESMA guidelines on enforcement of financial information* and providing recommendations for the review of the transparency directive.

Rarely has such a focus on risk analysis been needed as in 2020. The unparalleled levels of uncertainty brought about by the combination of Brexit and the COVID-19 pandemic, which have affected the real economy and capital markets, have required much attention from ESMA. Of course, ESMA monitored market developments closely and published its well-known trends, risks and vulnerabilities reports, which are now supplemented by annual statistical reports in several areas, including funds and clearing.

In this deeply uncertain context, ESMA delved into the risks of market-wide stress and of spillover effects, both of which were sharply increasing owing to the pandemic. On this basis, ESMA reinforced the supervisory convergence in relation to investment funds, when funds began to face significant liquidity risks in March 2020.

At the height of the crisis, ESMA also coordinated the issuing by national competent authorities of short selling bans, took decisions to temporarily alleviate regulatory burdens on market participants and issued warnings to investors under the markets in financial instruments directive (MiFID) II as regards the risks of trading in times of economic turmoil. These actions were made possible thanks to an unprecedented frequency of remote meetings of ESMA's Board of Supervisors, Management Board and standing committees.

Looking forward, ESMA has been making preparations ahead of taking on new responsibilities, such as the supervision of benchmarks and their administrators and of data service providers from 2022.

ESMA has, throughout the United Kingdom's transition period during 2020, undertaken much work to ensure market participant preparedness and to avoid cliff edges where possible. This has involved the drafting of statements to keep market participants informed of their changing rights and obligations in the context of the United Kingdom's withdrawal, as well as the conclusion of memoranda of understanding with the UK Financial Conduct Authority (FCA) and the Bank of England.

On the international front too, coordination efforts were turned up a gear to organise a global response to COVID-19 effects on capital markets, with ESMA participating in the International Organization of Securities Commissions (IOSCO) and the Financial Stability Board (FSB). As part of this, we took the lead on credit-rating agency (CRA)-focused workstreams. We also contributed to the work of the FSB's Standing Committee on Assessment of Vulnerabilities.

As mentioned previously, this 2020 edition of the annual report is symbolic of change and, in addition to those transitions recounted above, it marks the end of my tenure as ESMA Chair and the start of my successor's term. Therefore, I would like to take this opportunity to wish my successor the very best in this great endeavour.

As always, but for the last time, I would like to express my very sincere gratitude to my colleagues in the Board of Supervisors, the Management Board and the Joint Committee of the ESAs for their immeasurable support and cooperation. My appreciation also goes out to the European Commission, European Parliament and Council, as well as to our stakeholders for having continued to cooperate with ESMA so successfully despite the changes that all have faced this year and the prioritisation that has been necessary.

Ultimately, despite the challenges brought about by 2020 on both personal and professional levels, ESMA staff truly stepped up to the challenge of 2020 as they have done since ESMA's inception. This allowed ESMA to respond to the COVID-19 pandemic, while simultaneously fulfilling its mandates and preparing for further changes to come. It has been an honour to work with all colleagues in ESMA and I have no doubt that they will continue to serve ESMA well.

Steven Maijoor

Chair

VERENA ROSS

EXECUTIVE DIRECTOR
EUROPEAN SECURITIES AND MARKETS AUTHORITY

Executive Director’s foreword

The year 2020 has been, for ESMA, as for the rest of the world, a very peculiar year. When the COVID-19 pandemic hit the EU in March, forcing Member States and the Union to take drastic measures and affecting EU financial markets as well as ESMA’s own business continuity, ESMA had already been through its fair share of changes for the year.

First, the entry into force on 1 January 2020 of the new ESMA regulation and of EMIR 2.2 put exciting new challenges on ESMA’s plate. At the end of 2019, we had moved ESMA to new premises to be able to make space for the additional staff required to fulfil our additional mandates. Over the course of 2020, we hired 65 staff members (temporary agents, contract agents and seconded national experts) and welcomed the organisation’s expansion through the creation of the CCP Supervisory Committee, with its Chair and two independent members. The organisation counted, at the end of 2020, 240 staff members in its ranks, who are ready to tackle the challenges to come in building the capital markets union and developing a more innovative, more sustainable economy.

The new mandates brought on by these legislative amendments also required operational changes, including the development of a new question-and-answer web-based tool to facilitate communication with our stakeholders. ESMA also continued the necessary preparations ahead of the start of ESMA’s direct supervision of data reporting service providers and of benchmark administrators from 2022.

Other legislative changes have required the completion of information technology (IT) projects. For example, under the new prospectus regulation, ESMA has updated the prospectus register for the central publication of all prospectuses collected. A central database was created for the purposes of the collection of aggregated reports from MMF managers, much like those already collected from alternative investment fund managers. Looking forward, and in line with our strategic objective to ensure that ESMA can increasingly become a useful data hub for the EU securities markets, further IT projects in relation to trade repositories, central securities depositories and funds are planned.

ESMA was also dealing with the United Kingdom’s withdrawal from the EU in 2020. The year marked both the beginning and the end of the transition period and so, from an operational perspective, many changes were made to ensure a smooth transition to the new EU–UK relationship. In particular, this has involved the deregistration of six UK CRAs and four UK trade repositories. On the data front, it has involved the related removal of information from ESMA registers and the publication of statements to inform market participants of the relevant changes in reporting requirements, as well as the removal of the UK FCA’s access to ESMA databases and the gradual phasing out of UK data from all ESMA calculations.

In March, when Europe locked down and, simultaneously, financial markets started to experience volatility due to the pandemic, ESMA transitioned overnight from on-site ‘business as usual’ working to a fully remote working environment. All ESMA staff were working from home and we were able to hold weekly – although often more frequently – Board of Supervisors meetings by video conference. This smooth operational adjustment to the pandemic was essential in enabling ESMA to tackle the challenges of COVID-19-related financial market stress.

The situation also led to an urgent reprioritisation of our work programme for the year. In particular, crisis-response work was put at the top of the agenda, especially in areas in which ESMA is the direct supervisor. As such, ESMA closely monitored CRAs through enhanced data analytics to assess the possible impact of ratings on financial stability. Another major element of ESMA’s crisis response was to review and adjust market participants’ obligations in certain areas, given the circumstances. We also used proprietary data and coordinated information sharing between European supervisors to facilitate an aligned European response to the crisis.

Furthermore, we amended our stakeholder interaction in line with the pandemic, to focus on utilising digital tools such as webinars. To some extent, the successive lockdowns have had a silver lining for ESMA when it comes to stakeholder outreach, as unprecedented numbers attended some of our virtual open hearings.

The year 2020 was my final full year as ESMA’s Executive Director. I would therefore like to take the opportunity presented by this foreword to express how proud I am of how ESMA has grown since its creation 10 years ago. I am deeply grateful to my ESMA colleagues, past and present, for it is their commitment, hard work and flexibility that have allowed ESMA to become the credible authority that it is today.

In a year as testing as 2020, it is those characteristics that allowed us to both respond to the crisis and keep fulfilling our other mandates smoothly, on a remote basis and despite the difficulties that all have faced this past year.

I would also like to thank my colleagues in the national competent authorities, as well as in ESMA's Board of Supervisors and Management Board. Our cooperation has been closer than ever given the year's circumstances, and their support has, for the same reasons, been more crucial than ever before.

Verena Ross

Executive Director

1 ESMA’s mission and objectives

1.1. Mission, objectives and activities

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

ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

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

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

ESMA achieves its mission through four activities:

(i) assessing the risks to investors, markets and financial stability;

(ii) completing a single rulebook for EU financial markets;

(iii) promoting supervisory convergence;

(iv) directly supervising specific financial entities.

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

The output of the risk assessment function feeds into ESMA's work on the single rulebook, supervisory convergence and the direct supervision of specific

financial entities. We promote transparency and investor protection by making information available to investors via our public registries and databases and, where needed, by issuing warnings to investors. The risk analysis function closely monitors the benefits and risks of financial innovation in EU financial markets.

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

Supervisory convergence refers to the consistent implementation and supervision of the same rules using similar approaches across the EU. The purpose of promoting supervisory convergence is to ensure a level playing field of high-quality regulation and supervision without regulatory arbitrage or a race to the bottom between Member States. Supervisory convergence ensures the safety of the financial system, protects investors and ensures orderly markets.

ESMA is the direct supervisor of credit-rating agencies (CRAs), trade repositories (TRs) (including for securities financing transactions (SFTs)) and securitisation repositories. ESMA recognises third-country central counterparties (CCPs) and supervises those determined to be systemically important third-country CCPs (tier 2 CCPs); moreover, it recognises third-country central securities depositories (CSDs) in the EU. ESMA will become the direct supervisor of data reporting service providers, critical benchmarks and other third-country firms in a number of different areas. These entities form significant parts of the EU's financial market infrastructure.

1.2. Governance and organisation

Two decision-making bodies govern ESMA: the Board of Supervisors (the Board) and the Management Board.

1.2.1. Board of Supervisors

The Board guides the work of the Authority and has the ultimate decision-making responsibility on a broad range of matters, including the adoption of ESMA technical standards, opinions and guidelines, the issuance of advice to the EU institutions, and taking authorisation and enforcement decisions.

In addition to ESMA's Chair ([1]), the Board is composed of the heads of the NCAs in the EU and the European Economic Area (EEA) that are responsible for securities regulation and supervision, as well as non-voting representatives from the European Commission, the ESRB, the EBA, EIOPA and the European Free Trade Association (EFTA) Surveillance Authority. ESMA's Executive Director also participates in the Board.

The Board's current members and the summaries of its 2020 meetings can be found on ESMA's website ([2]). The Board is supported by a number of standing committees and working groups that deal with technical issues.

From 2011 to March 2021, ESMA's full-time Chair was Steven Maijoor and, from 2011 to May 2021, its Executive Director was Verena Ross.

The Chair is responsible for preparing the work of the Board and chairs both its meetings and those of the Management Board. The Chair also represents the Authority externally. Anneli Tuominen of the Finnish Financial Supervisory Authority (FIN-FSA) is the current Vice-Chair.

The Executive Director is responsible for the day-to-day running of the Authority, including staff matters, developing and implementing the annual work programme, developing the draft budget and preparing the work of the Management Board.

1.2.2. Management Board

In addition to the ESMA Chair, the Management Board is composed of six members selected from the Board of Supervisors by its members. The Executive Director and a representative of the Commission attend as non-voting members (except on budget matters, when the Commission representative has a vote) and the Vice-Chair attends as an observer.

The main role of the Management Board is to ensure that the Authority carries out its mission and performs the tasks assigned to it in accordance with the ESMA founding regulation (known as the ESMA regulation). It focuses in particular on the management and supervisory aspects of the Authority, such as the

(**1**) The role of the Chair changed as of 1 January 2020 with the implementation of the new ESMA founding regulation. Until 2020, the ESMA Chair had no vote.

(**2**) https://www.esma.europa.eu/about-esma/governance/board-supervisors-and-ncas development and implementation of a multiannual work programme, as well as budget and staff resource matters.

The Management Board's current members and the summaries of its 2020 meetings are available on ESMA's website ([3]).

1.2.3. Central Counterparty Supervisory Committee

In line with the European market infrastructure regulation (EMIR), ESMA established in 2020 the CCP Supervisory Committee with a permanent Chair, Klaus Löber, and two independent members, Nicoletta Giusto and Froukelien Wendt, dedicated to promoting convergence in the supervision of EU CCPs, recognising third-country CCPs and supervising the systemically important third-country CCPs.

1.2.4. Securities and Markets Stakeholder Group

The Securities and Markets Stakeholder Group (SMSG) was established under the ESMA regulation to facilitate consultation with stakeholders in areas relevant to ESMA's tasks. The members represent financial market participants and their employees, consumers and other users of financial services, academics, and small and medium-sized enterprises (SMEs). ESMA consults the SMSG on all its draft technical standards and guidelines to ensure each has input from stakeholders.

The SMSG was renewed in 2020 following changes to its composition as a result of the review of ESMA's founding regulation. The members of the SMSG, made up of 30 individuals, serve a term of 4 years. In 2020, the group was chaired by Veerle Colaert. She holds the chair for financial law at KU Leuven University and is co-director of the Jan Ronse Institute for Company and Financial Law. She was, in 2020, supported by joint Vice-Chairs Christiane Hölz ([4]) and Rainer Riess. The SMSG held five meetings in 2020, one of which was held together with the Board of Supervisors. A full list of the advice produced by the SMSG in 2020 is in Annex X and on ESMA's website ([5]).

1.3. Day-to-day management

The Executive Director and the heads of department are responsible for ESMA's day-to-day management and for the management team. ESMA had seven departments in 2020, as well as the CCP Directorate; the heads of each department/directorate are responsible for the activities in their business areas. The planning and monitoring of activities are a crucial part of the management team's role and contribute to ESMA's internal control system.

The Chair, Executive Director and management team meet weekly to discuss the preparations for the Board meetings, strategic activities and cross-organisational issues.

(**3**) https://www.esma.europa.eu/about-esma/governance/management-board

(**4**) The mandate of Christiane Hölz ended on 31 December 2019; she was re-elected by the new group on 9 July 2020.

(**5**) https://www.esma.europa.eu/about-esma/governance/smsg

2 ESMA's achievements

2.1. COVID-19-related measures

The outbreak of COVID-19 had a significant impact on markets and the activities of all market stakeholders, requiring ESMA to monitor the situation closely, to coordinate actions with other authorities in the EU and to take measures in a number of areas. Some of these measures are outlined in this section. In addition, the impact of the pandemic on market participants and authorities meant that a reprioritisation exercise of ESMA's 2020 work programme was required, to better focus our efforts on addressing the crisis.

In response to the COVID-19-related financial crisis, ESMA has intensified its coordination with NCAs and has undertaken a number of initiatives, in particular in the areas of investor protection, short selling, corporate disclosure and risk assessment.

2.1.1. Monitoring of liquidity risk in investment funds and coordination of supervisory action

In response to the COVID-19 crisis, ESMA reinforced its coordination role regarding the supervision of investment funds through the organisation of frequent exchanges with NCAs on market developments and supervisory risks, in particular on liquidity issues. Since the end of March 2020, ESMA has been collecting data on the use of 'extraordinary' liquidity management tools such as suspensions of redemptions, redemptions in kind, side pocketing and the activation of gates, but also on the adaptation of liquidity management tools that are commonly used (for instance the modification of the swing factor mechanism, the increase in redemption fees and the change in the dealing frequency of the funds).

In this context, in May 2020, ESMA acted upon the recommendations issued by the General Board of the ESRB that called for a coordinated supervisory exercise on EU investment funds with significant exposures to corporate debt and real estate.

This exercise has been very fruitful for further understanding the effect of the crisis in segments of the funds sector and their potential weaknesses and for defining concrete actions to address these weaknesses. To this end, ESMA's final report on this topic [6] published in November 2020 identified priority areas to enhance the preparedness of investment funds with significant exposures to corporate debt and real estate assets, for potential future adverse liquidity and valuation shocks. Those priority areas should reduce the risk and the impact of collective selling by funds on the financial system, by addressing the liquidity and valuation risks at the level of the investment fund. In particular, this should lead to concrete follow-up steps, most immediately on the side of managers whose funds failed the relevant stress simulations and, more generally, those managers managing funds that showed deficiencies.

2.1.2. Money market funds

The COVID-19 crisis has been challenging for money market funds (MMFs). Risks have increased for MMFs and for the money market instruments in which they invest. Several EU MMFs faced significant liquidity issues during the period of acute stress in March 2020.

In this context, ESMA published a 2020 update of guidelines on MMF stress tests [7], which took account of the experience during March 2020, particularly in relation to redemption scenarios.

Earlier in the year, in the context of financial market authorities' actions to mitigate the impact of COVID-19 on the EU's financial markets, ESMA published a statement to clarify the potential interaction between the intermediation of credit institutions and the requirements of Article 35 of the MMF regulation on external support. ESMA also aimed to coordinate the supervisory approaches of NCAs in the light of liquidity challenges for MMFs in the context of the COVID-19 pandemic.

ESMA also participated in ongoing work at the international level on the potential need to amend the MMF regulatory framework to make MMFs more resilient and address the issues observed during March 2020, with a view, at the EU level, to prepare for the review of the MMF regulation in 2022.

(**6**) https://www.esma.europa.eu/sites/default/files/library/esma34-39-1119-report_on_the_esrb_recommendation_on_liquidity_risks_in_funds.pdf

(**7**) https://www.esma.europa.eu/sites/default/files/library/esma34-49-289_2020_guidelines_on_mmf_stress_tests.pdf

2.1.3. Publication of investment fund periodic reports

ESMA became aware that the confinement measures taken by Member States to prevent COVID-19 contagion presented significant difficulties and challenges for fund managers and auditors in preparing their periodic reports for publication within the regulatory deadlines. While recognising the importance of periodic reports for timely and transparent disclosure, ESMA took the view that the burdens on fund managers associated with the COVID-19 outbreak should be taken into account by NCAs in a coordinated way. ESMA issued a public statement directed at fund managers concerning their obligations to publish yearly and half-yearly reports.

2.1.4. Short selling measures

ESMA issued a decision on 16 March 2020 temporarily requiring the holders of net short positions in shares traded on an EU regulated market to notify the relevant NCA if the position reached, exceeded or fell below 0.1 % of the issued share capital. The decision was renewed for a 3-month period in June, September and December 2020. ESMA considered that lowering the reporting threshold was a precautionary action that, in the exceptional circumstances linked to the COVID-19 pandemic, was essential for authorities to monitor developments in markets.

Following the increased market volatility and the rising level of short selling positions linked to the COVID-19 crisis, ESMA issued 11 official opinions agreeing to emergency short selling prohibitions by the Commissione Nazionale per le Società e la Borsa (CONSOB) of Italy, the Autorité des marchés financiers (AMF) of France, the Comisión Nacional del Mercado de Valores (CNMV) of Spain, the Financial Services and Markets Authority (FSMA) of Belgium, the Hellenic Capital Market Commission (HCMC) of Greece and the Finanzmarktaufsicht (FMA) of Austria between March and April 2020. The short selling bans were introduced in an effort to stabilise price movements from mid-March to mid-May. In the cases of the AMF, CNMV, FSMA, HCMC and FMA, ESMA issued opinions on the initial decisions and on their renewals in March and April. In the case of CONSOB, ESMA issued only one opinion in March because the proposed measure had a later expiration date. ESMA also coordinated the non-renewal and termination of these emergency short selling prohibitions by 18 May.

2.1.5. MIFID II/MIFIR measures

Markets

In June 2020, ESMA issued a public statement to clarify the application of the markets in financial instruments regulation (MiFIR) open access provisions for exchange-traded derivatives (ETDs) for trading venues and CCPs in the light of the uncertain and volatile market environment due to the COVID-19 pandemic. The statement aimed to coordinate the supervisory actions of NCAs by setting out the issues that they should consider when assessing open access provision requests for ETDs in view of the end of the transitional period, which had initially been expected to expire on 3 July 2020. A few weeks later, the co-legislators agreed on a 1-year extension of the transitional period for ETDs until 3 July 2021.

In the first half of 2020, ESMA also published several statements aimed at providing clarification on a number of issues for financial market participants. The statements

related to various aspects of the markets in financial instruments directive (MiFID II) and MiFIR (i.e. the tick-size regime and the delay of the publication of the annual non-equity transparency calculations and the quarterly systematic internaliser calculations) and were published in response to developments related to the COVID-19 pandemic and the related actions taken by the EU Member States.

Investor protection

The financial market turmoil as a result of the COVID-19 pandemic led to high market volatility and an increase in market, credit and liquidity risks. To tackle these issues, ESMA published a statement highlighting the risks to retail investors when trading under these unprecedented market circumstances and reminding investment firms of the key conduct of business obligations under MiFID when providing services to retail investors.

ESMA also issued a public statement with clarifications regarding the publication by execution venues and firms of the general best execution reports required by MiFID II, as well as a public statement ([8]) to clarify issues regarding the application by firms of the MiFID II requirements on the recording of telephone conversations. ESMA recognised that, considering the exceptional circumstances created by the pandemic, the recording of relevant conversations required by MiFID II may not have been practicable. If firms, under these exceptional scenarios, were unable to record voice communications, ESMA expected them to consider what alternative steps they could take to mitigate the risks related to the lack of recording. With regard to best execution reports, ESMA encouraged NCAs to take into account circumstances arising from COVID-19 in assessing execution venues and investment firms' difficulties in publishing these reports within regulatory deadlines.

2.1.6. Corporate disclosures

In 2020, ESMA published different documents to provide guidance on corporate disclosure in the context of COVID-19.

ESMA issued guidance on the accounting implications of the economic support and relief measures adopted by EU Member States in response to the COVID-19 outbreak. The statement provided guidance to issuers and auditors on the application of International Financial Reporting Standard (IFRS) 9, *Financial Instruments*, specifically as regards the calculation of expected credit losses and related disclosure requirements.

The COVID-19 pandemic and the related lockdown measures negatively affected issuers in their preparation of financial reports and auditors in carrying out timely audits of accounts, thus impairing the ability of issuers to publish their financial reports within the transparency directive legislative deadline. Acknowledging the situation, ESMA recommended that NCAs apply forbearance powers towards issuers who needed to delay the publication of financial reports beyond the statutory deadline, while at the same time indicating that issuers should keep their investors informed of the expected publication delay and that requirements under the market abuse regulation still applied.

To provide guidance to issuers on the application of the *ESMA guidelines on alternative performance measures* (APM Guidelines), within the circumstances of the pandemic, ESMA issued a question-and-answer (Q&A) publication encouraging issuers to use caution when adjusting alternative performance measures (APMs) for COVID-19-related effects and inviting issuers to provide more information to address the impact that the COVID-19 outbreak may have on their operations and performance.

In May 2020, ESMA published a public statement calling for transparency on COVID-19 implications in half-yearly financial reports of listed issuers. ESMA emphasised the role of audit committees in promoting high-quality half-yearly financial reports at this difficult time. In addition, ESMA will collect data on how EU-listed entities applied the recommendations and will take those findings into account, among other considerations, in setting the enforcement priorities for the annual financial statements for 2020. These findings will be reported on in ESMA's report on the 2020 enforcement activities.

ESMA responded, directly and through the European Financial Reporting Advisory Group (EFRAG), to the proposed amendments to IFRS 16, *Leases*, in the exposure draft of the International Accounting Standards Board (IASB) on COVID-19-related rent concessions. ESMA provided comments with the aim of improving the consistent application and enforceability of the IFRS, and welcomed the IASB's initiative to introduce a practical expedient that may provide relief for lessees in accounting for rent concessions granted by lessors in the very specific circumstances of the COVID-19 pandemic. In July 2020, the amendment had

(**8**) https://www.esma.europa.eu/sites/default/files/library/esma35-43-2348_esma_statement_on_covid-19_telephone_recording.pdf not yet been endorsed for use in the EU for half-yearly financial reports. ESMA therefore issued a public statement recommending that NCAs not prioritise supervisory actions on the IFRS 16 EU-endorsed lease modification requirements to allow for the application of the amended lease modification requirements. This was subject to the European Parliament and the Council not objecting to the endorsement of the amendment. This coordination of supervisory actions exceptionally applied to financial periods ending on or before 31 July 2020 and as long as issuers accounted for those transactions on the basis of the IFRS 16 amendment.

2.1.7. Benchmarks

The COVID-19 pandemic posed difficulties for interest rate benchmark administrators and contributors to interest rate benchmarks in fulfilling the external audit requirements set out in the benchmarks regulation (BMR). Therefore, in April 2020, ESMA issued a public statement to promote in a coordinated way, not to prioritise, supervisory action regarding the timeliness of fulfilling external audit requirements for interest rate benchmark administrators and contributors to interest rate benchmarks.

2.1.8. Settlement discipline

In March and April 2020, the higher volatility of markets owing to COVID-19 triggered a higher velocity in the exchange of assets (including increased collateral movements, margin calls and substitutions), which heavily increased settlement instruction volumes and overall turnover, which also led to a surge in settlement fails. Most settlement fails were related to operational challenges in delivering securities, rather than a lack of cash. These challenges included a lower operational capacity of participants' back offices, which had to operate under business continuity plans, in particular working remotely, and to deal with a backlog. ESMA coordinated with the CSD NCAs and closely monitored the levels of settlement fail rates across the EU, as well as the measures taken by CSDs and their participants to address settlement fails.

Given the COVID-19 situation, further to a letter from the European Commission, and having analysed the implementation challenges highlighted by market participants regarding their preparations for the new settlement discipline regime under the CSD regulation (CSDR), ESMA developed draft regulatory technical standards (RTS) to postpone the date of entry into force of this regime until 1 February 2022.

2.1.9. Central counterparties

ESMA implemented a monitoring framework on the EU CCPs' performance during the COVID-19 outbreak, covering both financial and operational risks. The CCP Supervisory Committee and the CCP colleges received daily reports on the CCP clearing activities. These also included information on the operational measures implemented by CCPs to ensure business continuity under remote working arrangements. ESMA also promoted simulation exercises (fire drills), testing the default management procedures under such unprecedented operational circumstances. This monitoring activity did not raise any specific supervisory concerns.

2.1.10. Implementation of margin requirements for over-the-counter (OTC) derivatives

The ESAs, in response to the COVID-19 outbreak, published RTS in May 2020 under EMIR to amend the delegated regulation on the risk mitigation techniques for non-centrally cleared over-the-counter (OTC) derivatives (bilateral margining), to incorporate a 1-year deferral of the two final implementation phases of the bilateral margining requirements. The amending draft RTS were developed to further facilitate an internationally coordinated approach on how to adapt the implementation of the bilateral margin requirements in these exceptional circumstances.

This internationally coordinated approach had been agreed upon by the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) and was announced on 3 April, to provide additional operational capacity for counterparties to respond to the immediate impact of COVID-19.

2.1.11. Securities financing transactions regulation (SFTR)

ESMA issued public statements to ensure coordinated supervisory action on the application of the securities financing transactions regulation (SFTR). In particular, ESMA confirmed the extension of the registration process of TRs to better monitor the implementation and the reliability of their systems. Furthermore, the start of reporting of SFTs for credit institutions and investment firms under SFTR and MiFIR was delayed by 3 months.

2.1.12. Direct supervision

As a direct supervisor, ESMA continued its supervision of CRAs and TRs.

ESMA carried out the majority of its planned activities outlined in the 2020 work plan for direct supervision. Nonetheless, the pandemic outbreak had a significant impact on the business of the firms subject to ESMA's supervision and the related risks. Therefore, in accordance with its risk-based approach, ESMA reassessed its supervisory focus, reprioritised some activities and set up dedicated monitoring plans.

In response to the COVID-19 outbreak, ESMA put in place a suite of measures to monitor the impact of the pandemic on the supervised entities. ESMA set up regular interactions with CRAs and developed an analytical framework to monitor credit-rating activity in relation to the pandemic. The analytical framework used the data reported to ESMA by the CRAs and allowed ESMA to inform relevant stakeholders of CRA rating activity and identify supervisory concerns.

In its engagement with CRAs, ESMA focused on business continuity, information technology (IT), and information security and adherence to key requirements of the CRA regulation (e.g. the proper application of methodologies, conflicts of interest, internal controls, transparency and governance).

Similarly, ESMA implemented specific actions to monitor potential risks from the COVID-19 outbreak regarding TRs' operations and performance, as well as cybersecurity. ESMA designed a specific set of indicators that were submitted regularly by TRs throughout 2020, and further engaged with the firms when risks were identified.

2.1.13. Ongoing consultation papers

Beyond the individual measures listed above, ESMA found it appropriate to extend the response date for ongoing consultation papers, ensuring that input to consultations was not hampered by the ability of stakeholders who also had to deal with urgent crisis measures.

2.1.14. Support functions

This pandemic required a swift adaptation of the Authority as a whole and notably of its support functions, which were affected in many areas and ways. ESMA promptly assessed the consequences of this major health crisis, as early as March, in terms of both processes and projects. The purpose was to identify without delay the main risks and issues and the appropriate mitigation actions. In parallel, thanks to its high level of digitalisation, advanced IT tools and prior experience in teleworking, the organisation was able to continue operating satisfactorily and without disruption when the first lockdown was implemented in France in March and the entire staff had to work from home, a situation that continued largely into 2021.

ESMA launched its business continuity plan and set up a business continuity management team in February 2020. The support functions of ESMA had to adapt particularly as regards IT systems (i.e. virtual private networks (VPNs) and cloud services), premises (i.e. distancing rules and protective measures), human resources (HR) processes (i.e. time management, recruitment and induction) and communication (i.e. online presence and townhall virtual meetings).

Overall, the pandemic had several key impacts on ESMA, including more frequent meetings of the Board of Supervisors and other ESMA group meetings, an increase in the digitalisation and use of audio and video conferencing and voting tools, an increase in the importance of having an online presence in social media and attending online conferences, and a reduced carbon footprint (owing to less printing and less travel).

2.2. Measures related to the United Kingdom's withdrawal from the EU

Objective for 2020	Prepare for all possible Brexit scenarios, considering the risks and mitigation actions within ESMA's remit, and liaise with relevant stakeholders to coordinate all Brexit-related workstreams.

ESMA continued to prepare for the end of the transition period, in line with its mission to enhance investor protection and promote stable and orderly financial markets in the context of the United Kingdom's withdrawal. ESMA continued to conduct a systematic analysis of the potential impact of the United Kingdom's withdrawal across EU securities markets and for financial market participants, and worked closely with EU NCAs, the European Commission and the UK Financial Conduct Authority (FCA) to mitigate any issues that arose.

2.2.1. Readiness work for the end of the transition period

In 2020, ESMA urged financial market participants to finalise preparations and implement suitable contingency plans in advance of the end of the UK transition period on 31 December 2020.

ESMA also confirmed that the previously agreed memoranda of understanding (MoUs) on cooperation and information exchange concluded with the UK FCA remained relevant and appropriate to ensure continued good cooperation and exchange of information. These MoUs were also updated to cover cooperation regarding securitisation repositories and securitisation transactions. ESMA, EU national securities regulators and the FCA confirmed that these MoUs would come into effect at the end of the transition period.

At the beginning of 2020, ESMA published a statement to clarify issues relating to its governance and the reporting obligations for UK entities from 1 February 2020 following the United Kingdom's formal withdrawal from the EU on 31 January 2020.

2.2.2. Recognition of UK central counterparties (CCPs)

On 28 September 2020, ESMA announced that the three CCPs established in the United Kingdom – ICE Clear Europe Limited, LCH Limited and LME Clear Limited – would be recognised as third-country CCPs eligible to provide their services in the EU after the end of the transition period following the withdrawal of the United Kingdom from the EU on 31 December 2020.

Those recognition decisions were assessed based on the following tiering decisions.

- LME Clear Limited was assessed as a tier 1 CCP.
- ICE Clear Europe Limited was assessed as a tier 2 CCP.
- LCH Limited was assessed as a tier 2 CCP.

ESMA's decisions followed the time-limited equivalence decision for the United Kingdom's legal and regulatory supervision regime of UK CCPs, which was published by the European Commission on 21 September 2020.

ESMA also agreed an MoU with the Bank of England establishing the necessary cooperation arrangements for the recognition and supervision of UK CCPs.

2.2.3. Novation of over-the-counter (OTC) derivatives to EU counterparties

On 23 November 2020, the ESAs published a final report with draft RTS that proposed that the Commission delegated regulation on the risk mitigation techniques for OTC derivatives not cleared by a CCP (bilateral margin requirements) under EMIR be amended. At the same time, ESMA published a final report with new draft RTS that proposed the three Commission delegated regulations on the clearing obligation under EMIR be amended.

In the context of the withdrawal of the United Kingdom from the EU, the ESAs and other EU authorities and institutions have consistently highlighted the importance of market participants being prepared for the end of the transition period. These draft RTS reintroduced a regulatory solution to support these preparations.

Specifically, the ESAs (for bilateral margining) and ESMA (for the clearing obligation) developed these draft RTS to allow novating OTC derivative contracts from UK counterparties to EU counterparties without triggering the bilateral margin and clearing obligation requirements under certain conditions. This limited exemption sought to ensure a level playing field between EU counterparties and the preservation of the regulatory and economic conditions under which the contracts were originally entered into. Counterparties were invited to start negotiating, as soon as possible, the novation of their transactions that were within the scope of these amending regulations, given the 12-month time frame to benefit from those measures.

2.2.4. Recognition of UK central securities depository (CSD)

On 11 December 2020, ESMA announced that it would grant temporary third-country recognition to one UK CSD from 1 January 2021 under the CSDR. The recognition of the UK CSD – Euroclear UK & Ireland Limited (EUI) – allowed EUI to continue to provide notary and central maintenance services for certain EU securities after the end of the transition period on 31 December 2020 until 30 June 2021. This would allow sufficient time for concerned EU issuers to transfer their securities to EU CSDs.

ESMA's decision followed the time-limited equivalence decision for the United Kingdom's legal and regulatory supervision regime of UK CSDs, for a period of 6 months, which was published by the European Commission on 21 November 2020.

ESMA also agreed an MoU with the Bank of England establishing the necessary cooperation arrangements for the recognition and supervision of UK CSDs.

2.2.5. Share and derivative trading obligations in the context of Brexit

In October 2020, ESMA released a public statement that clarified the application of the EU share trading obligation (STO) following the end of the United Kingdom's transition from the EU. The statement confirmed that the trading of shares with an EEA international securities identification number (ISIN) remains within the scope of the EU STO, while UK ISINs are outside the scope of application of the EU STO. The statement also clarified that trades undertaken on a UK trading venue in UK pounds sterling should not be subject to the EU STO. This currency approach supplemented the EEA ISIN approach outlined in a previous ESMA statement of May 2019.

In November 2020, ESMA released a public statement that clarified the application of the EU derivatives trading obligation (DTO) following the end of the United Kingdom's transition out of the EU. The statement, confirming the approach outlined in ESMA's previous statement in March 2019, clarified that the DTO would continue applying without changes after the end of the transition period. ESMA concluded that there was no evidence that the continued application of the DTO could create risks to the stability of the financial system. ESMA nevertheless agreed to continue monitoring the situation closely, standing ready to take follow-up actions if and where needed.

Throughout the transition period, ESMA continued its preparatory work by ensuring that stakeholders were aware of the impact of Brexit on various obligations and provisions in EU law. In 2020, ESMA published statements with information on the impact of Brexit on the following topics.

Benchmark registers of administrators and third-country benchmarks. As of 1 January 2021, the UK administrators that were authorised by the UK FCA and the third-country administrators that were recognised by the UK FCA were removed from the ESMA benchmark registers. Supervised entities in the EU were not affected with regard to their ability to use the benchmarks provided by the administrators that were removed from the ESMA BMR registers, as third-country administrators benefit from a transitional period, which will continue until the end of 2023.

The application of key provisions of MiFID II/MiFIR. This covered the C(6) carve-out [9], the ESMA opinions on third-country trading venues for the purpose of post-trade transparency, the position limits regime and post-trade transparency for OTC transactions and the implementing technical standards (ITS) on the main indices and recognised exchanges under the capital requirements regulation. In relation to the list of third-country trading venues in the context of the opinions on post-trade transparency and position limits, ESMA assessed UK venues against the criteria of the opinions. The UK venues subsequently received a positive assessment and were added to the annex to the opinion related to post-trade transparency and the annex to the opinion related to position limits.

The change of status of simple, transparent and standardised (STS) securitisations. This statement informed stakeholders that, for those securitisation transactions that were no longer eligible for STS status in the EU, the preferential capital treatment available for investments in this type of securitisation would also come to an end. These securitisations were identified and subsequently removed from the STS securitisation register maintained by ESMA as of 1 January 2021.

EMIR and SFTR reporting [10]. This statement covered issues affecting reporting, record keeping, reconciliation, data access, portability and aggregation of derivatives under Article 9 of EMIR and of SFTs reported under Article 4 of the SFTR.

The use of UK data in ESMA databases and the performance of MiFID II calculations [11]. This statement covered MiFID II/MiFIR publications using data from the various ESMA databases, as well as the annual ancillary activity calculations. It clarified how UK data would be phased out from MiFID II/MiFIR calculations after the end of the UK transition period.

(**9**) For a derivative contract to be eligible for the exemption set out in Section C(6) of Annex I of MiFID II and not to be considered a financial instrument, it must meet three conditions: (i) it must qualify as a wholesale energy product; (ii) it must be traded on an OTF; and (iii) it must be physically settled.

(**10**) https://www.esma.europa.eu/document/statement-brexit-emir-and-sftr-data

(**11**) https://www.esma.europa.eu/document/statementbrexitesma-it-systems2020q4

ESMA's data operations [12]. This statement covered the actions related to the financial instruments reference data system (FIRDS), the financial instrument transparency system (FITRS), the double volume cap system, transaction reporting systems and ESMA's registers and data. The actions and substantial maintenance work were subsequently performed over the maintenance window at the end of 2020 and in early 2021.

2.2.6. Changes in the supervision of credit-rating agencies and trade repositories

Credit-rating agencies

Since 2016, ESMA has been engaging with the CRAs on their UK withdrawal plans, and this continued during the transition period. The majority of the UK CRAs have decided to continue providing their services in the EU after the withdrawal and adopted an approach to either (i) apply to register a new legal entity in the EU or (ii) undergo some internal reorganisation, notifying material changes to ESMA accordingly. In 2020, ESMA monitored the execution of the CRAs' Brexit plans and published an update to its March 2019 statement on the endorsement of credit ratings from the United Kingdom. The previous statement was updated to provide clarity on if endorsement can proceed following the end of the transition period.

As of 1 January 2021, ESMA has withdrawn the registration of six United Kingdom-based CRAs as a result of the end of the transition period.

Trade repositories

ESMA also actively engaged with TRs on the implementation and execution of the UK withdrawal-related migration plans to ensure complaint provision of EMIR and SFTR data after 31 December 2020. The continuous engagement and detailed instructions from ESMA ensured a smooth execution of all of these activities, allowing seamless access to data for the authorities and the regular provision of services to the TR clients before and after Brexit.

As of 1 January 2021, ESMA has withdrawn the registration of four United Kingdom-based TRs as a result of the end of the transition period.

(**12**) https://www.esma.europa.eu/sites/default/files/library/esma65-8-7497_public_statement_on_brexit_data_operational_plan_-_version_31_december_2020.pdf

2.2.7. Supervisory convergence in the context of the United Kingdom's withdrawal

The Supervisory Coordination Network (SCN) was established in May 2017 in response to emerging supervisory convergence risks with respect to the treatment of authorisation requests by EU NCAs in the context of the United Kingdom's withdrawal from the EU. To ensure a high level of consistency in authorisation and supervision, and to protect the integrity of the EU single market, the SCN discussed the relocation cases of firms, activities or functions into the EU-27. The SCN held discussions on 250 cases, as well as more than 150 follow-up discussions on these cases, held several thematic discussions and gathered data that allowed it to identify trends in the behaviour of relocating firms. At the end of May 2020, ESMA announced the finalisation of the work of the SCN.

2.3. New mandates

2.3.1. Capital markets union

Objective for 2020	Actively contribute and provide support to the European Commission's new action plan on the capital markets union.

ESMA considers the development of the capital markets union (CMU) as one of its strategic priorities in terms of financing the economy and ensuring economic growth in Europe, creating jobs and speeding up the recovery. In this respect, ESMA actively contributed and provided its support to the Commission's new CMU action plan, published in September 2020, including through the participation of the ESMA Chair, Steven Maijoor, in the work of the High-Level Forum on the CMU. The final report of the High-Level Forum served as the basis for the CMU action plan.

ESMA also started prioritisation for and preparations to provide input on several key aspects of the action plan, within its remit (such as contributions to the development of the European single access point, facilitating SMEs' access to finance and enhancing financial education and retail participation). Furthermore, a number of reports or pieces of advice submitted to the European Commission during 2020 contributed to individual action points in the CMU action plan. This is the case, in particular, with regard to the review reports on MiFID/MiFIR and the market abuse regulation (MAR), as well as draft technical standards with regard to application of the MAR on the SME growth markets. For more information, please see Sections 2.6.3–2.6.5 of this annual report.

2.3.2. Digital finance

Objective for 2020	Contribute to and provide input on the European Commission's digital finance package, including the digital finance strategy and regulatory proposals in the areas of crypto assets and digital operational resilience.

ESMA submitted, in June, a response to the European Commission's consultation on a new digital finance strategy for the EU. ESMA welcomed the European Commission consultation, noting that it builds on the 2018 (financial technology) FinTech action plan that set a number of deliverables for the ESAs, all of which were completed. Cooperation regarding financial innovation at the EU level is key to removing fragmentation in the digital financial services market. ESMA believes that certain specific initiatives would support this goal, such as developing digital financial identities that are usable and recognised throughout the EU. ESMA's response also outlines several conditions for a well-regulated data-driven financial sector, including appropriate skills, data standardisation and data security.

The European Commission's digital finance strategy, published in September 2020, includes measures to promote data-driven innovation in finance, such as (i) facilitating real-time digital access to all regulated financial information and (ii) promoting innovative IT tools to facilitate reporting and supervision. In this context, in September 2020, ESMA organised a workshop with NCAs on supervisory technology (SupTech) to discuss and share experiences of the challenges faced in and the opportunities for the development of SupTech tools. Areas of focus included NCAs' use of technologies such as big data and machine learning for visualisation and analytics.

In 2020, ESMA published *Guidelines on outsourcing to cloud service providers*. The increasing use of outsourcing to cloud service providers by firms brings benefits, but is not exempt from challenges and risks. The purpose of the guidelines is to help firms identify, address and monitor the risks that may arise from their cloud outsourcing arrangements and to support a convergent approach to the supervision of cloud outsourcing arrangements across competent authorities in the EU.

Together with the other ESAs, ESMA continued to contribute to the work of the European Forum for Innovation Facilitators (EFIF), which, in 2020, focused on the delivery of a procedural framework to facilitate cross-border testing in accordance with the mandate set out in the digital finance strategy. EFIF remained an important forum for authorities across the financial sector to exchange views on the design and development of new innovation facilitators, innovation trends and the application of specific technologies in the financial sector.

2.3.3. Sustainable finance

Objective for 2020	Strengthen and improve the disclosure of information by manufacturers of sustainable financial products and financial advisors towards end-investors.

In 2020, ESMA actively contributed to the transition to sustainable finance by supporting measures across the whole investment chain, engaging with all relevant stakeholders and interacting with the wider international community of securities regulators. ESMA recognises that the financial sector plays a pivotal role as a key transmission channel of the transformation towards a more sustainable economic system, and as a securities regulator ESMA places its new mandate in this area as a high priority.

ESMA published in February its strategy on sustainable finance, which set out how ESMA will place sustainability at the core of its activities by embedding environmental, social and governance (ESG) factors in its work. The key priorities for ESMA include transparency obligations, risk analysis on green bonds, ESG investing, convergence of national supervisory practices on ESG factors, taxonomy and supervision. ESMA's work spans the investment chain, from issuers to investment funds, investment firms and retail investors. ESMA already delivered on several objectives of the EU's action plan on financing sustainable growth and will continue to assist the EU institutions in achieving sustainable finance goals.

Beyond the actions described below, important work was undertaken on the implementation of the sustainable finance disclosure regulation and in preparation for the review of the non-financial reporting directive (NFRD) (see Section 2.6.8).

Renewed sustainable finance strategy

ESMA submitted, in July, a response to the European Commission's consultation on the renewed sustainable finance strategy. The response covered a broad range of topics, such as strengthening the foundations for sustainable finance; increasing opportunities for citizens, financial institutions and corporates to have a positive impact on sustainability; and managing and reducing risks relating to ESG factors. The response highlighted how, in ESMA's view, the future strategy on sustainable finance should aim to set up a robust and proportionate European regulatory framework that adequately supports the shift towards a more

sustainable financial system. To that end, facilitating access to good quality and comparable sustainability data would constitute an essential contribution to putting sustainability at the forefront of the financial sector.

Taxonomy regulation

ESMA published its consultation paper containing its draft advice to the European Commission on Article 8 of the taxonomy regulation. This specified the content, methodology and presentation of the key performance indicators (KPIs) that non-financial undertakings and asset managers are required to disclose. ESMA's proposals aimed at ensuring a consistent application of the disclosure obligations required under the taxonomy regulation by non-financial undertakings and asset managers that fall within scope of the NFRD. ESMA will deliver its final advice in 2021.

ESMA participated in the technical expert group on sustainable finance and subsequently in the platform on sustainable finance ensuring a link between the creation of the EU taxonomy and work that ESMA is mandated to conduct by the European Commission.

Environmental, social and governance benchmarks

ESMA issued in 2020 a no action letter to promote coordinated action by NCAs regarding the new ESG disclosure requirements for benchmark administrators under the BMR. This was the first time a no action letter had been issued by one of the three ESAs. ESMA also issued an opinion to the European Commission on the need for the prompt adoption of the relevant delegated acts.

Green bonds

ESMA responded to the European Commission's targeted consultation on the establishment of the EU green bond standard (GBS) outlining that it sees clear value in creating a robust standard for green bonds, as this will ensure consistency in the market for issuances aimed at investing in taxonomy-aligned projects. ESMA's response stressed that the success of the EU GBS will be determined by whether or not it is seen as a reliable indicator of investment in sustainable economic activities. In this regard, it is crucial to ensure that external reviewers conducting assessments of the GBS are using robust assessment methodologies, have sufficient resources and put in place measures to protect against conflicts of interest. ESMA's response identified that EU legislation can best support these objectives by providing a legal basis for registration and supervision of external reviewers.

Sustainability reporting

ESMA provided a response to a consultation paper on sustainability reporting by the IFRS Foundation. ESMA welcomed the initiative of the IFRS Foundation to consider establishing a sustainability standards board, (SSB) which could consolidate the best practices arising from the existing frameworks and standards. In ESMA's view, three principles should be considered when establishing a standard setter in this area, that is, independent governance, public-sector oversight and the ability of the disclosure standards to promote investor protection. ESMA noted that one of the most critical aspects to address is the notion of materiality, which will be embedded in the standards. Finally, ESMA recommended that the non-financial reporting standards remain principle based, but at the same time maintain a sufficient level of detail to ensure their auditability and enforceability.

2.3.4. ESAs' review

Objective for 2020	Ensure a successful implementation of the new mandates by: • operationalising the new tasks and powers (e.g. regarding technology and sustainability, amended governance arrangements, enhanced supervisory convergence tools and mandates that are included in the ESA review legislation, applicable from 1 January 2020) • preparing the implementation of the new direct supervisory tasks and powers included in the ESA review legislation (i.e. benchmarks and data reporting service providers), which will come into force on 1 January 2022.

Supervisory convergence

The revised ESMA regulation brought several new convergence powers to ESMA that it began to use in 2020. These powers have been implemented bearing in mind the ambition set by ESMA's strategic orientation for 2020–2022 for a risk-based and outcome-focused approach in which ESMA, together with NCAs' supervisors, proactively deal with the risks and problems emerging in EU securities markets.

One of the key powers is that ESMA now defines Union strategic supervisory priorities (USSPs) for NCAs. The USSPs form an important element of ESMA's risk-based convergence ambition. Indeed, the powers help to address risks and problems that require specific attention and concerted supervisory action in the EU coordinated by ESMA. In 2020, ESMA identified as the broad thematic USSPs (i) costs and performance in the retail area and (ii) data quality in the market area.

ESMA also published a new peer review methodology integrating the improvements to this process that were introduced by the revised ESMA regulation. Peer reviews contribute significantly to supervisory convergence, and the ESMA regulation aims at increasing the independence of the peer review process and its outcome, giving more weight to recommendations for NCAs and introducing mandatory and time-bound follow-ups to peer reviews. The new peer review methodology discusses the set-up of specific peer review committees for each review, chaired by ESMA staff, an enhanced role for the Management Board and the introduction of fast-track peer reviews to be launched in the case of an urgent convergence issue. This new fast-track peer review tool was used for the first time in the Wirecard case (see Section 2.4).

In January 2020, ESMA started publishing the questions received through its Q&A process. The decision to publish the questions was made because of the new provisions applicable to Q&As (new Article 16b), which require ESMA to set up a web-based tool to facilitate the submission of questions and the publication of both the questions received and answers to admissible questions. The new requirements will ensure additional interaction with stakeholders regarding Q&As and will further strengthen and increase supervisory convergence in the EU. As a result of the new legislative provisions, ESMA has forwarded questions that require the interpretation of Union law to the European Commission.

Finally, processes have been put in place and updated as a result of the revised ESMA regulation, such as those related to coordination regarding situations with significant cross-border effects that give rise to suspicions of market abuse or threats to financial stability, the use of coordination groups, the breach of Union law and binding mediation. ESMA also reinforced its activities in fostering and monitoring NCAs' independence and started developing a supervisory handbook.

Benchmarks

ESMA published the final report on five new draft RTS under the BMR. These new draft RTS ensure that the governance arrangements of administrators are sufficiently robust and that the potential for manipulation of benchmarks is minimised; they also provide common criteria to be used by NCAs for the assessment of mandatory administration. In September 2020, following a request for technical advice by the Commission, ESMA also published a consultation paper on the fees to be paid by the benchmark administrators it will supervise in 2022.

Finally, in December, ESMA launched a consultation paper regarding the technical advice to assist the Commission in formulating procedural rules for penalties imposed on benchmark administrators.

New powers under the benchmarks regulation (BMR)

The BMR has been in force since 1 January 2018 and seeks to increase the robustness and reliability of financial benchmarks. Under the BMR, administrators of third-country and critical benchmarks must apply for authorisation by 31 December 2021 for their benchmarks to continue to be used in the EU. In February 2020, ESMA published its response to the European Commission's consultation on the review of the BMR, focusing on the cessation of critical benchmarks, parity between EU and third-country benchmarks, and transparency.

Data reporting service providers

ESMA continued the preparatory work necessary to perform new direct supervision tasks with respect to data reporting service providers, (DRSPs) which will come into force on 1 January 2022. The preparatory work has involved the launch of an IT project to collect the data required for the supervision, the preparation of internal organisation and the planning of the process to hand over the supervision from NCAs, which currently supervise data reporting service providers, to ESMA.

In December, ESMA launched a consultation paper regarding technical advice to assist the Commission in formulating procedural rules for penalties imposed on data reporting service providers under ESMA's direct supervision. In the same context, in November, ESMA launched a second consultation on the technical advice relating to the criteria to identify those authorised reporting mechanisms (ARMs) and approved publication arrangements (APAs) that, on account of their limited relevance for the internal market, are subject to authorisation and supervision by a competent authority of a Member State.

2.3.5. EMIR 2.2

Objective for 2020	Ensure an efficient and effective implementation of the new supervisory and regulatory framework under EMIR 2.2 with regard to both EU and third-country CCPs and of the corresponding governance.

Central Counterparty (CCP) Supervisory Committee

ESMA appointed, in September, the Chair and two independent members of the CCP Supervisory Committee. The arrival of the Chair and independent members in December completed the set-up of the CCP Supervisory Committee and, together with the finalisation of the delegated acts by the European Commission, concluded the preparatory steps for the implementation of EMIR 2.2. The Committee plays an important role in the recognition and supervision of third-country CCPs and in the convergence in the supervision of EU CCPs.

Central counterparty (CCP) colleges

ESMA published in 2020 its final report containing draft RTS for CCP colleges under EMIR 2.2. The RTS concerned the practical arrangements for the functioning of the colleges regarding voting procedures; the procedures for setting the agenda of college meetings; the review and evaluation of the arrangements, strategies, processes and mechanisms implemented by the CCP and the risks to which the CCP is exposed; the minimum time frames for the assessment of the relevant documentation by the college members; and the modalities of communication between college members.

Third-country central counterparties

In 2020, ESMA published its final technical advice to the European Commission on procedural rules for imposing fines and penalties on third-country CCPs. ESMA included advice on some specific aspects, including the right to be heard by the independent investigation officer, the content of the file to be submitted by the independent investigation officer, access to the file, the procedure for imposing fines, the adoption of interim decisions, the limitation periods for the imposition and enforcement of penalties, the collection of fines and penalties and the relevant calculation periods. The advice built on the existing enforcement framework covering TRs and CRAs, as well as on ESMA's experience of implementing it.

2.3.6. Investment firms framework

Objective for 2020	Ensure that the relevant technical standards are delivered to the Commission within the deadline and that relevant guidelines are reviewed as appropriate.

In July, ESMA and the EBA launched a public consultation on their revised joint guidelines on the suitability of management bodies and key function holders. This review reflects the amendments introduced by the fifth capital requirements directive (CRD V) and the investment firms directive (IFD).

Combating money laundering and terrorist financing is crucial for maintaining stability and integrity in the financial system. Therefore, uncovering any involvement of credit institutions and investment firms in money laundering and terrorist financing can have an impact on the viability and trust in the financial system. In this context, the draft joint guidelines clarify, inter alia, that the knowledge, experience and skill requirements are important aspects in the fit and proper assessment of members of the management body and key function holders, as they contribute to identifying, managing and mitigating risks of money laundering and terrorist financing.

ESMA continued cooperating with the EBA on the fulfilment of a number of mandates for the adoption of RTS and ITS under the investment firms' directive and the investment firms' regulation. The consultation process on several of them started in 2020.

2.3.7. Crowdfunding

Objective for 2020	Ensure that the work on technical standards progresses sufficiently to enable a timely submission to the Commission in 2021.

Further to the agreement reached in December 2019 by the co-legislators on the European crowdfunding service providers for business regulation (ECSPR), ESMA started to work on the numerous mandates contained in the regulation ahead of its publication, which eventually took place on 20 October 2020.

ESMA developed a draft consultation paper covering 9 of the 12 technical standards. This paper includes all eight technical standards to be delivered in November 2021 and one important RTS (on the key investors investment sheet) due in May 2022, although the latter should be delivered as early as possible to help market participants to adjust. This consultation paper is expected to be published in Q1 2021.

2.4. Promoting supervisory convergence

ESMA takes an active role in building a common supervisory culture among NCAs to promote sound, efficient and consistent supervision throughout the EU.

ESMA's strategic orientation for 2020–2022 set the ambition to put in place a risk-based and outcome-focused approach in which ESMA proactively deals with the supervisory risks and problems emerging in EU securities markets.

With the objective of increasing the effectiveness and impact of its supervisory convergence actions, ESMA worked on the implementation of an enhanced risk-based approach to supervisory convergence. Like being risk-based in supervisory work, applying a risk- and problem-focused approach to supervisory convergence allows efforts to be focused on the areas where there is a higher need for convergence action (e.g. capacity building, the use of consistent methods, concerted supervisory actions, etc.) due to the potential impact of the relevant risks or problems on the core objectives of investor protection, orderly markets and financial stability, and the equal application of EU rules.

Key deliveries and successes

Fast-track peer review on Wirecard – enhanced peer review framework

On 22 June 2020, Wirecard announced that EUR 1.9 billion that it had claimed to hold in escrow accounts were probably missing. Following this announcement, the European Commission invited ESMA to carry out a fact-finding analysis of the events leading to the collapse of Wirecard and of the supervisory response of the German authorities in the area of financial reporting.

ESMA focused its assessment on the application of the *Guidelines on enforcement of financial information* by Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) and the Financial Reporting Enforcement Panel (FREP), the designated competent authorities for the supervision and enforcement of financial information in Germany under the transparency directive (TD). The assessment was conducted within a compressed time frame in view of the need to address the situation rapidly. To do this, ESMA made use of the new arrangements for fast-track peer reviews.

In November 2020, ESMA published the results of its fast-track peer review identifying a number of deficiencies, inefficiencies, and legal and procedural impediments. These related to the following areas: the independence of BaFin from issuers and government, market monitoring by both BaFin and FREP, the examination procedures of FREP and the effectiveness of the supervisory system in the area of financial reporting. The peer review provided recommendations to address these shortcomings, which will be followed up.

Consistency in the application of the markets in financial instruments directive/regulation

In 2020, ESMA concluded its first common supervisory action (CSA) on the application of the MiFID II requirements on the assessment of appropriateness and execution requirements related to investor protection. The 24 NCAs that participated in this CSA simultaneously carried out a supervisory review at the national level.

For this review, ESMA developed a common methodology, which included a list of questions for firms taken from ESMA's supervisory briefing on the appropriateness and execution-only requirements. Each of the participating NCAs selected a sample of investment firms and credit institutions that was meaningful in terms of the firms providing non-advised services in their jurisdictions and conducted the review by making use of desk-based surveys and on-site visits. The CSA focused on the following key sections relating to the appropriateness and execution-only requirements: determining when the appropriateness assessment is needed, the categorisation of financial instruments for the purpose of the appropriateness assessment, obtaining information from clients on their knowledge and experience, the assessment of appropriateness, statistics and warnings to clients.

The CSA showed that there was insufficient convergence in the understanding and application of several areas of the appropriateness and execution-only requirements by firms in different Member States, and often within the same Member State, creating problems for achieving a consistent level of investor protection in the EU. Therefore, ESMA decided to develop guidelines to enhance clarity and foster convergence in this area. In 2020, ESMA started a new CSA focusing on suitability requirements for investment firms.

Following the CSA, NCAs engaged in various types of follow-up actions, such as the publication of a report or a circular, updating national guidance on the appropriateness and execution-only requirements, direct follow-up with firms that were part of the sample and sanctions.

Union specific supervisory priorities (USSP)

The revised ESMA regulation provides ESMA with the ability to identify up to two USSPs that NCAs shall take into account when drawing up their annual work plans. ESMA will undertake monitoring of NCAs' progress, following integration of the USSPs into their national work programmes.

The new powers are an important element of ESMA's ambition to implement a risk-based supervisory convergence framework in which supervisors in the EU proactively deal with the risks and problems that require a concerted and coordinated approach. The powers are an additional regulatory tool available to address risks and/or problems that require specific attention and concerted supervisory action in the EU.

In 2020, ESMA identified as the two broad thematic USSPs (i) costs and performance in the retail area and (ii) enhancing the quality of data in the market area. It is expected that NCAs will work on these two broad thematic areas over the coming years to ensure that risks and problems associated with each area are substantially managed and mitigated.

ESMA report following the ESRB recommendation on liquidity risk in investment funds

In May 2020, the ESRB issued a recommendation to ESMA to coordinate a supervisory engagement with investment funds that have significant exposures to corporate debt and real estate, in order to assess and strengthen their preparedness for potential future redemptions and valuation shock.

The implementation of this recommendation has been very fruitful in further understanding the effect of the crisis and potential weaknesses of these funds, and to define concrete actions to address these weaknesses. To this end, the final report ([13]), published in November 2020, identified five priority areas to enhance the preparedness of these investment funds for potential future adverse liquidity and valuation shocks.

Three of these priority areas relate to key provisions that asset managers should strictly observe: (i) the requirement to align the fund's investment strategy with the redemption policy, (ii) the quality of the liquidity risk assessment and (iii) the valuation processes in a context of valuation uncertainty. In these areas, ESMA urged asset managers to step up their efforts to ensure that the relevant requirements are adequately complied with, under NCAs' close monitoring. This should lead to concrete follow-up steps by NCAs, most immediately on the side of managers whose funds failed the relevant stress simulations and, more generally, those managers managing funds that showed deficiencies.

The fourth priority area is the increase in the availability and use of liquidity management tools, which should be taken forward in the context of the review of the alternative investment fund managers directive (AIFMD) in accordance with ESMA's letter to the European Commission. The final priority area relates to the enhancement of the fund liquidity profile reporting under the AIFMD, to support risk-based supervision of liquidity risks.

(**13**) https://www.esma.europa.eu/sites/default/files/library/esma34-39-1119-report_on_the_esrb_recommendation_on_liquidity_risks_in_funds.pdf

2.4.1. Post-trading

Objective for 2020	
	Provide guidance to market participants and NCAs on the application of EMIR and the CSDR. Contribute to the consistent application of EMIR by financial and non-financial counterparties, in particular following the changes introduced by EMIR Refit. Ensure the consistent application of the new EMIR framework by CCPs and the convergence of supervisory practices of NCAs regarding CCPs, including by initiating, coordinating and conducting EU-wide CCP stress tests and peer reviews on CCP supervision.

Central counterparties (CCPs)

With regard to the EU CCPs, in July, ESMA published the results of its third stress test exercise ([14]), confirming the overall resilience of EU CCPs to common shocks and multiple defaults for credit, liquidity and concentration stress risks.

The credit stress test highlighted differences in resilience between CCPs under the selected market stress scenario, although no systemic risk has been identified. Similarly, the liquidity stress test showed EU CCPs to be resilient under the scenarios considered and did not reveal any systemic risk. Finally, the new concentration component added a new dimension to the exercise and highlighted the need for EU CCPs to accurately account for liquidation cost within their risk frameworks.

In July, ESMA also launched a peer review on NCAs' supervisory activities related to CCPs' liquidity stress testing.

In October, ESMA launched a consultation on guidelines addressing the consistency of supervisory reviews and evaluation processes of CCPs under Article 21 of EMIR. The consultation paper aimed to obtain input from all interested stakeholders on the draft guidelines to clarify common procedures and methodologies for the supervisory review and evaluation process of CCPs by their competent authorities.

Following a survey on CCPs' membership criteria and due diligence on clearing members conducted in 2019, ESMA issued, in January, a report to clarify the existing rules under EMIR in both areas.

Finally, ESMA adopted several validations of CCPs' significant risk model changes and opinions on NCAs' draft decisions as prepared by the CCP Supervisory Committee in accordance with EMIR.

CSDR and EMIR Q&As

ESMA published several Q&As on the CSDR and a Q&A on EMIR. Regarding the CSDR Q&As, they clarify the implementation of the settlement discipline regime covering aspects related to the application by a CSD of the costs of the penalty mechanism to its participants, how to populate settlement instructions fields in the case of settlement instructions sent by

(14) https://www.esma.europa.eu/sites/default/files/library/esma70-151-3186_3rd_eu-wide_ccp_stress_test_report.pdf

CCPs, and how to determine the length of the extension period for the buy-in process based on the liquidity classification of the relevant financial instruments.

The EMIR Q&A aims to clarify the status, after the UK withdrawal transition period, of legacy derivative transactions executed on UK markets. It is relevant for EU counterparties, as it will allow them to determine applicable EMIR requirements and undertake position calculations against clearing thresholds.

2.4.2. Market integrity

Objective for 2020	Improve supervisory convergence for the implementation of (MAR, including accepted market practices and for the short selling regulation .

Accepted market practices

Accepted market practices (AMPs) are a defence against allegations of market manipulation. In particular, dealings in financial markets that are carried out for legitimate reasons and in conformity with an established AMP will not constitute market manipulation.

In January 2020, ESMA issued a positive opinion on a proposed AMP on liquidity contracts notified by CONSOB. ESMA considered that CONSOB's AMP contained various mechanisms to limit the threat to market confidence with respect to liquidity contracts, including CONSOB's specific commitment to enhanced supervision of these contracts.

In December 2020, ESMA published its annual report on the application of AMPs, providing an overview of the establishment and application of AMPs in the EU, noting that there were no longer active AMPs established under the market abuse directive.

Annual report on the market abuse regulation administrative and criminal sanctions

In December 2020, ESMA published its annual report on the MAR administrative and criminal sanctions imposed in 2019. The report showed that NCAs and other authorities imposed a total of EUR 88 million in fines related to 339 administrative and criminal actions under MAR, but also underlined the difficulties in demonstrating market abuse through extensive investigations and complex evidence gathering exercises.

Withholding tax reclaim schemes

ESMA published the final report on its inquiry into Cum/Ex, Cum/Cum ([15]) and withholding tax reclaim schemes, which identified best practices extracted from the experience of those NCAs that, thanks to an extended remit under national legislation, carry out supervisory activity for withholding tax schemes. Moreover, ESMA proposed the development of a common legal basis for the exchange of information directly acquired by NCAs in their supervisory activity with tax authorities and the removal of the legal limitations to exchange information acquired from other NCAs with tax authorities.

2.4.3. Investment management

Objective for 2020	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 the cost and performance of retail investment products. Contribute to improving financial stability through ESMA's fund stress simulation framework and guidelines on stress test scenarios.

Common Supervisory Action ([16]) on UCITS liquidity risk management

In January, ESMA launched a CSA on undertakings for the collective investment in transferable securities (UCITS) liquidity risk management to assess the compliance of market participants across the EU/EEA with the UCITS liquidity risk management rules. All 30 EU and EEA NCAs participated in this CSA.

The CSA has been organised as an ambitious exercise involving (i) data collection and investigations of a broad number of UCITS and UCITS managers across the EU, (ii) cross-border cooperation between NCAs and (iii) collection of additional information and quantitative data to analyse the impact of COVID-19 on UCITS liquidity and liquidity management practices.

It should be noted that, while the CSA has been conducted on the basis of a common methodology developed at the level of ESMA, its execution, including the selection of the individual UCITS managers and

(**15**) Investigation into tax fraud involving dividend trading

(**16**) https://www.esma.europa.eu/press-news/esma-news/esma-launches-common-supervisory-action-ncas-ucits-liquidity-risk-management

UCITS to be further scrutinised, was left to the NCAs that supervise them.

Throughout 2020, NCAs regularly exchanged at the level of ESMA information on their observations, operational questions and supervisory findings with the view to fostering supervisory convergence. NCAs submitted their analyses to ESMA by the 31 December 2020. Following the analysis of and discussion on the 30 national reports, ESMA will identify the lessons learned and the follow-up actions required.

Guidelines on leverage

Following recommendations by the ESRB, ESMA published, in December, its final guidance to address leverage risks in the alternative investment fund (AIF) sector. The guidelines set out common criteria to (i) promote convergence in the way NCAs assess the extent to which the use of leverage within the AIF sector contributes to the build-up of systemic risk in the financial system and (ii) design, calibrate and implement leverage limits. Furthermore, the guidelines provide NCAs with a set of indicators to be considered when performing their risk assessment and a set of principles that NCAs should take into account when calibrating and imposing leverage limits.

Guidelines on performance fees

With the aim of harmonising the way fund managers charge performance fees to retail investors, as well as the circumstances in which performance fees can be paid, ESMA published its final guidance on performance fees in investment funds – applicable to UCITS and certain types of AIFs. The guidelines provide comprehensive guidance for fund managers on designing performance fee models for the funds they manage, including the assessment of the consistency between the performance fee model and the fund's investment objective, policy and strategy, particularly when the fund is managed in reference to a benchmark.

Supervisory briefing on the supervision of costs

In response to the need to improve convergence across NCAs in the approach to undue costs, ESMA published a supervisory briefing on the supervision by NCAs of costs applicable to UCITS and AIFs. The aim of the briefing is to promote convergence in the different national approaches to the supervision of the cost-related provisions under the UCITS directive and the AIFMD. The supervisory briefing, in addition to being addressed to NCAs, was also aimed at providing market participants with indications of NCAs' expectations and compliant practices regarding the cost-related provisions of the UCITS and AIFMD frameworks.

Closet indexing

In January 2020, ESMA held a second supervisors' workshop for NCAs on closet indexing. The workshop's objective was to enhance supervisory convergence in the supervision of closet indexing by facilitating insights and good practices among peers. A specific focus was put on investigations done over the recent past and remedies required by NCAs. It brought together experts from a number of NCAs, who shared techniques and experiences and exchanged views on overcoming some of the key challenges faced when tackling this practice. The coordination role played by ESMA was key in promoting an increased level of focus by NCAs on this topic.

Annual sanctions report under the AIFMD and UCITS

In November 2020, ESMA published its first annual report on the use by NCAs of sanctions under the AIFMD. The report contained an overview of the applicable legal framework and information on the penalties and measures imposed by NCAs in 2018 and 2019. ESMA continues its work to foster supervisory convergence in the application of the AIFMD and will issue separate reports on an annual basis for future reporting periods.

In addition to the AIFMD report, ESMA also published its 2019 report on the use of sanctions by NCAs under the UCITS directive. The UCITS sanctions report contained an overview of the applicable legal framework and information on the penalties and measures imposed by NCAs in 2019.

Workshop on sanctions in UCITS and alternative investment funds (AIFs)

Building on the data gathered under the ESMA annual sanction reports, in July 2020, ESMA organised a 1-day workshop for NCA staff working in supervision and enforcement teams on the topic of sanctions in UCITS and AIFs. The objective of the workshop was to better understand the possible reasons behind the uneven use of the sanctioning power among NCAs and the relatively low number of sanctions issued during recent years. The workshop, through NCA presentations and discussions, explored cases in which supervisors identified infringements of UCITS or AIFs and how such infringements were addressed, ranging from more intrusive escalated supervisory response up to an enforcement action.

Money market fund stress tests

In December, ESMA published the 2020 update of the guidelines on MMF stress tests under the MMF regulation (MMFR) (see Section 2.1.2).

Money market fund reporting

Following feedback received by market participants after the publication of the validation rules regarding the MMFR, ESMA decided to implement amendments to those rules. This related to the requirements of Article 37 of the MMFR, which requires MMF managers to submit data to NCAs, which then transmit the data to ESMA. The changes provided clarifications on existing validation rules to fix inconsistencies or help in the understanding of the rules. It also extended the classification of financial instrument (CFI) codes for eligible assets.

2.4.4. Investor protection and intermediaries

Objective for 2020	Ensure consistent application of the MiFID II and MiFIR requirements and coordination between NCAs in the area of investor protection and intermediaries, in line with the identification of supervisory convergence as a continued priority for ESMA's activities in the area of investor protection.

Compliance function guidelines

ESMA published new guidelines on the MiFID II compliance function, including updates that enhance clarity and foster greater convergence in the implementation, and supervision, of the new MiFID II compliance function requirements. The guidelines will enhance the value of existing standards by providing additional clarifications on certain topics, such as new responsibilities in relation to MiFID II's product governance requirements, by notably giving further details of the reporting obligations of the compliance function.

Q&As

ESMA also updated several of its Q&As to promote common supervisory approaches and practices in the application of MiFID II and MiFIR. The updated Q&As provided clarifications on MiFID practices for firms selling financial instruments subject to the banking recovery and resolution directive (BRRD) resolution regime, and information on costs and charges under MiFID II/MIFIR. ESMA also published new Q&As on product governance.

Product intervention

ESMA issued an opinion on four product intervention measures taken by NCAs: two opinions on measures by Finanstilsynet Norway, relating to contracts for differences and to binary options, and two opinions on measures taken by the Magyar Nemzeti Bank of Hungary, one relating to contracts for differences ([17]) and one relating to binary options ([18]). The opinions concluded that the proposed measures were justified and proportionate.

Annual report MiFID II/MIFIR

In July, ESMA published its second report ([19]) on sanctions and measures imposed under MiFID II by NCAs. Overall, in 15 EEA Member States, NCAs imposed a total of 371 sanctions and measures in 2019. The report provides an overview of the applicable legal framework and the sanctions and measures imposed by NCAs under the MiFID II framework during 2019. ESMA continues its work to foster supervisory convergence in the application of MiFID and the reporting of sanctions. In that respect, it already suggested improvements to the framework in its technical advice to the European Commission, on sanctions, delivered in Q1 2021.

2.4.5. Secondary markets

Objective for 2020	Continue promoting the consistent application of the MiFID II and MiFIR requirements and further develop a common understanding of arising supervisory challenges and priorities in the area of secondary markets.

(**17**) https://www.esma.europa.eu/sites/default/files/library/esma-35-43-2321_esma_opinion_under_article_432_mifir.pdf

(**18**) https://www.esma.europa.eu/sites/default/files/library/esma-35-43-2320_esma_opinion_under_article_432_mifir.pdf

(**19**) https://www.esma.europa.eu/sites/default/files/library/35-43-2427_report_mifid_ii_sanctions_2019.pdf

Market structure and transparency

In 2020, ESMA continued to promote supervisory convergence regarding MiFID II/MiFIR market structure and transparency issues through the publication and update of Q&As. The published Q&As provided, for instance, guidance on the concept of multilateral systems, described the conversion of large in scale (LIS) and size specific to the instrument (SSTI) thresholds in lots, outlined the default liquidity status and large in scale or size specific to the instrument thresholds for non-equity instruments, and set out how to publish transactions in an aggregated form.

With respect to MiFIR transparency issues, pre-trade transparency waivers are another important area on which ESMA has continued to focus its efforts to promote common supervisory approaches and practices. In 2020, ESMA continued to deliver opinions on all pre-trade transparency waivers granted at the national level in accordance with Articles 4 and 9 of MiFIR. Those opinions are primarily meant to ensure a uniform application of the pre-trade transparency waivers and to assess the compatibility of individual waiver requests with level 1 requirements.

In addition, this exercise has allowed ESMA to identify areas in which trading venues' and supervisors' practices are most likely to diverge. ESMA has therefore provided guidance in the form of an opinion on those issues identified, with a view to ensuring consistent supervisory practices and consistent approaches throughout the Union regarding the application of the relevant requirements by competent authorities and trading venues. The guidance provides stakeholders with information on ESMA's assessment of features frequently encountered in the context of issuing opinions on waivers from pre-trade transparency over the last 3 years.

Finally, ESMA undertook a series of consultation papers reviewing many provisions of the MiFID II/MiFIR framework (see Sections 2.6.1 and 2.6.2). Beyond the discussions on the specific level 1 and level 2 obligations, this has also allowed ESMA to provide some guidance on the application of some of those provisions and to collect additional feedback from market stakeholders on issues for which further ESMA guidance could help to promote convergent supervisory approaches and practices.

Commodity derivatives

Over the course of 2020, ESMA issued 22 opinions on individual position limits on commodity derivative contracts set by NCAs under MiFID II. In these opinions, ESMA assessed if the limits set by NCAs were consistent with the objectives established in MiFID II and the methodology developed for setting those limits.

ESMA published an updated opinion on ancillary activity calculations. The opinion provides the estimation of the market size of commodity derivatives and emission allowances for 2019. ESMA prepared these estimations based on data reported to ESMA's FITRS and on data reported to TRs under EMIR.

Third-country venues

In June 2020, ESMA published an opinion and a list of third-country trading venues in the context of the opinion on post-trade transparency under Articles 20 and 21 of MiFIR. ESMA updated the list in July 2020, after requests from market participants to assess more venues against the criteria set out in the opinion. The update included an updated annex, which contained the list of venues with a positive or partially positive assessment, and additional guidance on the implementation of the list of third-country trading venues.

2.4.6. Market data

Objective for 2020	Implement the data strategy following the enactment of the SFTR, EMIR and MiFIR reporting regimes. Identified as a continued priority for supervisory convergence, ESMA will continue giving attention to the quality of reported data, as a precondition to data-driven supervision.

During 2020, ESMA and NCAs continued their work to monitor the quality of the data reported under MiFIR. Once data quality issues had been identified, NCAs and ESMA assessed the priority and impact of these issues and subsequently decided on the appropriate remedial actions, ranging from issuing Q&As focusing on eliminating divergence among reporting practices to following up with individual entities that are not reporting. The impact of these actions on the overall improvement of the data quality is regularly monitored. The data quality methodologies defining this work have also been reviewed and enhanced to ensure that the most important issues are prioritised and are included in NCAs' assessments.

ESMA continued updating the set of Q&As on MiFIR data reporting clarifying, among other things, the concept of an 'issuer' for the purpose of reporting reference data on funds to FIRDS under MAR and MiFIR and providing additional reporting scenarios on how to report algorithmic trades.

During 2020, ESMA continued updating the set of Q&As on reporting under EMIR, clarifying certain instances related to the mandatory allocation of responsibility under EMIR Refit, as well as specifying the reporting of certain data elements for credit default swaps and forward rate agreements.

In November 2020, ESMA published its first set of Q&As relating to reporting under the SFTR.

ESMA, together with NCAs, continued performing the annual implementation of the EMIR data quality action plan, including the data quality review (DQR). The data quality review is a quantitative assessment of data reported by a sample of counterparties in each jurisdiction performed by all NCAs in accordance with a commonly agreed methodology. In 2020, NCAs and ESMA undertook, as part of the data quality review, a thematic review of the reporting of valuation and collateral, with a view to increasing the quality of these key data elements that are indispensable for the monitoring of systemic risk. This exercise specifically targeted the reporting entities in each jurisdiction with the least complete valuation data and comprised a set of dedicated tests to assess the completeness, accuracy and timeliness of the reported information on valuation and collateral.

ESMA set up a data quality engagement framework under the SFTR (the SFTR data quality engagement framework DQEF was approved in January 2021). It defines the data quality work to be undertaken by NCAs and ESMA and the necessary coordinated procedures to verify and communicate data quality findings and to apply the relevant corrective measures that would foster the reliability of SFTs data and enforce the supervisory powers. The SFTR is a new transaction-level reporting regime and its supervision will require dedicated efforts in the context of the work on data quality by NCAs and ESMA.

In addition, during 2020, the first data quality engagement framework was applied to AIFMD data, which was effective in improving the reported data. Furthermore, ESMA led the engagement on establishing a wider data-driven supervision by organising several dedicated sessions with NCAs, as well as a workshop on national and EU-wide EMIR data quality indicators.

2.4.7. Corporate finance

Objective for 2020	Enhance the level of convergence, with a particular focus on the development of guidance to address new elements of the prospectus regulation (PR) and greater convergence of NCA practices. Undertake convergence work in the area of major holdings and facilitate the exchange of experience in the areas of corporate governance and takeover bids.

Prospectus regulation

ESMA issued guidelines on disclosure requirements under the prospectus regulation regarding the disclosure of financial and non-financial information in the prospectus. The guidelines aimed to ensure that market participants have a uniform understanding of the relevant disclosure required in the various annexes included in the relevant Commission delegated regulation and to support competent authorities in properly assessing the completeness, comprehensibility and consistency of information in prospectuses. The completion of these guidelines was one of a series of workstreams undertaken during the transition from the prospectus directive to the prospectus regulation.

In 2020, ESMA's prospectus Q&A work consisted of a dual initiative of (i) developing Q&As, which addressed issues that had emerged solely since the introduction of the prospectus regulation, and (ii) revising and updating Q&As previously issued in respect of the prospectus directive. In September 2020, ESMA also provided a status update regarding the Q&As that will be revised or deleted.

Additionally, ESMA launched the new prospectus register at the end of November 2020. This new register allows users to search for and download prospectuses, registration documents, universal registration documents, securities notes, summaries, supplements, amendments and final terms that have been approved by NCAs in the EU. Users can search for documents using various criteria, such as an issuer's name (by entering their full name in the search field or by entering part of their name) or legal entity identifier (LEI), the ISIN of the securities, the Members States in which the securities may be offered and/or listed on a regulated market, and the type of the securities.

Finally, ESMA published its 2019 annual report on prospectus activity, which reported a decrease of 8 % compared with 2018 in the number of prospectus approvals across the EEA. This decrease continues the downwards trend observed since the 2008 financial crisis.

Corporate governance, takeover bids and major holdings

In the area of corporate governance, to enhance transparency around the regimes adopted across the EU, ESMA published a document listing the thresholds above which shareholders can be identified in the various Member States of the EU. The revised shareholder rights directive (SRD II) requires Member States to ensure that companies have the right to identify their shareholders. Member States may provide for companies that have a registered office in their territory to be allowed to request the identification only of shareholders holding more than a certain percentage of shares or voting rights. Such a percentage shall not exceed 0.5 %.

With reference to takeover bids, ESMA continued to facilitate the exchange of experiences among NCAs via the discussion of real cases and the relevant supervisory actions taken at the national level.

As regards major holdings, in the absence of signals indicating pressing issues in this area, ESMA deemed it necessary to focus its work priorities in other areas within its remit, also taking into account the impact of COVID-19 on resources.

2.4.8. Corporate reporting

Objective for 2020	Strengthen supervisory convergence in the area of supervision and enforcement of financial and non-financial information, with a particular focus on issues related to alternative performance measures, sustainable finance and the European single electronic format (ESEF).

In addition to (i) the COVID-19-related statements published to provide guidance to issuers in the difficult context of the pandemic (see Section 2.1) and (ii) the fast-track peer review on the supervision of Wirecard (see the 'Key deliveries and successes' in this chapter), corporate reporting supervisory convergence activities covered the following aspects.

Enforcement of corporate reporting requirements

In 2019, ESMA focused on harmonising the enforcement of the application of the new accounting standards, namely IFRS 9, *Financial Instruments*; IFRS 15, *Revenue from Contracts with Customers*; and IFRS 16, *Leases*. As a harmonised European approach to the application of the IFRS is key to ensuring that investors receive high-quality and relevant financial information, in 2020 ESMA continued its efforts to ensure a convergent application of the new accounting standards and that investors are provided with high-quality ESG information.

To contribute to the consistent application of the IFRS, ESMA published the 24th extract from the European Enforcers Coordination Sessions (EECS) database of enforcement decisions on financial statements. The purpose of publishing these decisions is to provide issuers and users of financial statements with relevant information on European enforcers' reading ofAthe IFRS in relation to specific fact patterns. ESMA will continue to publish extracts from the EECS database on a regular basis.

European single electronic format

The ESEF regulation requires that all issuers with securities listed on an EU regulated market should prepare their annual financial reports in xHTML and mark up the IFRS consolidated financial statements contained therein using XBRL tags and the Inline XBRL technology. European co-legislators agreed in December 2020 on a Member State option to delay the ESEF obligations by 1 year.

ESMA was very active in 2020 in providing the market with tools to facilitate the implementation of the ESEF. ESMA published in March the ESEF conformance suite, aimed primarily at a technical audience as a way to test and provide assurance on whether or not software tools are able to create and/or consume filings that are in line with all ESEF requirements.

To provide issuers with an example of an annual report in the ESEF format for their submissions to the national officially appointed mechanisms (OAMs), ESMA published in June an example of an annual financial report, which was prepared in compliance with the ESEF. The report was prepared by the Global LEI Foundation in cooperation with ESMA.

In July 2020, ESMA updated the *ESEF Reporting Manual*, expanding existing guidance and reflecting relevant developments in the technical specifications. The manual is aimed at all market participants involved in the implementation of the requirements set out in the ESEF delegated regulation and, in particular, in the first-time preparation of the IFRS consolidated financial statements in Inline XBRL.

To reflect such updates, ESMA published a further version of the ESEF conformance suite in December 2020, alongside the updated 2020 ESEF XBRL taxonomy files, which reflect the 2020 update of the RTS on the ESEF (see Section 2.6.8).

Transparency directive

Following up on the 2017 peer review on the enforcement of financial information under the transparency directive, to further harmonise enforcement by the NCAs and to further enhance the comparability of financial information across the EU, ESMA amended its *Guidelines on enforcement of financial information*. The amended guidelines will become effective on 1 January 2022. The amendments mainly relate to NCAs' methods for selecting issuers whose financial information should be subject to examination and to the procedures that NCAs apply when they carry out such examination.

Application of the International Financial Reporting Standards

In October, ESMA issued its annual public statement on European common enforcement priorities, which set out the priorities that corporate reporting enforcers will consider when examining listed companies' 2020 annual financial reports. The 2020 enforcement priorities for financial statements prepared in accordance with the IFRS reflected the need to provide adequate transparency regarding the consequences of the COVID-19 pandemic, which were expected to affect several areas of the 2020 annual financial reports. The priorities promoted the consistent application of the IFRS and other financial and non-financial reporting requirements. Transparency in the annual financial reports on the consequences stemming from the outbreak is essential to preserving market confidence. Non-financial information disclosures, in particular on the social dimension, and disclosures on climate change risks are also considered important.

ESMA also commented on the publication by the IFRS Interpretations Committee (IFRS IC) of a tentative agenda decision on the IFRS IC update on *Supply chain financing arrangements – Reverse factoring*, with the aim of improving the consistent application and enforceability of the IFRS. In its comments, ESMA considered the IFRS IC's tentative decision not to add to its standard-setting agenda the request to clarify how an entity presents liabilities arising from supply chain financing reverse factoring arrangements, as well as what related information an entity is required to disclose in its financial statements.

As a result of work carried out by NCAs and ESMA's coordination activities regarding financial information prepared in accordance with the IFRS, ESMA identified diversity in the application of the requirements of International Accounting Standard (IAS) 32, *Financial Instruments: Presentation*, in relation to accounting for warrants that are initially classified as liability and then reclassified as equity. ESMA also identified diversity in the application of IAS 2, *Inventories*, in relation to the identification of which costs shall be included as part of the estimated costs necessary to make the sale, when determining the net realisable value of inventories. In both cases, ESMA suggested that the IFRS IC should consider clarifying the relevant accounting requirements.

2.4.9. Horizontal supervisory convergence work and peer reviews

Objective for 2020	Continue to make full use of the supervisory convergence toolkit and increase effectiveness and impact, in particular by exploring how to strengthen ESMA's convergence powers under the new ESMA regulation. Beyond more traditional convergence activities and with a view to building a common European supervisory culture, further dialogue among supervisors and enforcement specialists will be encouraged. ESMA will also use peer reviews to assess the convergence reached in the application of EU rules and supervisory practices.

A risk-based approach to supervisory convergence

ESMA enhanced its risk-based approach to supervisory convergence through several initiatives, such as the development of a structured risk and problem identification exercise, enhanced dialogue with NCAs' supervisors, including on their own risk-based methods, the identification of two USSPs and the deployment of specific tools (e.g. the SCN and voluntary supervisory colleges) to address given risks or problems.

ESMA implemented for the first time an annual exercise to identify and assess risks and problems in the main areas covered by ESMA mandates, with the aim of informing the prioritisation of supervisory convergence initiatives and the identification of tools to address those risks and problems. The exercise also contributed to developing common understandings of relevant risks and problems among NCAs' supervisors and enhanced the visibility of the supervisory observations and priorities. Taking steps to develop such a mutual understanding of risks and problems is key to ensuring that they are addressed in a consistent and effective manner through supervisory and convergence activities.

ESMA in 2020 facilitated the set-up of the voluntary supervisory colleges (VSCs) for large third-country groups that offer financial services in different Member States without a parent company established in the EU. The objectives of the voluntary supervisory colleges are to exchange information between participating NCAs, promote best practices, reduce supervisory fragmentation and ensure a joined-up supervisory approach to complex structures and business models.

Building networks on supervisory convergence

Throughout the course of 2020, ESMA was active in building supervisory networks by bringing together heads of supervision of NCAs (the Senior Supervision Forum-SSF), who complemented ESMA's risk and problem identification exercise by providing their deep insight, knowledge and experience to the main supervisory risks and problems areas covered under ESMA mandates. Additionally, they also provided their supervisory insight into tackling cross-cutting risks and problems that arose in the context of COVID-19 by providing their experience of how to ensure effective supervision and enforcement of securities markets during the pandemic and discussing developments regarding the use of remote inspections.

Enforcement Network

In 2020, the Enforcement Network continued to facilitate closer dialogue and the exchange of practices among NCAs in the enforcement field. This work included convergence initiatives on financial penalties, the sanctions and measures available to NCAs and public messaging of enforcement outcomes. Furthermore, the network continued to engage in thematic real-case discussions, which have focused recently on the calculation of appropriate financial penalties. The

Enforcement Network continues to be an important component of ESMA's convergence work, as it seeks to promote the use of similar approaches for similar risks and strives for comparable enforcement outcomes across the Union.

Peer review work programme

The first 2-year peer review work programme introduced by the revised ESMA regulation was adopted in 2020. It covers the period from 2021 to 2022 and provides for an ambitious peer review programme in line with the ESMA strategic orientation for 2020–2022. Indeed, ESMA intends to conduct four mandatory peer reviews, two discretionary peer reviews and five follow-ups on peer reviews. As needed, fast-track peer reviews may also be conducted in urgent cases or in the case of unforeseen events. The work plan, produced every 2 years, gives better visibility to the peer reviews and follow-ups to be conducted by ESMA.

In line with the peer review work programme, ESMA launched the discretionary peer review on NCAs' supervision of cross-border activities of investment firms in late 2020, with preparations made for the set-up of the peer review committee.

2.5. Assessing risks to investors, markets and financial stability

In undertaking risk assessments, ESMA monitors and assesses market developments and risks within its remit, as well as trends in financial innovation, sustainable finance and retail consumer behaviour. The risk assessments are carried out with a view to supporting the Authority's objectives of promoting investor protection, orderly markets and financial stability.

Key deliveries and successes

Expansion of ESMA's annual statistical report series

ESMA further expanded its annual statistical report (ASR) series. ESMA published its first ASR on EU securities markets, based on regulatory data collected under MiFID II. ESMA also published ASRs covering EU retail investment markets, EU AIF markets and EU derivatives markets. The use of regulatory data through the ASR series helps ESMA meet its financial stability and orderly markets objectives, by contributing to its risk assessment capability, facilitating regulatory authorities' oversight and enhancing supervisory convergence across the EU.

In January, ESMA published its second ASR on EU AIFs. The study found that the AIF sector in 2018, as measured by net asset value, amounted to EUR 5.8 trillion or nearly 40 % of the total fund industry. Most AIFs are sold to professional investors (84 %) but retail participation is significant at 16 %, with the highest proportion in the 'funds of funds' and 'real estate' categories. A detailed analysis of the liquidity risks of AIFs has highlighted that real estate funds and funds of funds in particular (i.e. the categories with the highest percentage of retail investors) are vulnerable to these risks.

In April, ESMA published its second ASR on the cost and performance of retail investment products in the EU. The analysis in the report complemented ESMA's risk assessment and supervisory convergence work within its investor protection mandate and contributed to the European Commission's project on the cost and performance of investment products under the CMU action plan. The report shows the continued high impact of costs on the final returns that retail investors receive on their UCITS investments. The costs paid by retail investors are significantly higher than those paid by institutional investors, leading to lower net returns for this category of investors. The report also found that, in the period analysed, owing to the higher costs, the net returns on actively managed funds were lower, on average, than those for passively managed funds.

ESMA's third ASR on EU derivatives markets, published in November, was based on data submitted under EMIR. It provided a comprehensive market-level view of the EU's derivatives markets in 2019, the total size of which was EUR 681 trillion gross notional amount outstanding, a decrease of 5 % compared with 2018.

In November, ESMA published its first ASR on EU securities markets. The report used new regulatory data sources to give, for the first time, a comprehensive overview of European equity and bond markets in 2019, including the number, characteristics and volumes of trades, as well as transparency data on the equity and bond instruments subject to MiFID II. European trading volumes amounted to EUR 27 trillion in equity markets and EUR 101 trillion in bond markets in 2019, spread over 430 trading venues (135 regulated markets, 223 multilateral trading facilities (MTF) and 72 organised trading facilities). In addition, there were 216 systematic internalisers, with an increase of 47 systematic internalisers since the beginning of 2019.

2.5.1. Financial innovation and product risk analysis

Objective for 2020	
Objective for 2020	Identify opportunities and risks related to financial innovation and systematically monitor retail investor trends. Achieve a coordinated approach to the regulation and supervisory treatment of new or innovative financial activities and provide advice to the EU institutions, market participants and consumers. Ensure a convergent approach to the identification of areas in which product intervention powers provided by MIFIR could be used.

ESMA worked throughout 2020 to ensure a swift response to potential threats threats and new trends arising from financial and technological innovation, with particular attention given to the opportunities and risks related to the acceleration of digital tools in the pandemic. The COVID-19 crisis has brought existing trends, risks and opportunities into focus. A good example is the entry of BigTechs ([20]) in finance, which bring benefits such as efficiency gains and personalised services, but also risks. The data-based business model raises issues around privacy and could facilitate price discrimination, therefore potentially undermining competition. In the long run, this would mean a loss for consumers and concentration risk for the markets, as analysed in one section of the first trends, risks and vulnerabilities (TRV) report of 2020.

In the area of financial innovation, there is an increasing need for regulators to cooperate closely and to take coordinated action at both European and international levels. A good example of that is EFIF, which the three ESAs and the European Commission launched in 2019 (see Section 2.8).

Cloud outsourcing

ESMA initiated work and finalised the report on the *Guidelines on outsourcing to cloud service providers*, which provides guidance on the requirements applicable to financial market participants when they outsource to cloud service providers. In particular, the guidelines aim to help firms identify, address and monitor the risks arising from cloud outsourcing arrangements. In addition, the guidelines provide guidance to competent authorities on the supervision of cloud outsourcing arrangements, with a view to fostering a convergent approach in the EU.

European Commission consultation on the digital finance strategy

ESMA responded to the European Commission's consultation on the digital finance strategy for Europe, highlighting the risks and benefits of digitalisation in the financial sector. It raised many specific points in relation to the themes around which the consultation is structured, such as the need to ensure a technology-neutral EU financial services regulatory framework that supports innovation, the need to remove fragmentation in the single market for digital financial services and the promotion of a well-regulated data-driven financial sector.

2.5.2. Risk monitoring and analysis

Objective for 2020	Identify financial market risks and report on these risks to the relevant institutions.

European securities markets and investors

ESMA's TRV reports and risk dashboards contribute to promoting financial stability and enhancing consumer protection by regularly looking into cross-border and cross-sector issues in financial markets, at both the wholesale and the retail levels. The two TRVs published in 2020 were the first reports since the entry into force of the new ESAs regulation and, in line with ESMA's new mandate, included new sections about sustainable finance and consumer protection.

In the first TRV report (February 2020), ESMA identified continued high risks in the second half of 2019, particularly in the securities markets and for retail investors, and a weaker economic outlook, as markets remained highly sensitive to geopolitical events. In April 2020, ESMA updated its risk assessment to account for the impact of the COVID-19 pandemic, warning against continued high price and volatility risks. The pandemic, in combination with existing valuation risks, led to large equity market corrections from mid February onwards, driven by a sharp deterioration in the outlook for consumers and businesses and of the economic environment. Corporate and government bond markets and a number of investment funds show signs

(20) Technology companies with an established presence in the market for digital services.

of stress. The update risk assessment complemented the regular TRV and risk dashboard monitoring.

Since this risk assessment update in April 2020, markets have seen a remarkable rebound, not least in the light of notable public policy interventions in the EU and elsewhere. In the second TRV report published in September 2020, ESMA further analysed the impact of COVID-19 on the financial markets during the first half of 2020 and highlighted the risk of a potential decoupling of financial market performance and underlying economic activity. In an ongoing fragile market environment, ESMA maintained its assessment of very high risks across the whole of the ESMA remit, as it sees a prolonged period of risk to institutional and retail investors of further – possibly significant – market corrections. The extent to which these risks will further materialise will critically depend on two drivers: the further economic impact of the pandemic and any occurrence of additional external events in an already fragile global environment. The impacts on EU corporates and their credit quality, and on credit institutions, are of particular concern, as are growing corporate and public indebtedness and the sustainability of the recent market rebound.

EU fund risk exposures to potential bond downgrades

In its first 2020 TRV, ESMA published a case study focusing on the impact of a potential credit shock on the EU fund industry. In this TRV, the effects of a wave of downgrades of BBB-rated corporate bonds (fallen angels) on bond funds were simulated. Overall, the direct impact would moderately affect fund performance with no significant performance-driven outflows. Similarly, asset sales from bond funds in response to the shock would have only a limited and non-systemic impact on asset prices. However, the report also shows that, in this scenario, EU bond funds could amplify shocks coming from passive funds, especially non-EU exchange-traded funds (ETFs).

Short-termism pressure from financial markets

In the same TRV report, ESMA analysed short-termism pressure from financial markets. Short-termism in finance refers to the focus placed by market participants on short-run profitability at the expense of long-term investments, a tendency that political initiatives such as the EU’s action plan on financing sustainable growth seek to limit. The recent empirical evidence collected by ESMA sheds some light on commonly discussed drivers of short-termism. In particular, our findings suggest that the misalignment of investment horizons in financial markets and the remuneration of fund managers and executives that rewards short-term profit seeking could be potential sources of short-termism. Improvements in the availability and quality of ESG disclosure could serve to promote more long-term investment decisions by investors.

Model risk in collateralised loan obligations (CLOs)

The benefits of securitisation depend on its ability to effectively engineer and limit credit risk. One section of the September 2020 TRV report explores the approaches to modelling collateralised loan obligation (CLO) credit risk adopted by the three main CRAs. It discusses the differences between and some limitations in approaches, as well as how these might potentially affect credit rating accuracy. Finally, it sets the discussion in the context of some of the recent developments in the leveraged loan and CLO markets, including those stemming from COVID-19. Together, these make clear the importance of sensitivity analysis to identify model and credit rating limitations and show how the transparency of these is key to informing investors’ reliance on ratings.

Interconnectedness and spillovers in the EU fund industry

The COVID-19-related market developments highlighted the risks of market-wide stress, not least for investment funds. In its September 2020 TRV report, ESMA assessed the connectedness among EU fixed-income funds. Our empirical results suggest high spillover effects, indicating that funds exposed to less liquid asset classes are more likely to be affected by shocks originating in other markets than funds invested in more liquid assets. Alternative funds are found to be the main transmitters of shocks, while high-yield and corporate-bond funds were net shock receivers during the COVID-19 market stress.

MiFID II research unbundling – first evidence

A section in the September 2020 TRV report analyses the impact on EU sell-side research of the MiFID II research unbundling provisions that require portfolio managers to pay for the research they obtain. In the past, concerns have been raised, based primarily on survey data, that the new rules could have detrimental effects on the availability and quality of company research in the EU. To provide a more detailed, data-based contribution to inform this discussion, we examined a sample of 8 000 EU companies between 2006 and 2019 and did not find material evidence of harmful effects from these rules. The introduction of MiFID II has not led to a significant difference in the number of analysts producing earnings per share estimates ('research intensity'). Recent increases in the number of firms no longer being covered by research analysts ('research coverage') appear to be a continuation of a long-term trend. The quality of research has been steadily improving in recent years. SMEs do not appear to be particularly affected in terms of research intensity, research coverage or research quality. The descriptive findings in this section of the TRV are consistent with the emerging data-based academic literature on the impact of the MiFID II research unbundling provisions and are complemented by a forthcoming ESMA econometric study.

Costs and performance of closet index funds

'Closet indexing' refers to the situation in which asset managers claim to manage their funds in an active manner while in fact tracking or staying close to a benchmark index. ESMA's September 2020 TRV report contained a section on this topic, and the Authority also published a working paper on the topic. The studies suggest that investors face lower expected returns from closet indexers than from a genuinely actively managed fund portfolio. At the same time, potential closet indexers are only marginally cheaper than genuinely active funds. Overall, the net performance of potential closet indexers is worse than the net performance of genuinely active funds, as the marginally lower fees of potential closet indexers are outweighed by reduced performance.

Double volume cap mechanism

ESMA published in September, a working paper on the impact of the double volume cap mechanism on European equity markets since it was introduced in March 2018. The results point to an overall positive impact of the double volume cap measure on market liquidity in the continuous trading and auction markets (lit markets).

Circuit breakers

ESMA published a working paper on the market impacts of circuit breakers in January. Circuit breakers are key instruments used by trading venues to regulate markets and interrupt excessive price movements. Based on Morningstar real-time data, ESMA has created a unique database of circuit breakers triggered between 1 April 2016 and 31 December 2016 on a sample of 10 000 financial instruments traded on EU trading venues, to analyse the impact they have on the market. The study found that that price volatility was significantly lower after the use of a circuit breaker.

2.5.3. Data management and statistics

Objective for 2020	Support ESMA activities by operating the data reporting IT system and by performing data management and statistical analyses. Improve data quality, integration and usability in close coordination with NCAs.

ESMA uses a wide variety of regulatory and commercial data to fulfil its mission. To this end, we continually monitor and curate the quality of ESMA proprietary data, working in close coordination with the supervisors of the reporting entities and using advanced data management and statistical techniques. By standardising and combining data across sources, we build relevant indicators that support evidence-based decision-making across all of ESMA's activities.

The analysis of the quality of data reported under regulatory regimes such as EMIR, MiFIR, the short selling regulation, the AIFMD and the CRA regulation has continued. Complementing this, work has been done to put ESMA in a strong position to exploit new data sets, such as those from the MMFR, the SFTR, the prospectus III regulation and the securitisation regulation. During 2020, preparations for Brexit (see Section 2.2) also included readying ESMA data systems to monitor possible impacts on markets and investors.

ESMA – an evidence-based authority

In line with its data strategy and its strategic orientation for 2020–2022, ESMA increasingly bases its decisions and proposals on data, through statistical analyses that convert data into relevant information for both the Authority and the consulted public.

Through the regular use of proprietary and non-proprietary data to monitor markets (see information on ASRs, TRV and other studies in Section 2.5), ESMA has established relevant expertise in data analyses. In exercising its duties, ESMA, with the assistance of other members of the ESFS, has created reporting regimes based on strong international standards and identifiers such as the ISIN, LEI, classification of financial instruments.

These reporting regimes, promoted in the aftermath of the 2008 financial crisis, demonstrated their importance during the COVID-19 crisis. For example, during 2020, ESMA was able to monitor the financial markets using data on derivatives from EMIR, data on credit rating actions, net short positions and settlement fails data. The crisis also reinforced the need to broaden the data that are reported on funds, as detailed in the ESMA recommendation on AIFMD and UCITS reporting (see Section 2.6.4). Short-selling regulation data were also used in issuing successive ESMA decisions on lower reporting thresholds and for the issuance of opinions on short-selling bans (see Section 2.1).

MiFID data informed discussions on the STO in the context of Brexit (see Section 2.2), the draft advice provided to the European Commission on Article 8 of the taxonomy regulation (see Section 2.3.3), the review of MAR regarding functioning of the regime for SME growth markets (see Section 2.6.3), the reports reviewing provisions of the MiFID II/MiFIR transparency regime and the review of the report on algorithmic trading. Finally, the data were also used for the MiFID II/MiFIR annual report regarding the changes in liquidity criterion for the transparency regime (see Section 2.6.6).

EMIR data were useful in the issuance of the opinion on ancillary activities (see Section 2.4.5) as well as for the final report on the clearing obligation regarding intragroup transactions and novations from UK to EU counterparties (see Section 2.8.8).

Settlement data were incorporated into the reports to the European Commission on the provision of cross-border services by CSDs and on internalised settlement (see Section 2.6.1).

On funds, our experience working with AIFMD data helped guide proposals on the reporting regime in the context of the AIFMD review (see Section 2.6.4). AIFMD data also contributed to the final reports on guidelines on Article 25 of the AIFMD and to the stress test scenarios under the MMFR. The data on AIFs, among others, were also used to support the thematic report on collateralised loans (see Section 2.7) and to implement the ESRB recommendation on liquidity risk in investment funds (see Section 2.7).

2.6. Completing a single rulebook for EU financial markets

ESMA's single rulebook work refers to the technical standards and technical advice that ESMA has been mandated to draft by the relevant legislation. In addition, ESMA periodically reviews its technical standards and supports the review of EU financial regulations. Some of ESMA's planned single rulebook work was delayed in 2020 to allow sufficient time for response to consultations during the COVID-19 pandemic.

2.6.1. Post-trading

Objective for 2020	Contribute to the set-up of a regulatory and supervisory regime for CCPs, by providing technical advice for delegated acts and developing technical standards under EMIR 2.2. Update the regulatory regime for OTC derivatives by developing technical advice and technical standards under EMIR Refit. Develop the relevant reports on post-trading matters regarding the applicable regulatory framework (e.g. EMIR and the CSDR).

Central counterparties (CCPs)

ESMA published, in 2020, its final report containing draft RTS on CCP colleges under EMIR 2.2. The RTS concerned the practical arrangements for the functioning of the colleges regarding voting procedures; the procedures for setting the agenda of college meetings; the review and evaluation of the arrangements, strategies, processes and mechanisms implemented by the CCP and the risks to which the CCP is exposed; the minimum time frames for the assessment of the relevant documentation by the college members; and the modalities of communication between college members.

It also published its final technical advice to the European Commission on procedural rules for imposing fines and penalties on third-country CCPs.

ESMA has included advice on some specific aspects including:

- the right to be heard by the independent investigation officer;
- the content of the file to be submitted by the independent investigation officer;
- access to the file;
- the procedure for imposing fines;
- the adoption of interim decisions;
- the limitation periods for the imposition and enforcement of penalties;
- the collection of fines and penalties;
- the relevant calculation periods.

This final advice builds on the existing enforcement framework regarding TRs and CRAs, as well as on the experience in implementing it in recent years.

Central securities depositories regulation (CSDR)

In February, ESMA published a final report on draft RTS to postpone the date of entry into force of the Commission delegated regulation on the settlement discipline. The report aimed to accommodate the additional time needed for the establishment of essential features for the functioning of the settlement discipline regime, such as the necessary International Organization for Standardization (ISO) messages, the joint penalty mechanism of CSDs that use a common settlement infrastructure and the need for proper testing of the new functionalities.

In August, as further detailed in Section 2.1, given the COVID-19 situation, ESMA published a second report on draft RTS further postponing the date of entry into force of this regime until 1 February 2022.

In November, ESMA published its first two reports on the implementation of the CSDR covering (i) the provision of cross-border services by CSDs and the handling of related applications by NCAs and (ii) internalised settlement.

The report on cross-border services and the handling of applications highlights the findings related to the provision of services by CSDs in other Member States and takes into account the responses to the ESMA survey addressed to CSD NCAs, relevant authorities and trade associations. The CSDs' cross-border activity was measured through the study of the links established between EEA CSDs and of the services provided to participants and issuers from other EEA states. No major variations in the provision of cross-border services have been detected since the entry into force of the CSDR, but most respondents do foresee a potential increase in the coming years. The report reflects on the challenges, in particular those linked to the application process to provide notary and central maintenance services in relation to securities constituted under the laws of other EEA states, as set out under Article 23 of the CSDR, and includes suggestions to simplify the existing process.

The report on internalised settlement presents the findings related to the settlement activity that does not take place through a securities settlement system operated by a CSD in the EEA. It takes into account the responses to the ESMA survey on internalised settlement addressed to NCAs and trade associations, and includes an analysis of the internalised settlement data based on the quarterly reports sent by settlement internalisers under Article 9 of the CSDR for the period Q2 2019–Q3 2020. While no major risks were identified during the period covered by the report, NCAs identified some risks related to this activity, the most common being operational risk and custody risk, which could be mitigated through adequate identification of the clients' accounts involved, and the improvement of operational processes.

EMIR Refit

In March, ESMA launched a public consultation on post-trade risk reduction services (PTRR) under EMIR. The consultation paper considered the different types of post-trade risk reduction services offered, including what they are, how they function and the risks they aim to reduce, and asks for data on the current use of such services. Following the input received via the public consultation, ESMA released in November the report on post-trade risk reduction services, analysing if any trades that directly result from post-trade risk reduction services should be exempt from the clearing obligation. The report highlighted that a limited and qualified exemption from the clearing obligation would further reduce not only risk in the market, but also its overall complexity.

In June, ESMA published the final report with technical advice to the European Commission on fair, reasonable, non-discriminatory and transparent (FRANDT) commercial terms to access clearing. The technical advice specified the conditions under which the provision of clearing services are to be considered FRANDT compliant. The requirements covered in the report aim to facilitate the comparability of information publicly disclosed, standardise the information disclosed bilaterally to clients and onboarding processes, and encourage further standardisation of contractual terms.

In December, ESMA published a second report on the clearing solutions for pension scheme arrangements (PSAs) under EMIR. The report reaffirms ESMA's strong commitment to a broad implementation of the clearing obligation, including by pension scheme arrangements, while at the same time recognising that more time is needed to make sufficient progress on the various solutions that would collectively enable pension scheme arrangements to clear their derivative contracts.

The introduction of EMIR Refit has not been accompanied by direct amendments to MiFIR, which led to a misalignment between the scope of counterparties subject to the clearing obligation under EMIR and the DTO under MiFIR. After consulting with stakeholders, ESMA published in February a final report that suggested amendments to the trading obligation under MiFIR following the introduction of EMIR Refit.

MiFID review

In March, ESMA issued a report on C6 energy derivatives ([21]) and related obligations under EMIR. These derivatives are important for firms trading energy derivative contracts on coal and oil as well as for national regulator supervisors who enforce EMIR requirements. ESMA has developed this report to provide input to the European Commission regarding the assessment of the current special regime for C6 energy derivative contracts and whether or not this regime should be maintained.

2.6.2. Market data

Objective for 2020	Contribute to the finalisation of EMIR Refit implementing measures by drafting the related RTS and ITS on reporting to TRs.

In December, ESMA published a final report on technical standards (RTS and ITS) under EMIR Refit. The report covers data reporting to TRs, procedures to reconcile and validate the data, access by the relevant authorities to data and registration of the TRs. This report focuses on further harmonisation of the reporting requirements and enhancements in the counterparties' and TRs' procedures on ensuring data quality. The updates supported the implementation into the EU framework of the global guidance on critical data elements (CDE) and enhanced the reporting framework by introducing a common global reporting format (i.e. usage of ISO 20022 XML messages).

MiFIR review of transaction and reference data reporting

In September, ESMA published a consultation paper on ESMA's proposals for possible amendments to the transaction reporting and reference data regime to contribute to the review of these regimes. ESMA's objectives for this review were to simplify the current regimes while enhancing the quality of the data reported and ensuring consistency among various reporting and transparency requirements. The consultation paper covered a wide range of issues, including a possible revision of the traded on a trading venue (ToTV) concept; a revision of the scope of indices subject to the reporting obligation considering the more recent BMR; proposals to remove, replace or further clarify specific data elements that should be reported under the transaction reporting obligation; and proposals to ensure further alignment between EMIR and MiFIR reporting regimes considering the EMIR Refit review.

2.6.3. Market integrity

Objective for 2020	Finalise the technical advice on the MAR review and develop MAR draft technical standards on liquidity contracts and insider lists for SMEs.

Market abuse regulation review

Following a 2019 consultation, ESMA published its final report on the review of MAR ([22]), the first in-depth review of the functioning of MAR since its implementation in 2016.

The report concluded that, overall, MAR remained fit for purpose and it proposed only targeted amendments. In particular, ESMA recommended that a further analysis be undertaken of whether MAR should be extended to spot foreign exchange contracts or a specific regulatory regime should be set out, once the global foreign

(**21**) C6 energy derivative contracts refer to derivative contracts relating to coal or oil that are traded on an organised trading facility and that are physically settled.

(**22**) https://www.esma.europa.eu/sites/default/files/library/esma70-156-2391_final_report_-_mar_review.pdf exchange code has been revised. No amendments were proposed for the definition of inside information applicable to financial instruments and commodity derivatives, as they allow for adequate protection of investors and of market integrity. Similarly, the report did not propose amending the conditions to delay disclosure, as they were considered sufficiently clear. It was also recommended that the scope of the relevant persons under the definition of 'front running' be broaden to also cover orders conveyed by persons other than clients. On market soundings, it was recommended it be clarified that the protection from the allegation of having unlawfully disclosed inside information applies only when the relevant prescriptions have been followed.

It is worth highlighting that the report proposes the standardisation of order data and of the measures to ensure data quality to facilitate cross-market order book surveillance on a pan-European basis.

These recommendations will feed into a future European Commission review of MAR.

SME growth markets

In October 2020, ESMA published the final report on the amendments to MAR for the promotion of the use of SME growth markets. These amendments focused on liquidity contracts and insider lists for SME growth markets, including templates, specific parameters and criteria to ensure compliance with the new MAR requirements while allowing flexibility for investment firms and issuers. The final report and draft RTS and ITS largely reflected the original proposals included in the consultation paper.

2.6.4. Investment management

Objective for 2020	Contribute to the reviews of the packaged retail and insurance-based investment products (PRIIPs) delegated regulation, the UCITS directive and the AIFMD by developing the relevant RTS and ITS and technical advice within the deadline.

AIFMD review

The AIFMD has provided a successful framework for alternative funds in the EU since 2011. However, ESMA and the NCAs have gained experience with the framework over the years and have identified areas that could be improved in the legislation to enhance the supervision of alternative fund managers in the EU. In this context, ESMA wrote to the European Commission on 19 August 2020 highlighting areas to consider during the forthcoming review of the AIFMD. The letter included recommendations for changes in 19 areas, including harmonising the AIFMD and UCITS regimes, delegation and substance, liquidity management tools, leverage, the AIFMD reporting regime and data use, and the harmonisation of supervision of cross-border entities. The review of the AIFMD provides the EU with an opportunity to apply these lessons learned.

Cross-border funds distribution

ESMA conducted, in 2020, a public consultation on the standard forms, templates and procedures that NCAs should use to publish information on their websites to facilitate the cross-border distribution of funds. In particular, the information should cover national laws, regulations and administrative provisions governing marketing requirements for AIFs and UCITS, the summaries thereof and the regulatory fees and charges levied by NCAs for carrying out their duties in relation to the cross-border activities of fund managers. ESMA received all of the relevant feedback by 30 June 2020.

During 2020, ESMA, together with the EBA and EIOPA, concluded its review of the PRIIPs key information document (KID) (see Section 2.8).

2.6.5. Investor protection and intermediaries

Objective for 2020	Contribute to the development of a single rulebook in the area related to investment firms, the provision of investment services and the application of the third-country firm regime.

MiFID II report on product intervention

In February, ESMA published its final report on the product intervention requirements under MiFIR. The measures have protected retail investors by limiting the distribution of certain speculative products to retail clients. Following the expiry of ESMA temporary measures, nearly all NCAs have taken national product intervention measures in relation to the marketing, distribution or sale of binary options and contracts for differences (CFDs) to retail clients. The summary of the experience gained in this area was complemented by suggestions for improvements to the relevant regime.

Technical advice to the European Commission on MiFID II

In April, ESMA published its advice to the European Commission on inducements and costs and charges disclosures under MiFID II. In the advice, ESMA encouraged the European Commission to conduct a further analysis on the topic of inducements, which is key for the protection of investors, and proposed some changes to the regime, mainly aimed at improving clients' understanding of inducements. In relation to costs and charges disclosure, ESMA found that the MiFID II disclosure regime generally works well and that it helps investors make informed investment decisions. However, ESMA advised that some disclosure obligations vis-à-vis eligible counterparties and professional investors be scaled back.

Technical standards on the MiFIR and MiFID II third-country regime

In September 2020, ESMA published its final report containing draft technical standards (RTS and ITS) on the provision of investment services and activities in the EU by third-country firms under MiFIR and MiFID II. These changes include new reporting requirements for third-country firms to ESMA on an annual basis.

Report on ESMA's resources and staffing needs under the new MiFIR third-country regime

In December, ESMA approved a report for the Council of the EU, European Parliament and European Commission containing the assessment of ESMA's staffing and resources needs arising from the assumption of powers and duties in accordance with the new MiFIR regime for third-country firms.

2.6.6. Secondary markets

Objective for 2020	Contribute to the review of MIFID II/ MiFIR by providing expertise and market intelligence and making recommendations regarding possible amendments. Ensure that the RTS and ITS further specifying MiFID II/MiFIR deliver on their objectives and propose amendments to the relevant regulations if and where necessary.

MiFID II/MiFIR annual review report

In 2020, ESMA published its regular RTS 2 annual review report. The report laid down the thresholds for the liquidity criterion 'average daily number of trades' for bonds, as well as the trade percentiles. In the report, ESMA suggested that the European Commission move to the next stage for the criterion 'average daily number of trades', which is used for the quarterly liquidity assessment of bonds, and the trade percentiles that determine the pre-trade sizes specific to the financial instrument for bonds. These measures are designed to increase the transparency available to market participants in the bond market.

MiFIR transparency regime for equity and non-equity instruments

ESMA published two reports in July 2020 reviewing key provisions of the MiFID II/MiFIR transparency regime. The first report reviewed the MiFIR transparency regime for equity instruments and contained proposals for targeted amendments regarding the transparency obligations for trading venues and specifically the double volume cap mechanism. It also included recommendations on other key provisions, in particular the STO and the transparency provisions applicable to systematic internalisers in equity instruments.

The second report reviewed the pre-trade transparency obligations applicable to systematic internalisers in non-equity instruments. The report looked into two key areas, in particular the qualitative assessment of Article 18 of the MiFIR and the quantitative monitoring mandate. ESMA provided the European Commission with a number of proposals aiming to simplify the current regime.

ESMA also published a report in September 2020 reviewing the transparency obligations applicable to non-equity instruments and the DTO. The proposals contained in the report were aimed at simplifying and bringing more efficiency to an overly complex regime and fostering harmonised application across the EU. ESMA concluded that the regime was too complicated and not always effective in ensuring transparency for market participants. Consequently, it made several proposals to the European Commission to improve the current regime, including changes to the waiver and deferrals regime and the possibility of suspending at short notice the DTO. These recommendations are part of a wider effort by ESMA to bring more transparency into the derivative and bond markets.

MiFID II commodity derivatives regime

In 2020, ESMA published a review report on the impact of position limits and position management on commodity derivatives markets, 2 years after the entry into force of MiFID II. The report contained proposals to make the commodity derivatives framework operate more efficiently for market participants and competent authorities. This included refocusing the position limit regime on the most important commodity derivatives contracts and improving convergent implementation of position management controls by trading venues through level 2 measures.

2.6.7. Corporate finance

Objective for 2020	Complete the single rulebook on the prospectus regulation by delivering technical advice and, potentially, technical standards.

In relation to ESMA's mandate from the Commission to develop technical advice on general equivalence criteria for prospectuses drawn up under the laws of third countries, ESMA undertook careful analysis and explored a possible approach to the general equivalence criteria with both NCAs and market stakeholders. On the basis of this analysis, ESMA concluded that the operation of an equivalence regime under Article 29 of the prospectus regulation would raise serious practical challenges. In this regard, ESMA formally informed the Commission of this, inviting it to consider if the mandate for this technical advice should be pursued.

2.6.8. Corporate reporting

Objective for 2020	Contribute to the set-up of high-quality accounting standards by providing enforcers' views on new pronouncements and endorsement advice.

European single electronic format

In June 2020, ESMA published a draft amendment to the RTS on the ESEF. This update provides a purely technical amendment to the original RTS on the ESEF, incorporating the 2020 version of the IFRS taxonomy, published by the IFRS Foundation in March 2020. The draft RTS will continue to be amended on a yearly basis to reflect updates to the IFRS taxonomy published by the IFRS Foundation.

International Financial Reporting Standards

In 2020, ESMA provided its views on the IASB's proposals regarding the presentation of financial statements (September), the impairment versus amortisation of goodwill (December) and the proposed agenda decisions by the IFRS Interpretations Committee.

In its observer capacity at the technical expert group and board levels, ESMA also actively participated in EFRAG's discussions regarding the endorsement of IFRS 17, *Insurance Contracts*, also preparing its response to EFRAG's draft endorsement advice, which was due at the end of January 2021.

Non-financial reporting

In June, ESMA contributed to the European Commission's consultation on the revision of the NFRD, suggesting that the standardisation of non-financial disclosure be improved. While, in the medium term, ESMA is of the view that the international alignment of standards should be the objective, action is needed within the EU in the short term to fill the gap between issuers' disclosure and users' expectations. ESMA considers that such European standardisation should be prepared by an EU public body. ESMA also recommended that a wider scope of companies should provide such disclosure and proposes that all small, medium-sized and large issuers admitted to trading on a regulated market, as well as all large non-listed issuers and all large public-interest entities, should be covered by the NFRD. For listed SMEs, however, ESMA takes a proportionate approach and suggests that these should be subject to lighter disclosure requirements to avoid an unnecessary administrative burden. ESMA also highlighted the importance of ensuring consistency between different legislative initiatives in the area of sustainable finance, notably the NFRD, the regulation on sustainability-related disclosures in the financial services sector and the taxonomy regulation.

2.6.9. Policy activity to credit-rating agencies

Objective for 2020	Continue to contribute to the establishment of a robust regulatory framework under the CRA regulation and provide support to ESMA's supervisory activities.

The final report for guidelines on internal control for CRAs established ESMA's views on the components and characteristics that should be present in a CRA to demonstrate a strong framework for internal controls. It also set out ESMA's views on the components and characteristics that a CRA should provide evidence of to demonstrate the effectiveness of internal control functions within such a framework. The guidelines also importantly provided proportionality for how smaller CRAs should meet the expectations of the guidelines according to their nature, scale and complexity. ESMA will supervise compliance against these guidelines from July 2021.

In 2020, ESMA published a call for evidence on the availability and use of credit rating information and data, to map the principal activities (regulatory and otherwise) undertaken by various types of users in which credit ratings are required as an input. Based on the feedback received, ESMA will consider options to improve access to and use of credit ratings, including ways to improve the usability of the information provided on the European Rating Platform (ERP) and/or on the CRAs' websites.

ESMA also published Q&As to provide clarity on the requirements and practice in the application of the CRA regulation and, in particular, the CRA 3 regulation.

2.6.10. Policy activity to securitisation repositories

Objective for 2020	Continue to contribute to the establishment of a robust regulatory framework under the securitisation regulation.

Securitisation repositories

ESMA published guidelines on securitisation repository data completeness and consistency thresholds. In preparation of the implementation of the securitisation disclosure regime, the purpose of these guidelines was to provide clarity for market participants and securitisation repositories on ESMA's accepted levels of 'no data' options contained in the data submitted by securitisation parties to securitisation repositories.

ESMA also published guidelines on the portability of information between securitisation repositories under the securitisation regulation. The purpose of these guidelines was to set out common provisions that a securitisation repository should follow when transferring securitisation information to another securitisation repository.

To promote common, uniform and consistent supervisory approaches and practices and to help regulated entities comply with their obligations in preparation for the entry into force of the delegated acts on securitisation, ESMA published more than 170 Q&As in 2020. The topics included how specific fields in the disclosure templates should be completed, how securitisation repositories should meet certain requirements and how securitisation repositories should report certain underlying exposures that benefit from a COVID-19-related debt moratorium or payment holiday.

ESMA continued updating the STS securitisations templates and the reporting instructions and providing clarification via Q&As. In 2020, ESMA received 286 STS securitisations notifications, making a total of 429 STS securitisations since the entry into force of the STS securitisation regime in January 2019.

2.7. Directly supervising specific financial entities

ESMA has direct supervisory powers in four areas: CRAs, TRs, securitisation repositories and third-country CCPs. In addition, it has powers related to the recognition of third-country CSDs and monitoring their compliance with the recognition conditions.

Key deliveries and successes

Thematic report on collateralised loan obligations

Following the perceived risks and the fast-growing issuances of CLOs over recent years, ESMA launched a review of the arrangements that the three largest CRAs have adopted to rate and monitor CLO ratings. In May 2020, ESMA published a thematic report making observations on a number of risks, mainly related to (i) the internal organisation of

CRAs, (ii) the interactions with CLO arrangers, (iii) the model dependencies leading to potential operational risks and (iv) the rating methodologies including modelling risks and commercial influence.

The report also indicated potential risks caused by the COVID-19 pandemic. In the light of these risks, ESMA reminded CRAs of the need to continue performing regular stress-testing simulations and to provide market participants with granular information on the sensitivity of CLO credit ratings to key economic variables.

Enforcement cases

In 2020, ESMA fined Scope Ratings GmbH EUR 640 000 and issued a public notice for breaches of the CRA regulation in relation to the systematic application of its 2015 covered bonds methodology and its revision. In both instances, Scope committed the infringements negligently and failed to meet the special care expected from a CRA as a professional firm in the financial services sector.

Reshaping the trade repositories landscape

In 2020, ESMA withdrew the registration of several TRs as a consequence of both the United Kingdom's withdrawal from the EU and the business decisions of some firms to stop operating in the EU. New TRs were also registered. As a result, the EU TRs landscape changed significantly over the course of 2020 and numerous counterparties to derivatives trades had to select a new TR to fulfil their reporting obligations under EMIR. ESMA strengthened its supervisory outreach and guidance to the TRs in order to closely monitor the effects of such changes, in particular to ensure that the wind down of the TRs was performed in a safe and controlled environment and that the transfer of clients and data to the remaining EU TRs was conducted thoroughly and in adherence with ESMA's guidelines.

The continuous engagement with the firms and the proactive identification of any potential operational issues ensured a smooth execution of all these activities, allowing seamless access to data for the authorities and regular provision of services to the TR clients.

2.7.1. Credit-rating agencies

Objective for 2020	Following registration, address the key risks to the objective that credit ratings in the EU be independent, objective and of adequate quality by conducting timely supervisory activities with a lasting impact. Request remediation at the individual CRA level and, finally, adopt effective enforcement actions where ESMA identifies breaches of the CRA regulation.

Methodologies and quality rating process

ESMA has been monitoring the process followed by CRAs to develop, approve, apply and review methodologies. In particular, ESMA reviewed material changes and assessed errors in methodologies. ESMA further engaged with CRAs to ensure the rigorous and systematic application of CRA methodologies in key asset classes such as sovereign and corporate ratings.

Through its monitoring activities, ESMA identified risks relating to the development and disclosure of methodologies. ESMA liaised with CRAs to assess if (i) their methodologies incorporate all driving factors relevant for determining the creditworthiness of a rated entity or instrument and (ii) there is sufficient transparency to investors when CRAs review their methodologies.

Another area of attention has been the independence and quality of the rating process. In particular, ESMA assessed whether or not all key rating factors and assumptions were reviewed by CRAs when taking rating actions and were disclosed accordingly. In addition, ESMA assessed whether or not CRAs incorporated, in a timely manner, key rating assumptions in rapidly evolving market circumstances.

Information technology and security

As a consequence of COVID-19, remote working became increasingly prevalent, which caused the emergence of new information security risks. Threat actors typically exploit real-world disasters and COVID-19 was no different, as confirmed by a number of CRAs that reported an increase in phishing emails and COVID-19-related scams. In this context, situational awareness and the correct application of policies and procedures became more important, yet increasingly challenging.

ESMA found that CRAs generally took adequate steps to address evolving risks. CRAs made efforts to update software regularly and protect access to company systems and related corporate tools. In addition, as part of its ongoing monitoring activity, ESMA requested individual CRAs to address concerns regarding information security controls, the limited accountability of business lines regarding IT strategy and the independence of the information security function. Upon ESMA's request, a number of CRAs updated their business continuity planning and disaster recovery arrangements and implemented steps to address ESMA's concerns.

Internal control and compliance monitoring

During 2020, ESMA held its first smaller CRA virtual forum on compliance surveillance and risk management. At the forum, ESMA discussed its expectations around compliance risk frameworks, compliance work plans and compliance surveillance, and how these could be effectively delivered by smaller CRAs. ESMA asked smaller CRAs to present their compliance approaches to other CRAs, which allowed for a discussion focused on what was achievable and proportionate for smaller CRAs.

2.7.2. Trade repositories under EMIR

Objective for 2020	Following registration, while using a data-driven and risk-based approach, address the key risks to the objective of enhancing the quality and security (integrity, confidentiality and availability) of TR data by conducting timely supervisory activities with lasting impact. Request remediation at the individual TR level and, finally, adopt effective enforcement actions where ESMA identifies breaches of EMIR.

Data quality

ESMA continued with the application of its data-driven and risk-based approach to the supervision of TRs. ESMA's key focus was on monitoring the timely provision and integrity of regulatory reports to ESMA and other EMIR data users (NCAs and Central Banks (CBs)). Despite the challenging operating conditions posed by the COVID-19 pandemic, TRs have been able to deliver regulatory reports in a timely manner, even during the heights of the derivatives markets volatility in March and April 2020.

Besides the day-to-day monitoring of the EMIR TR date reporting, ESMA has also been focusing on the identification of potential TR data quality issues in a number of areas. In particular, ESMA has been monitoring (i) the application of format and content rules by TRs, (ii) reconciliation, (iii) TR data ingestion and (iv) data portability. Where issues have been identified, ESMA has followed up with and monitored remediation by the TR.

ESMA has also processed 45 TR data quality issues reported by EMIR data users (NCAs and CBs) and followed up with the TRs and monitored remediation.

As part of its regular data-driven monitoring of TRs, ESMA has also been identifying various counterparty reporting issues. In those cases, ESMA has been liaising with relevant NCAs. Where issues have been affecting many counterparties (duplicated reporting, untimely reporting, incorrect valuations of options contracts, outliers, etc.), ESMA has shared relevant data and information with all of the NCAs affected to support their supervisory activities.

Information technology and security

In line with the objectives set out in the 2020 work programme, ESMA successfully contributed to minimising, efficiently and effectively, the risk related to insufficient system testing practices for certain TRs. In particular, our various technical monitoring activities and close engagement with the firm on this topic led to improvements in the firm's software testing approaches, as well as its overall governance of the incident management process, which is now much tighter and more effective.

ESMA also analysed and assessed 195 information security incidents, which were affecting the confidentiality, integrity and availability of EMIR data and EMIR data processing, reported by TRs. ESMA followed up accordingly with the firms to ensure that the issues were appropriately addressed.

ESMA further improved the supervisory process on the recording and assessment of IT and information security incidents reported by TRs and enhanced the analysis of the incident data using a sophisticated data visualisation tool, thereby improving ESMA's effectiveness in identifying risks. In the area of cloud outsourcing, ESMA engaged closely with firms that had decided to outsource part of their IT environment to cloud service providers. Specifically, ESMA assessed the firms' notifications to identify any potential risks with the cloud outsourcing projects and ensure that they met ESMA's expectations. ESMA then engaged actively with the firm.

Governance and internal controls

Following the weakness identified in the 2019 risk assessment, ESMA met with key staff and internal control representatives, assessed periodic information and reports from internal control functions, and monitored the implementation of previous recommendations.

2.7.3. Trade repositories under the SFTR

Objective for 2020	Following the registration of EU firms providing SFT reporting services in 2020, effectively identify and address the key risks to the objective that SFT data are of good quality by conducting timely supervisory activities with lasting impact. Request remediation at the individual TR level and, finally, adopt effective enforcement actions where ESMA identifies breaches of the SFTR.

ESMA finalised the assessment of the applications received for registration as TRs under the SFTR, which resulted in the registration of four TRs.

Following the postponement by 3 months of the reporting start date for credit institutions and investment firms under the SFTR, in July ESMA successfully launched reporting under the SFTR. The four registered TRs opened their systems and started receiving and processing SFT data submitted by reporting firms.

Data quality

ESMA continued to develop its methods and tools for the application of its data-driven and risk-based approach to the supervision of TRs for SFT data, reusing and extending, where possible, the existing methods and tools developed for EMIR data supervision. Following the commencement of reporting in July and as data became available, ESMA was able to further calibrate its risk framework with regard to SFT data quality.

ESMA has also extended its existing framework of engagement with NCAs, for the identification of and to address TR data quality issues, as well as to share counterparty reporting issues with the relevant NCAs.

Information technology and security

During the registration process, ESMA has proactively identified and addressed applicants' potential IT and information security risks stemming from the development of SFTR systems. In the first months following the launch of the SFTR systems in July, ESMA also put in place a system for close monitoring to identify in a timely manner any system availability issues. ESMA did not identify any major disruptions in the availability of the systems and functioning of TRs, and all issues identified were addressed in a timely manner by TRs.

In addition, following the start of SFTR reporting in July 2020, ESMA analysed and assessed 123 information security incidents, which were affecting the confidentiality, integrity and availability of SFTR data and SFTR data processing, reported by TRs. ESMA followed up with the TRs to ensure that the issues were appropriately addressed.

2.7.4. Securitisation repositories under the securitisation regulation

Objective for 2020	Register new entrants, if they meet all regulatory standards under the securitisation regulation. Effectively identify risks to the objective that securitisation repositories' data be of good quality. Have a timely and lasting impact on supervisory activities at the individual securitisation repository level.

Securitisation

ESMA received in September its first application for registration as a securitisation repository under the securitisation regulation. ESMA, under the securitisation regulation, has direct responsibilities regarding the registration and supervision of securitisation repositories, which centrally collect and maintain the records of securitisation transactions in the EU.

In 2020, ESMA published updated reporting instructions and XML schema for the templates set out in the technical standards on disclosure requirements to assist reporting entities in getting prepared for the entry into force of the standards. The updates addressed technical issues identified by stakeholders since December 2019.

2.7.5. Third-country central counterparty recognition and supervision

Objective for 2020	Recognition of third-country CCPs providing clearing services in the Union.

In September 2020, ESMA announced that the three CCPs established in the United Kingdom – ICE Clear Europe Limited, LCH Limited and LME Clear Limited – would be recognised as third-country CCPs eligible to provide their services in the EU after the end of the transition period following the withdrawal of the United Kingdom from the EU on 31 December 2020 (see Section 2.2 for more details).

ESMA determined that ICE Clear Europe Limited and LCH Limited were systemically important third-country CCPs (tier 2 CCPs), and, following their recognition, these then became subject to ESMA supervision under EMIR, namely from 1 January 2021.

2.7.6. Third-country central securities depository recognition

Objective for 2020	Recognition of third-country CSDs and periodic monitoring of compliance.

On 11 December 2020, ESMA announced its decision that EUI, the CSD established in the United Kingdom, would be recognised as a third-country CSD after the end of the United Kingdom's transition from the EU on 31 December 2020 (see Section 2.2 for more details).

2.8. Joint Committee

In 2020, the Joint Committee, under the chairmanship of the EBA, continued to play a central role in the coordination and exchange of information between the ESAs, the European Commission and the ESRB. Progress continued on other important cross-sectoral areas such as enhancing consumer protection, sustainable finance and joint risk assessment, as well as monitoring financial innovation and cybersecurity. Moreover, the revision of the ESAs' founding regulation required amending the Joint Committee's rules of procedure. Those now reflect the new requirements for the Joint Committee, notably with regard to its scope, tasks, meeting frequency and transparency.

With the outbreak of the COVID-19 pandemic, the Joint Committee proved to be an active platform for ensuring close coordination within the ESFS and, in particular, among the ESAs, the ESRB and the European Commission. Between mid-March and June, there were 11 additional extraordinary meetings of the Joint Committee for members to discuss cross-sectoral market developments, risks and potential actions to mitigate effects. In particular, the Joint Committee discussed how to best use the emergency frameworks provided for in the ESAs' founding regulation in the situation caused by the pandemic and how to reduce the impact of the COVID-19 financial crisis. The Joint Committee coordinated relief measures across sectors, both by providing guidance or a common approach on specific technical issues, such as accounting or securitisation, and by providing constituents with more time by delaying consultations or proposing delays in the application of specific rules.

The Joint Committee continued discussions and coordination on cross-sectoral issues following the United Kingdom's decision to leave the EU. In addition to regular monitoring of the impact across the sectors and risk assessments of the repercussions and expected impacts, this included taking measures in the area of bilateral margining and securitisation.

2.8.1. Joint risk assessment

The Joint Committee also issued a joint risk assessment on risks and vulnerabilities in the EU financial system after the outbreak of the COVID-19 pandemic. The 2020 autumn joint report ([23]) focused mainly on the impact of COVID-19 and gave the first cross-sectoral perspective on risks as potential sources of instability. The report highlighted that valuation, liquidity, credit and solvency risks have increased across the board. The impact of the pandemic on EU banks' asset quality remained a key concern, as significant uncertainty about the timing and size of a recovery persists. The report encouraged supervisors and financial

(**23**) https://eba.europa.eu/eu-financial-regulators-assess-risks-financial-sector-after-outbreak-covid-19-and-call-enhanced institutions to make use of the flexibility in the existing regulatory framework, including the use of capital and liquidity buffers to absorb losses. It described how the pandemic has led to further amplified profitability concerns across financial sectors and to increasing asset quality concerns. The issue of decoupling of financial market valuations and real economy perspectives was also covered in depth, as well as the further build-up of valuation risks in securities markets. The report also noted that the usage of and dependency on information and communication technology (ICT) has further increased with the spread of COVID-19 and that sound ICT and security risk management must be high on the agenda. Supervising digital transformation is key, and the report highlights that financial institutions and their service providers should carefully manage their ICT and security risks, including when outsourcing ICT activities.

2.8.2. Safeguarding consumer protection and strengthening sustainability across financial services

Consumer protection has been and continues to be a key element in the work of the Joint Committee.

During 2020, the ESAs worked to conclude their review of the PRIIPs KID following a public consultation on amendments to the PRIIPs delegated regulation in the last quarter of 2019. In July 2020, a final report including draft RTS was approved by the EBA and ESMA Board of Supervisors, but it did not receive the support of a qualified majority at the EIOPA Board of Supervisors. In December 2020, the European Commission invited the ESAs to jointly submit RTS within a 6-week period and, in response, the EIOPA Board further analysed the draft RTS. In January 2021, based on further details provided by the European Commission on their approach to the broader review of the PRIIPs regulation, the EIOPA Board also approved the RTS. From the ESAs' perspective, the proposals should result in substantive improvements to the KID, before the upcoming review of the PRIIPs regulation.

During 2020, eight administrative sanctions or administrative measures imposed under the PRIIPs regulation were reported to the ESAs by the competent authorities in Croatia, Germany and Hungary. These measures were administrative fines and orders to the PRIIPs manufacturer to remedy specified breaches of the PRIIPs regulation ([24]) and the PRIIPs delegated regulation ([25]). Regarding the administrative fines, the

(**24**) Articles 6(1), 6(4), 8(3), 13(1) and 14(3) of the PRIIPs regulation.

(**25**) Articles 1(d), 2(2), 2(3), 2(5), 4, 5(1), 5(4), 6, 7 and 8 of the PRIIPs delegated regulation.

Central Bank of Hungary reported two administrative fines imposed during 2020 totalling HUF 4 million (approximately EUR 10 928), and BaFin reported one administrative fine of EUR 49 000.

As part of the work on consumer protection, work on the complaints handling guidelines and their implementation continued.

2.8.3. Progress on sustainability-related disclosures

The sustainable finance disclosure regulation ([26]) (SFDR), which has been amended by Article 25 of the taxonomy regulation, aims to strengthen the protection for end-investors by standardising and enhancing ESG-related disclosures. It mandates the ESAs to develop, through the Joint Committee, a number of technical standards. Six RTS were delivered by the end of January 2021, two draft RTS will be delivered in June 2021, one draft RTS will be delivered by 30 December 2021 and two draft RTS will be delivered in June 2022. There is no set deadline for developing the ITS.

A consultation paper ([27]) was published by the ESAs on 23 April 2020, covering seven draft RTS related to entity-level principal adverse impact disclosures and product-level disclosures on sustainability characteristics or objectives, as well as on the 'do not significant harm' principle as set out by the amendment to the SFDR by the taxonomy regulation. Owing to the COVID-19 pandemic, the ESAs informed the European Commission via a letter that the delivery of the final report would be delayed by around 4 weeks until the end of January 2021. A public hearing, with more than 1 200 participants, took place on 2 July 2020 in webinar format. In parallel with the draft RTS, ESAs staff developed templates to be used by the financial market participants for the pre-contractual and periodic disclosures.

The European Commission proposed that the application date of the RTS should be delayed, while stating that the original date of application of the level 1 legislation should remain 10 March 2021. This was laid out in a letter ([28]) sent by the Commission to the ESAs' chairs on 20 October 2020 and has also been communicated to financial market participants.

Furthermore, through the Joint Committee, the ESAs coordinated their responses to the consultation on the revision of the NFRD. In June 2020, in a letter to the European Commission, the ESAs highlighted the importance of ensuring consistency between the NFRD and other pieces of legislation in the sustainable finance area, notably the disclosure regulation and the taxonomy regulation, and the ESAs underlined their readiness to support this work further to ensure consistency and contribute to the development of non-financial reporting standards.

2.8.4. Securitisation Committee moving ahead on its mandates

With a view to helping in the recovery of the securitisation market, the Joint Committee continued the previous year's work that sought to identify obstacles to the implementation of the securitisation framework.

In particular, the Joint Committee considered the difficulties in ascertaining the jurisdictional scope of application of certain provisions in the securitisation regulation in relation to securitisations for which one or more of the parties are located in a third country. The Joint Committee continued to develop an opinion on this subject.

In July, the Joint Committee launched a consultation to gather competent authorities' and market participants' feedback for the purposes of the report referred to in Article 44 of the securitisation regulation. The report must provide the Commission and the co-legislators with, inter alia, the ESAs' assessment on:

(i) the implementation of the STS requirements and the functioning of the securitisation regulation as regards the due diligence, transparency and risk retention requirements laid out therein;

(ii) competent authorities' actions to tackle new material risks and emerging vulnerabilities in the securitisation market;

(iii) market participants' actions to standardise transaction documentation.

The opinion and the report were published in March 2021.

In the context of the COVID-19 pandemic, the Joint Committee considered the potential impact of debt moratoria and public guarantee schemes on securitised

(**26**) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, OJ L 317, 9.12.2019, p. 1–16 (https://eur-lex.europa.eu/eli/reg/2019/2088/oj).

(**27**) https://www.esma.europa.eu/press-news/esma-news/esas-consult-environmental-social-and-governance-disclosure-rules

(**28**) https://www.esma.europa.eu/sites/default/files/library/eba_bs_2020_633_letter_to_the_esas_on_sfdr.pdf debt. The Joint Committee also discussed the interpretation of 'default' in securitisation transactions subject to moratorium schemes.

Finally, the Joint Committee noted the loss of the STS label for UK securitisation transactions after the end of the transition period on 31 December 2020 and agreed to the press release issued by the ESAs to make market participants aware of this change.

2.8.5. Innovation and digital finance as integral elements

In 2020, the Joint Committee stepped up its innovation and digital finance-related work, including in the context of the European Commission's digital finance strategy, with extensive technical discussions on topics such as crypto assets, digital operational resilience and cross-border sandbox testing. To further support the Joint Committee's work in this area and to coordinate the response to the specific elements of the European Commission's digital finance package, the ESAs established an ESA staff workstream under the auspices of the Joint Committee. The main task for the new ESAs' Coordination Group on Technological Innovation and Cybersecurity is to facilitate cooperation and coordination on cross-sectoral issues.

2.8.6. European Forum for Innovation Facilitators

EFIF continued to bring value in bridging national innovation facilitators (regulatory sandboxes and innovation hubs) on innovation-related issues. The EBA handed its chairmanship of this forum over to EIOPA in May 2020.

Under EIOPA's chairmanship, discussions continued on how to strengthen EFIF, on the delivery of a procedural framework to facilitate cross-border testing in accordance with the mandate set out in the digital finance strategy and the digital finance platform. EFIF members continued to exchange views on the design and development of new innovation facilitators, innovation trends and the application of specific technologies in the financial sector, including the issues of multipurpose digital platforms facilitating the provision of financial services, RegTech ([29]) and artificial intelligence, big data and machine learning, as well as on cross-cutting themes such as the role of FinTech in responding to the COVID-19 crisis. Engagement with other stakeholders, such as the European Bank for Reconstruction and Development (EBRD) and the Directorate-General for Structural Reform Support at the European Commission, and third-country supervisory authorities, was also strengthened.

2.8.7. Financial conglomerates' work continues

In 2020, the subcommittee on financial conglomerates finalised the final report on the draft ITS under the financial conglomerates directive ([30]) on reporting templates for intragroup transactions and risk concentration and the relevant annex. The harmonisation of the intragroup transaction and risk concentration templates for conglomerates aims to align the reporting under the financial conglomerates directive with one single set of templates and common definitions, as well as instructions for filling in the templates as set out in the annex to the ITS.

Moreover, the Joint Committee published its 2020 annual list of identified financial conglomerates, showing 65 financial conglomerates located with the head of group in the EU/EEA area and one financial conglomerate with the head of group in Switzerland.

2.8.8. Other relevant cross-sectoral Joint Committee work

The Joint Committee finalised the joint final report on the second amendment to the draft ITS on the allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps in accordance with the solvency II directive. This amendment addressed the Joint Committee monitoring mandate to ensure the adequacy of existing mappings. The approval process for the solvency II final joint report was decoupled from the final joint report on the capital requirements regulation (which concluded in May 2019) and was published by the European Commission in June 2020.

Furthermore, the ESAs started work towards a third amendment to the draft ITS, which would continue delivering on the Joint Committee mandate by assigning

(**29**) The management of regulatory processes within the financial industry through technology.

(**30**) Directive (EU) 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, OJ L 035, 11.2.2003, p. 1 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02002L0087-20140101).

mappings to additional newly established external credit assessment institutions and new rating scales, as well as ensuring that existing mappings remain representative of the external credit assessments' risk profiles.

The ESAs have, moreover, amended the joint final report on the draft amending RTS under EMIR on the risk mitigation techniques for OTC derivative contracts not cleared (bilateral margining). The amendment covers a variety of aspects. The amendment background provides a clarification of the requirements when below the 50 million initial margin threshold. The amendment provides an extension of the phasing in of the implementation of the initial margin requirements in two ways: (i) introducing an additional implementation phase (an additional 50 billion threshold was added) and (ii) a 1-year deferral in response to the COVID-19 outbreak. The amending RTS also extend the specific treatment provided for physically settled foreign exchange forwards to physically settled swaps. Finally, the targeted update extends for 18 months the intragroup exemption (to align the framework with the clearing provisions) and the equity exemption for 3 years. In addition, the amended RTS also reintroduce a regulatory solution to facilitate novations from UK counterparties to EU counterparties in the context of the end of the transition period, which had first been designed 2 years ago but which had then become void following the withdrawal agreement from the start of the year.

The Joint Committee also discussed the mandate in Article 31a of the ESAs' review to set up a cross-sectoral system for the exchange of information on the fit and proper assessments. The work on the policies, procedures and templates for the exchange of information, and on a possible IT system, will continue. The Joint Committee also agreed to start an IT pilot project in the area of banking and insurance.

2.8.9. ESAs' Board of Appeal

The Board of Appeal is a joint independent body of the ESAs, introduced to effectively protect the rights of parties affected by decisions adopted by the ESAs. The ESAs provided secretarial support to the Board of Appeal. In 2020, there were three appeal cases finalised, two brought against ESMA and another brought against EIOPA.

The Board of Appeal unanimously decided to dismiss the appeal brought by the CRA Scope Ratings GmbH against ESMA and to confirm the decision imposing fines and the measure of public notice for breaches of the CRA regulation. In particular, the Board of Appeal found that ESMA did not err in law in its interpretation of the applicable legal provisions of the CRA regulation.

The Board of Appeal issued its decisions dismissing two cases lodged by the same appellant against ESMA and EIOPA on alleged non-application of Union law. The Board of Appeal dismissed the appeal against ESMA as inadmissible, as (i) the facts described by the appellant did not relate in any way to aspects under the supervision of the relevant national authorities or of ESMA and (ii) the conclusion of ESMA provided to the appellant should be considered a simple provision of information and not a decision pursuant to Article 17 of the ESMA regulation that could be challenged before the Board of Appeal. The Board of Appeal dismissed the case against EIOPA as manifestly inadmissible, as the appellant merely reiterated the very same complaints that the Board of Appeal determined to be inadmissible in that context.

2.9. ESMA as an organisation

2.9.1. Governance and external affairs

Objective for 2020	Provide support to ESMA in the areas of stakeholder relations, communication, governance, strategic planning and reporting, and risk management, assurance and accountability.

Governance

In 2020, ESMA provided support to the Board of Supervisors and the Management Board, in particular considering the changes to ESMA's governance brought in by the ESAs' review and EMIR 2.2.

Moreover, ESMA continued to support the Joint Committee and the Board of Appeal, assisted the internal governance bodies and provided support to the senior management.

Considering the end of the mandate of Steven Maijoor as ESMA Chair and of Verena Ross as Executive Director (ED), ESMA prepared the selection process for the next ESMA Chair and Executive Director. Following an open selection process, ESMA submitted a shortlist of candidates for ESMA Chair to the Council of the EU and the European Parliament in November.

A vacancy notice for the position of Executive Director was published in September.

In January 2020, ESMA published its strategic orientation for 2020–2022 ([31]). The strategic orientation sets out ESMA's future focus and objectives and reflects its expanded responsibilities and powers following the ESAs' review and EMIR 2.2, which increased its focus on supervisory convergence, strengthened its role in building the CMU and gave it more direct supervision responsibilities.

In line with its obligations under its founding regulation and financial regulation, in 2020 ESMA produced a multiannual programming document for 2021 to 2023, including a detailed annual work programme for 2021.

In 2020, ESMA set up its Advisory Committee on Proportionality. The setting up of a specialised group on proportionality within ESMA became a requirement following the ESAs' review amendments to the ESMA regulation. The group held a number of meetings during the year to develop its methodology and work programme.

ESMA started the development of a web-based tool through which stakeholders will be able to input their questions and find answers in a searchable registry. The project was ongoing in 2020 and resulted in an input question form launched in September 2020. The tool will have its full range of capabilities, including the publication of Q&As in a searchable tool, in 2021.

Finally, following the updates to the ESAs' founding regulation, as of January 2020, the EBA became the responsible ESA for anti-money laundering and countering the financing of terrorism (AML/CFT). However, ESMA remained closely involved in the AML/CFT work related to the securities sector, including through its participation as an observer in the EBA standing committee on AML/CFT.

EU institutions

Throughout the year, ESMA worked very closely with the EU institutions to ensure its accountability. In particular, ESMA's Chair reported to the Committee on Economic and Monetary Affairs (ECON) of the European Parliament on ESMA's work during the annual hearing and in the dedicated sessions on the COVID-19 crisis and ESMA's response, the Wirecard fast-track peer review and the Cum/Ex inquiry. Moreover, ESMA participated regularly in meetings of the Financial Services Committee of the Council of the EU. Additionally, ESMA established, in 2020, the CCP Supervisory Committee with a permanent Chair, Klaus Löber, and two independent members, Nicoletta Giusto and Froukelien Wendt (see Section 1.2).

Finally, ESMA coordinated closely with the European institutions on the appropriate processes for the appointment of the chair and independent members of the CCP Supervisory Committee and the new Chair of ESMA.

International organisations, non-EU regulators and equivalence

Throughout 2020, ESMA continued to enhance its contribution to and cooperation with international organisations and non-EU regulators. In particular, ESMA's Chair continued to contribute to the work of the IOSCO Board and the Financial Stability Board (to the Standing Committee on Assessment of Vulnerabilities).

Furthermore, ESMA joined the newly established IOSCO Financial Stability Engagement Group (FSEG) and the Financial Stability Board (FSB) Steering Committee on Non-Bank Financial Intermediation, both of which led the international work on analysing the March 2020 financial market turmoil and defining related policy responses. Within the FSEG, the ESMA Chair led the work stream on credit ratings procyclicality and the work on the IOSCO report on the impact of the government support measures on credit ratings, published in February 2021.

In addition, ESMA, as a member of the IOSCO follow-up group on cross-border cooperation, contributed to the IOSCO report to the G20 on *Good Practices for Deference Processes*, published in July 2020.

ESMA's interaction with non-EU regulators progressed through regular participation in regulatory dialogues with a number of jurisdictions and bilateral interactions (see Section 2.2).

Finally, to respond to the new tasks introduced by the revised ESMA regulation in relation to the equivalence work, in 2020 ESMA developed its strategy on the implementation of equivalence monitoring tasks and presented it, alongside other findings, in its first confidential report to the European Parliament, the Council and the European Commission, submitted in December 2020.

(**31**) https://www.esma.europa.eu/sites/default/files/library/esma22-106-1942_strategic_orientation_2020-22.pdf

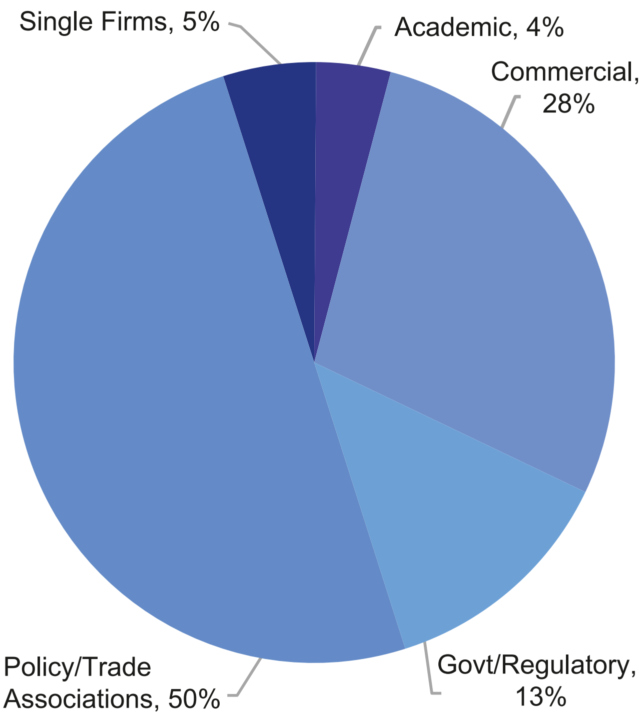
Communications

In terms of external communications, in 2020 ESMA produced a significant number of news items, press releases and statements in support of its policy work which were published on ESMA's website. Additionally, despite the impact of COVID-19, ESMA continued to organise online interviews, briefings and meetings with the media. Visits to ESMA's website reached 1.9 million in 2020, a 73 % increase from 1.1 million in 2019.

In terms of external speaking events, invitations dropped by 31 % to 248 in 2020 from 362 in 2019, also as a result of the pandemic, while the proportion of invitations accepted remained quite stable at 48 %.

The figure below shows the proportions of the different types of organisations that held events in which ESMA participated.

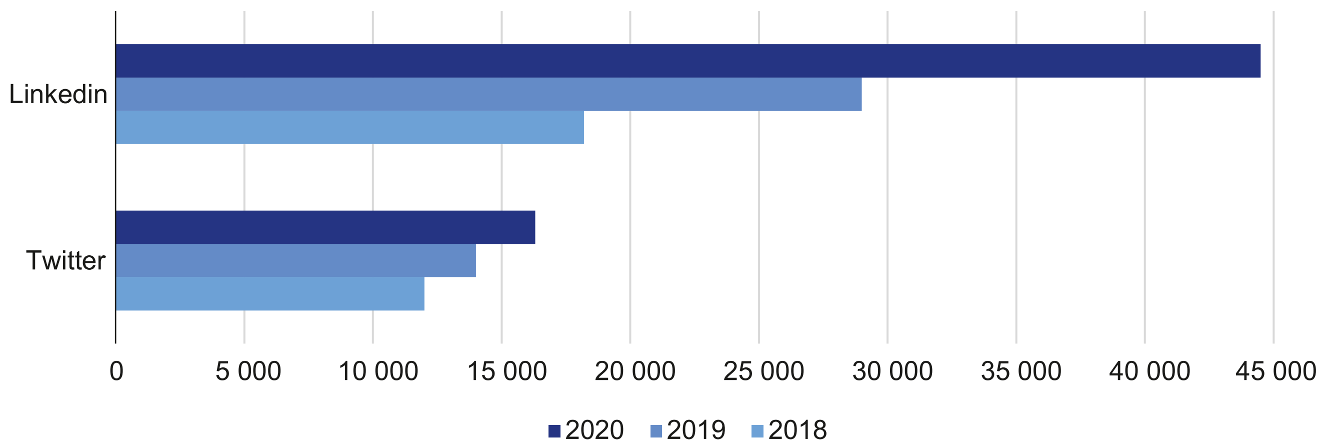
Accepted organiser types



In terms of social media, 2020 was also a very good year for ESMA, following the progress already made in 2019. ESMA's social media channels indeed saw again significant growth in 2020, in terms of followers, the sharing of ESMA's publications and content creation. Almost 13 000 people joined our LinkedIn group (11 000 had joined in 2019) and @ESMAComms on Twitter gained 2 160 followers (1 600 had joined in 2019). ESMA ended 2020 with 42 200 followers on LinkedIn (an increase of 44 % from the previous year) and 16 260 on Twitter (an increase of 15 % from 2019), as shown in the figure below.

In terms of internal communications, the main priorities were initially focused on building and changing the organisation. With the arrival of COVID-19, new objectives were established, namely keeping staff informed and connected to the organisation and colleagues. The frequency of the all-staff meetings and other meetings between management and staff, which have been held online since March, significantly increased.

ESMA social media followers 2020



2.9.2. Legal

Objective for 2020	Enhance the legal drafting and soundness of legal acts adopted by ESMA. Provide clarity on the Authority's legal toolbox, including Q&As, and easy access to all applicable acts produced by ESMA. Promote good administrative behaviour throughout the organisation, handle complaints and requests for access to documents efficiently, and ensure compliance with data protection and ethical rules. Identify potential breaches of Union law, with investigations and recommendations as appropriate. Represent ESMA before the Board of Appeal and the Court of Justice.

In 2020, ESMA continued to strengthen its internal legal review of acts of general application, such as draft technical standards and opinions, and formally extended it to its guidelines. Legal support was also geared towards ensuring continuity of service under special working conditions linked to the COVID-19 pandemic.

Complaints and general correspondence

During 2020, the enforcement team received and handled 575 items of correspondence from natural and legal persons. Of these items of correspondence, 42 % were general requests (244), including requests for information about whether a particular investment firm was regulated, and 15 % of the items (88) were requests regarding if the document attached to the sender's email and bearing ESMA's logo was authentic or if a given person worked for (or on behalf of) ESMA. Furthermore, 196 (34 %) were complaints in relation to alleged breaches of Union law by NCAs and 47 (8 %) concerned other, miscellaneous, requests.

European Ombudsman enquiries

The European Ombudsman may investigate complaints about maladministration by EU institutions and bodies. In 2020, there were no complaints to the European Ombudsman concerning ESMA's activities.

Easy access to applicable legal acts and guidance under ESMA's remit

In the course of 2020, the Interactive Single Rulebook on ESMA's website ([32]) was supplemented with two additional level 1 legal acts: the BMR and the SFTR. Therefore, the total number of level 1 legal acts within ESMA's remit that have been published on the website in the form of the Interactive Single Rulebook has reached eight: the UCITS directive, the CRA regulation, the CSDR, MiFID II, MiFIR, the transparency directive, the BMR and the SFTR. In addition to introducing the new level 1 legal acts, ESMA constantly monitors any changes relevant for the already published legal acts (such as the adoption of new technical standards or the publication of ESMA guidelines, opinions or Q&As).

Data protection

One year after the entry into force of the European data protection regulation, ESMA's data protection team organised a high-level conference followed by a practical training session for all ESMA staff. The session was delivered by the European Data Protection Supervisor (EDPS) and provided insight into the latest EDPS guidance. It was also an opportunity to celebrate the progress made at ESMA over 2 years of intense preparation and implementation of the new EU data protection regime.

In February 2020, the EDPS decided to find out how the EU institutions comply with the obligation to make a register of records publicly accessible in the sense of Article 31(5) of Regulation 2018/1725: 'Union institutions and bodies shall keep their records of processing activities in a central register. They shall make the register publicly available.' Only 15 out of the 67 EU institutions examined were fully compliant and ESMA was among them.

The data protection team also closely followed the development of the transfers of personal data after the Schrems II judgement was publicly delivered on 16 July 2020 and looked into the possible consequences it could have on any ongoing or future transfer of personal data to third countries. The EDPS is still assessing the exact implications and solutions of the judgement and will issue further practical guidance for the EU institutions.

Finally, the outbreak of COVID-19 has led to the adoption of new digital services to counteract the impact of teleworking (e.g. human-proctored written tests and a HR protocol on COVID-19).

(**32**) https://www.esma.europa.eu/rules-databases-library/interactive-single-rulebook-isrb

2.9.3. Corporate services

Objective for 2020	Provide proactive and effective support to ESMA by ensuring the smooth running of the facilities of the Authority 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.

ESMA ensured that the finishing works in ESMA's new premises took place after the move to the iBox building at the end of 2019.

During the year, ESMA organised 113 missions for its staff members, which was an 83 % decrease in missions compared with 2019, as all missions were suspended from March 2020 until the end of the year due to the COVID-19 crisis.

ESMA also organised 131 meetings and workshops within ESMA premises in 2020 (80 % fewer than in 2019), with a total of 1 471 external participants at these meetings (83 % fewer than the previous year).

In 2020, ESMA recycled 7.8 tonnes of paper, versus 21.9 tonnes in 2019 and 20.3 tonnes in 2018, which represented a saving of 133 trees and 64 288 litres of water. This was a decrease of 64 % in the amount of paper recycled compared with 2019, after an increase of 8 % in the amount of paper recycled the year before. This can be explained by the staff teleworking from March 2020 until the end of the year (with small exceptions).

2.9.4. Finance and procurement

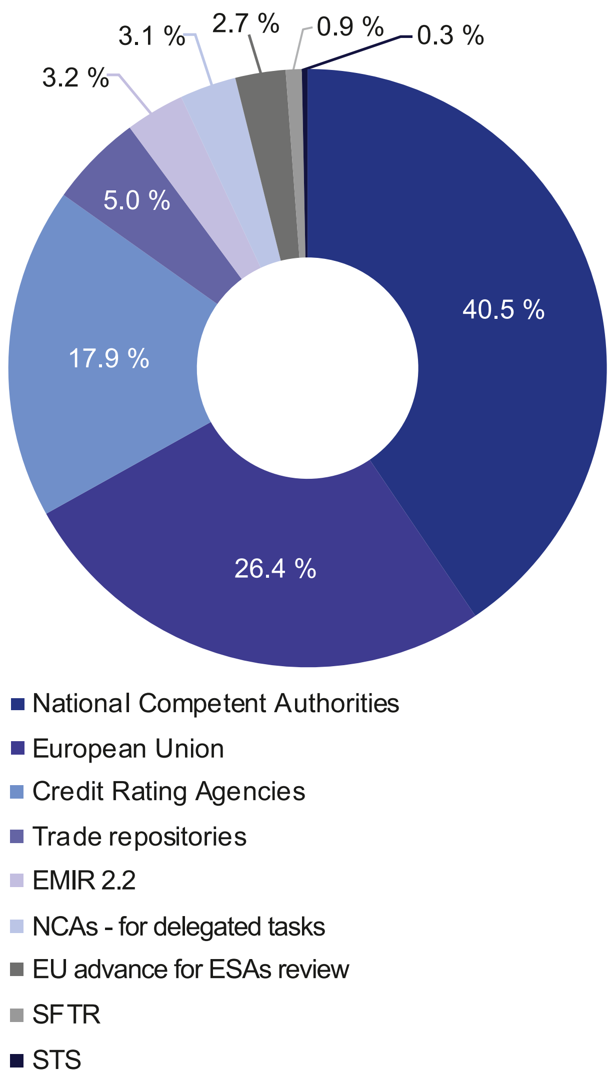
Objective for 2020	Further align the financial and procurement function to the ESMA strategy by continuing to enhance the underlying processes.

A growing and more complex budget was managed with a stable overall number of transactions. This was due to the continuous effort to further simplify and optimise finance transactions.

In 2020, ESMA benefited more than ever from the full digitalisation of all financial and procurement processes achieved in 2017 with the introduction of a paperless system. This system allowed continuity of administrative processes during this year of remote working and was improved by the introduction of digital signatures.

ESMA was financed in 2020 by nine streams of income, as shown in the following figure.

2020 revenues



Over the course of 2020, the COVID-19 pandemic had enormous repercussions in the EU. In addition to the human and social costs, economies and public finances were put under considerable strain. Following a thorough assessment of the COVID-19 impact on ESMA's activities, some expenditures originally planned for 2020 were discontinued and/or slowed down. Eventually, ESMA's 2020 budget registered a decrease of EUR 1 399 185 compared with the level originally planned (i.e. a decrease of 2.5 % compared with ESMA's initial budget). On the revenue side, ESMA was able to reduce almost all fund sources: EU subsidy and EU advance, NCAs' contribution, fees from CRAs, TRs under EMIR, TRs under the SFTR and securitisation repositories. Budget execution was 99.03 % in 2020 (see Annex II).

In 2020, 11 procurement procedures were managed (15 in 2019) and all of them were completely finalised (13 in 2019). Among these, several are of significant relevance: contracts for services that are necessary for new ESMA premises (cleaning services and building maintenance) and contracts for access to various economic and financial databases. Moreover, ESMA led an interinstitutional procedure for interim services joined by other EU agencies located in France (the EBA, the EU Agency for Railways (ERA) and the Community Plant Variety Office (CPVO)).

2.9.5. Human resources

Objective for 2020	Deliver HR services, enabling ESMA to attract, deploy and retain the talent required to achieve its objectives and ensuring efficient HR administration while fulfilling the regulatory requirements of an EU authority.

Overview of staff data in 2020

ESMA employs different categories of staff:

- temporary agents (TAs) ([33]),
- contract agents (CAs),
- seconded national experts (SNEs).

(**33**) Posts for TAs are listed in the establishment plan of ESMA, in which part of the EU budget is given.

At the end of 2020, ESMA employed 240 statutory staff members (TAs and CAs): 172 TAs and 68 CAs. This was 17 more statutory staff members than 1 year before (an 8 % increase), as shown in the figure below.

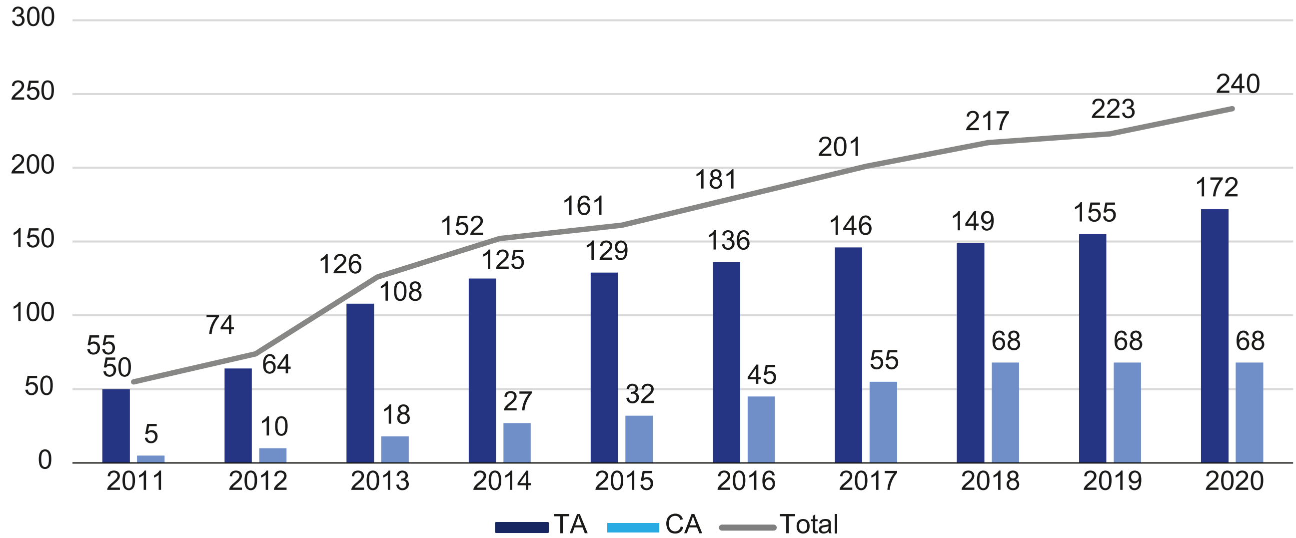
In addition, at the end of 2020, 10 SNEs were also working at ESMA (the same number as in 2019), bringing the total number of ESMA staff (TAs, CAs and SNEs) to 250, versus 233 1 year before (a 7 % increase), after an increase of 1 % in the total number of ESMA staff the year before that.

The number of SNEs did not change and ESMA will continue to liaise with the NCAs and other bodies with a view to increasing the number of staff in this category in the future. SNEs notably bring specific expertise (such as direct supervisory experience), but also important cross-fertilisation between the organisations involved.

Staff by nationality

At the end of 2020, ESMA staff (TAs, CAs and SNEs) included 21 different EU nationalities, 8 nationals from the United Kingdom and 1 national from the EEA (Norway).

Statutory staff population (TAs and CAs) – year-end view

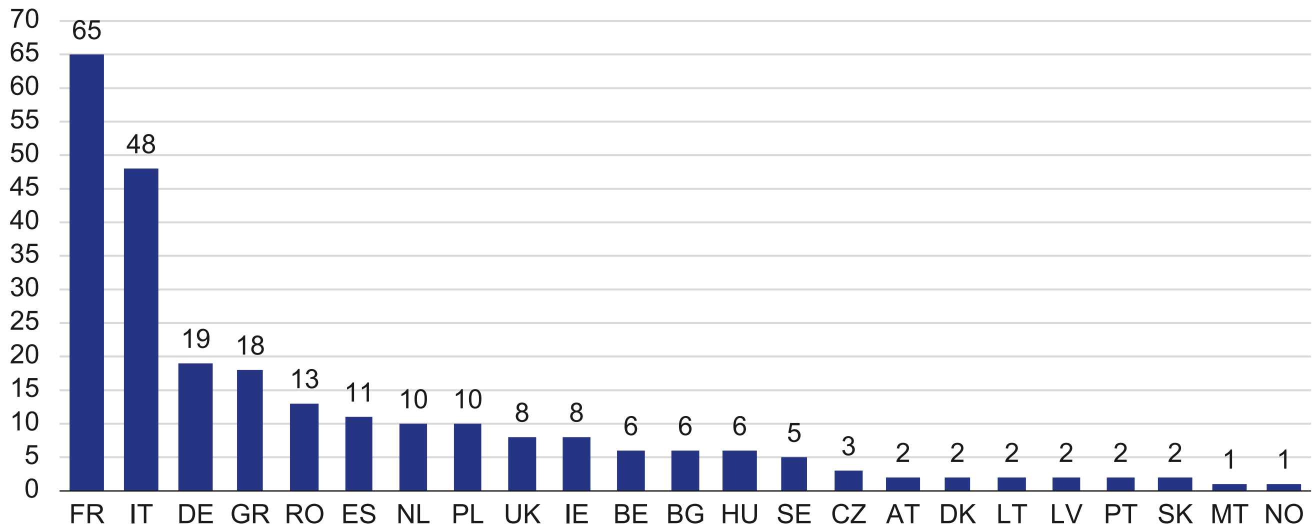


The following table shows the distribution of nationalities, by alphabetical order, per contract type and function group.

	TA	CA	SNE	Total	%
AT	1	1		**2**	1%
BE	2	4		**6**	2%
BG	4	1	1	**6**	2%
CZ	3			**3**	1%
DE	16	1	2	**19**	8%
DK	1	1		**2**	1%
ES	7	4		**11**	4%
FR	46	17	2	**65**	26%
GR	9	8	1	**18**	7%
HU	3	3		**6**	2%
IE	6	1	1	**8**	3%
IT	34	13	1	**48**	19%
LT	2			**2**	1%
LV		2		**2**	1%
MT	1			**1**	0%
NL	6	2	2	**10**	4%
NO	1			**1**	0%
PL	6	4		**10**	4%
PT	2			**2**	1%
RO	8	5		**13**	5%
SE	4	1		**5**	2%
SK	2			**2**	1%
UK	8			**8**	3%
Total	**172**	**68**	**10**	**250**	**100%**

The following figure shows, in decreasing order, the distribution of nationalities of ESMA staff (TAs, CAs and SNEs) as of the end of 2020.

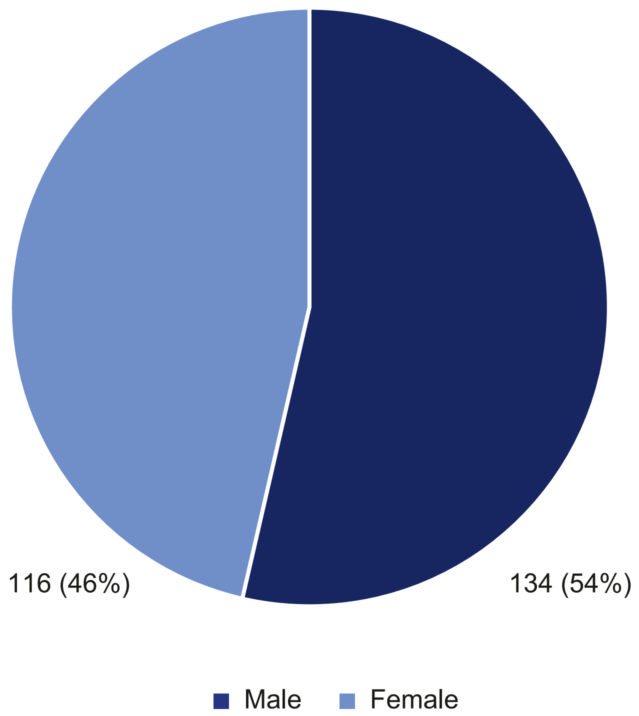
Nationalities at ESMA



Staff by gender

The global gender balance among ESMA staff (TAs, CAs and SNEs) was 54 % (male) and 46 % (female) in 2020, as shown in the figure below, versus 52 % male and 48 % female in 2019.

Gender distribution at ESMA



The evolution of the gender balance (in all staff groups) over the last 8 years indicates that the proportion of female staff members progressively increased.

The staff turnover rate was 5.6 % in 2020 versus 5.0 % in 2019 and lower than the target of less than 10 %.

Recruitment was a key activity in 2020, as illustrated by the following figures: 23 selection procedures were launched, 4 224 CVs were reviewed (+196 % compared with 2019), 503 candidates were interviewed (+513 % compared with 2019) and 65 persons were recruited (+116 % compared with 2019). A number of planned recruitments were not finalised during the year, but postponed to 2021, owing to the COVID-19 crisis.

As regards external training, ESMA organised two courses with 138 participants, with an average satisfaction rate of 83 %, above the 80 % target. The average number of training days attended by ESMA staff members reduced to 1.3 days, versus 2.1 days in 2019, and needs to be watched in the future.

2.9.6. Information and communication technologies

Objective for 2020	Provide effective and proactive ICT support to staff and manage ESMA's ICT resources in a flexible and efficient way.

ESMA's ICT activity falls under two main categories:

(i) support to ESMA as an organisation;

(ii) EU IT projects, aiming to support supervisory convergence, risk analysis and the exchange of financial data among NCAs and between NCAs, ESMA and the public.

Information technology

ESMA continued to upgrade its workplace tools, benefiting fully from the deployment of the new collaboration tool Microsoft Teams, progressively replacing Skype for telephony and video conferencing. A key achievement was the effective support provided in response to the pandemic situation, with ESMA setting up additional VPN capacity, migrating all its users to Microsoft Office 365, implementing a digital signature and an online voting tool, finalising the set-up of its security operations centre and increasing its cybersecurity response capacities.

The tools already in place when the COVID-19 pandemic started in the first quarter of 2020 allowed ESMA staff, in general, to continue operating extremely satisfactorily and without disruption when the first lockdown was implemented in France in March 2020 and the entire staff had to work from home, a situation that lasted until the end of 2020.

In 2020, ESMA also finalised its migration to the public cloud (Microsoft Azure), a key project whose aim was to reinforce customers' experience, workforce enablement, digital security and agility, and innovation in a context of continued growth of its IT needs.

Support to ESMA as an organisation

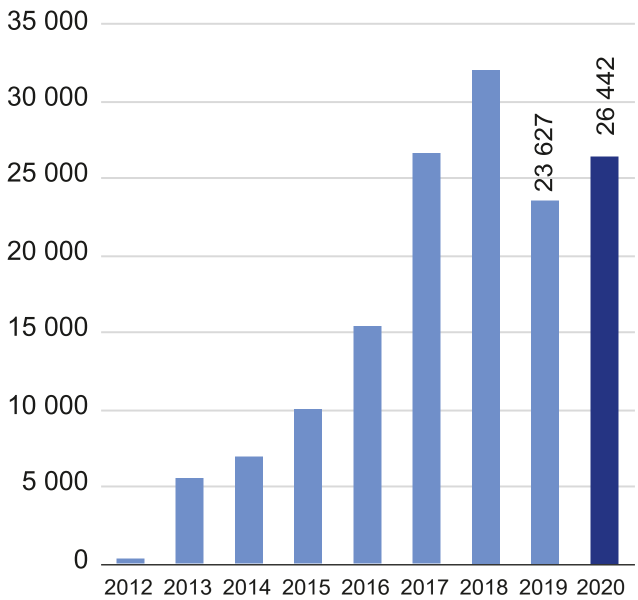
At the end of 2020, ESMA was managing 44 applications, compared with 40 at the end of 2019, and 303 virtual servers.

At the same time, there were 1 792 users of ESMA's systems, an increase of 6 % compared with 2019. A large majority of them (around 1 500) were external active users, coming from NCAs, trading venues, CRAs, TRs, etc.

In 2020, the ICT helpdesk continued to face a heavy workload: the team managed 26 442 tickets (i.e. requests for support), an increase of 12 % compared with 2019, despite a decrease of 10 % in the number of incidents. The average time of closing requests reached 3 days, in line with the target.

The annual evolution of the total number of tickets managed by the unit since 2012 can be seen in the figure below.

IT helpdesk
Number of requests for support



2.10. Management

2.10.1. Follow-ups on audits and evaluations

ESMA has put in place arrangements to ensure that all recommendations made by the internal and external auditors are promptly and adequately addressed within the agreed deadlines through dedicated action plans. ESMA follows up on all findings and recommendations and reports to the Management Board on a quarterly basis.

European Court of Auditors

ESMA is audited every year by the European Court of Auditors (ECA). The audit provides a statement of assurance on the reliability of the accounts of the Authority and the legality and regularity of the transactions underlying them.

The 2019 statement of assurance indicated that the accounts of the Authority for the year ended 31 December 2019 presented fairly, in all material respects, the financial position of the Authority at 31 December 2019, the results of its operations, its cash flows and the changes in net assets for the year then ended, in accordance with its financial regulation and with the accounting rules adopted by the Commission's accounting officer. It also stated that the revenues and payments underlying the annual accounts for the year ended 31 December 2019 were legal and regular in all material respects.

The 2019 ECA statement of assurance included observations related to:

- the calculation of CRAs' and TRs' fees;
- pension contributions by NCAs.

The following recommendations from previous years were considered ongoing:

- the need to continue discussions with the Commission to solve issues in the regulation of fees and the need to avoid cross-financing of fees-related activities;
- the risk of consultants for IT services being considered interim staff.

The ECA audit of the 2020 annual accounts was received on 31 May 2021.

Internal Audit Service

ESMA is also audited by the Internal Audit Service (IAS) of the Commission. In 2020, the IAS began an audit on HR management and ethics. This audit is still ongoing.

There were neither critical nor very important IAS audit recommendations open as of 31 December 2020.

2.10.2. Follow-up of observations from the discharge authority

On 14 May 2020, the European Parliament voted positively on the discharge of ESMA's 2018 accounts (the discharge report). This is the final approval of the budget implementation for 2018, and the decision is based on a review of the annual accounts and the ECA annual report.

In line with Article 64(11) of the ESMA regulation, ESMA was required to provide a reasoned opinion on observations made by the European Parliament in the discharge procedure, and ESMA published the corresponding opinion on 23 July 2020 ([34]).

In this opinion, ESMA explained that it had been working on the following key points that were included in the 2018 discharge report:

- ESMA has already put significant efforts into conducting its work, with particular attention paid to the European Parliament's recommendations in relation to the application of the principle of proportionality, including the establishment of its Proportionality Advisory Committee, which takes on an important role in assessing the proportionality of ESMA's actions, including ESMA's guidelines;
- in September 2020, ESMA sent to the European Parliament, and published, its final report on its findings on multiple withholding tax reclaim schemes;
- regarding the horizontal observation applicable across agencies on the use of external staff hired in IT consultancy roles, ESMA put in place necessary processes and decisions to limit any relevant potential risks in this context;
- regarding the implementation of the action plan agreed with the Commission's IAS following the audit on revenue and activity-based management,

(**34**) https://www.esma.europa.eu/sites/default/files/library/esma22-105-1208_-_esma_opinion_on_2018_discharge_report_of_ep.pdf

ESMA has already executed the following measures: comprehensive communication to the Commission on the need to harmonise and simplify current and future delegated acts on ESMA's fees, an assessment of best practices on the audit topic in other EU agencies and a definition of recommendations, an analysis of the development of an automated IT system for ESMA's activity-based management and fee calculation, and a yearly presentation on activity-based management and fee management.

2.10.3. Strategy for efficiency gains

ESMA continues to pursue efficiency gains and synergies in all of its areas of activity. This section gives some examples of areas in which efficiency gains have been or are being made.

Many and important new mandates and tasks have been taken up by ESMA via full internal redeployment and thus without any additional resources. This is the case for the new responsibilities set out by EMIR 2.2 in the area of the EU CCPs, taken up by internal reassignment in 2020. Moreover, in 2020, ESMA had to redeploy staff for the execution of the new mandates on the direct supervision of securitisation repositories and the SFTR. These major examples of redeployment represent more than 6 % of the internal redeployment effort among ESMA's total staff. On top of this, redeployment is also required by ESMA to new workstreams (e.g. digital finance, the prospectus regulation and the MMFR).

In terms of administrative efficiencies, major efforts have been made. In particular, the entire ESMA administration (HR, ethics, finance and procurement, and facility management processes) has been digitalised (zero paper). This has led to a general improvement in the efficiency in these areas, notably in terms of speed and reliability, while also reinforcing traceability and, finally, contributing to a greener environment by reducing paper consumption. This entire project has been managed only with internal resources and benefiting from existing tools already available in other EU agencies. In addition to this, in 2020, ESMA also finalised its migration to the public cloud. This presents a major step forward also in terms of cost-efficiency, as savings are expected while scaling up our systems, thus allowing ESMA to further streamline its IT budget.

This high level of digitalisation and significant prior experience in teleworking also allowed these key administrative functions to continue operating extremely satisfactorily and without disruption after the start of the COVID-19 pandemic when the first

lockdown was implemented in France in March 2020 and the entire staff had to work from home, a situation that lasted until the end of 2020.

ESMA staff travel less every year (32 % less in terms of the total number of missions between 2015 and 2019, despite staff increases during the same period). In 2020, when, owing to COVID-19, missions were cancelled for most of the year, mission costs reduced even further. Thanks to its investments in audio and video conferencing and a voting tool, ESMA has continued to work smoothly during the COVID-19 pandemic.

Similarly, the following represent other areas of efficiency gains:

- a growing budget has been managed with a stable overall number of transactions owing to a continuous effort to simplify and optimise processes while respecting the financial rules;
- optimising procurement resources by joining interinstitutional procedures and by leading major interagency procurements.

2.10.4. Delegation and subdelegation of the powers of budget implementation to agency's staff

Pursuant to Articles 73, 74 and 90 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council laying down detailed rules for the implementation of the financial regulation and the internal rules on the implementation of the budget, the Executive Director, as the authorising officer of ESMA, has delegated financial powers to the heads of departments, heads of units and team leaders, for the budget lines they are responsible for in line with their activities.

The ESMA subdelegation breakdown per budget line is organised to ensure:

- business-continuity (e.g. identification of back-ups for each budget line);
- efficiency, through an appropriate balance between the maximum ceiling of each subdelegation and the authorising officer by subdelegation's responsibility in ESMA.

The authorising officers by subdelegation have to accept in writing the delegations granted to them, following Article 11a of the staff regulations of officials of the EU, Article 11 of the conditions of employment of other servants of the EU and paragraph 3.2 of the charter for authorising officers by subdelegation.

On a yearly basis, ESMA controls the implementation of the subdelegations granted by the Executive Director in the accrual-based accounting (ABAC) system.

2.11. Internal control

2.11.1. Effectiveness of the internal control system

The internal control framework supplements the financial regulation and other applicable rules and regulations with a view to aligning ESMA standards with the highest international standards set by the Committee of Sponsoring Organisations of the Treadway Commission (COSO) framework ([35]). It was adopted by the ESMA Management Board in November 2018, replacing the previously approved 2012 internal control standards.

The COSO framework was reviewed in 2013 to move from a compliance-based to a principle-based system, with the aim of ensuring robust internal control through consistent assessment, while providing the necessary flexibility to allow it to be adapted to specific characteristics and circumstances in different businesses. To keep up with these recent changes in international best practice, it was appropriate to update ESMA's internal control framework accordingly.

The ESMA internal control framework consists of five internal control components, which are built on 17 principles, based on the COSO 2013 internal control integrated framework and further supported by a number of characteristics.

To assess the status of the internal control system in 2020, ESMA performed, during Q1 2021, the annual self-assessment of the effectiveness of the implementation of the internal control principles according to the framework.

2.11.2. Conclusions of assessment of internal control systems

The main objective of the self-assessment is to analyse in detail if all of the internal control principles are present and functioning in the organisation. To do so, in 2020, ESMA measured 78 internal control

(**35**) The COSO 2013 internal control integrated framework.

indicators, covering all internal control principles, as the primary source of information. In addition, ESMA analysed secondary sources of information, including audit reports and security risk logs.

This information allowed ESMA to identify the main strengths and deficiencies of each principle and finally to assess each principle and component. In total, ESMA identified 22 deficiencies, most of which were minor and none of which called into question the presence and proper functioning of the principles. ESMA concluded in its self-assessment that the internal control system is present and functioning well. Some improvements are needed, mainly in the control environment and control activities components.

2.11.3. Risk management

ESMA operates in an ever-changing environment with many uncertainties. ESMA has developed an annual process of identification and assessment of risks to assist in the mitigation of those risks that could threaten the delivery of its mission. The annual organisational risk assessment is performed as a combination of a bottom-up and a top-down approach: the bottom-up aspect involves identifying risks at the department level and the top-down approach involves a management assessment and evaluation of strategic risks considering the input from departments. Significant risks are then reviewed by the ESMA Management Board, which endorses the risks and action plans.

The top risks identified during the assessment are summarised and included in the ESMA programming document. The top risks identified in 2020 in relation to the 2021 work programme were:

- the prolonged COVID-19 crisis and its consequences for financial stability and investor protection, as well as for ESMA as an organisation and its capacity to deliver;
- the potential consequences of the United Kingdom's withdrawal for EU securities markets and ESMA as an organisation, with a focus on the uncertainties of the future relationship between the EU-27 and the United Kingdom;
- the security of ESMA IT systems in the context of increased risk of cybersecurity threads;
- uncertainties deriving from the implementation of new EU legislative and non-legislative proposals that will have a major impact on ESMA's mandate and organisation, and the simultaneous transition to a new senior management structure and team.

None of the risks identified was considered critical.

2.11.4. Ethics, anti-fraud measures and management of conflict of interests

In 2011, ESMA adopted a code of good administrative behaviour, including general rules for dealing with the public and a decision on professional secrecy. The accessibility of the code to all staff, together with the staff regulations, ensures the availability of a practical guide on ethical conduct and reporting of irregularities.

ESMA adopted its first anti-fraud strategy in 2015, following the guidelines provided by the European Anti-Fraud Office (OLAF) to the EU agencies at the beginning of 2014. In September 2018, the ESMA Management Board adopted the ESMA anti-fraud strategy for 2018–2021, which had three main objectives:

(i) to enhance an anti-fraud culture underpinned by high levels of awareness, integrity, impartiality and transparency at all levels of ESMA;

(ii) to strengthen measures for detection of suspicious behaviours and deterrence;

(iii) to maintain an efficient system for internal reporting of suspected fraud or irregularities.

The status of implementation of the anti-fraud strategy is followed up annually.

Concerning the collaboration with OLAF, and as required by the ESMA regulation, ESMA has had in place, since 2011, a decision concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the EU's interest. ESMA is also part of the interinstitutional agreement of 25 May 1999 concerning internal investigations by OLAF.

To promote and strengthen the principles and practice of ethics and organisational values among its staff, ESMA has appointed four staff members as (part-time) ethics officers and deputies. This allows the development of strong in-house expertise and a prompt response and reaction to ethics issues. The IAS of the Commission identified this organisational set-up as best practice.

Over the course of 2020, ESMA revised it conflict of interest (CoI) policies, both for non-staff (i.e. ESMA's governing bodies) ([36]) and for staff ([37]).

In 2020, ESMA also undertook an inquiry on dealing in financial instruments by ESMA staff, which showed a very high level of compliance by ESMA staff with the relevant rules. In addition, ESMA ran a survey with the NCAs on the cooling-off periods for the members of the governance bodies and staff at the national level.

The CoI policy for non-staff was revised in 2020 to reflect the legislative changes introduced by the ESAs' review and notably the provisions addressing the CoIs at the Board of Supervisors level, and it also covers the CCP Supervisory Committee.

The CoI policy for non-staff stipulates that members, alternates and observers to ESMA's Board of Supervisors and the CCP Supervisory Committee must, upon their appointment, make a declaration in writing concerning commitment and confidentiality, while alternates and observers to ESMA's Board of Supervisors and members of the CCP Supervisory Committee must declare any interest that creates a CoI with respect to all activities in which they are involved or have been involved during the 2 years preceding the submission of the declarations of interest and which fall under ESMA's scope of action. ESMA publishes CVs and declarations of interest of the Board's voting members and alternates, as well as declarations of interest of the Board's non-voting members and observers, ESMA's senior management and CCP Supervisory Committee members. All Board members (voting and non-voting), alternates, observers and members of the CCP Supervisory Committee are also required to inform ESMA of any ad hoc CoIs, and the Board's voting members are required to inform ESMA of their prospective employment for 2 years after departure from ESMA's Board of Supervisors.

ESMA's CoI policy for staff provides clear guidance and applicable rules on CoIs and its management and on contact with stakeholders, among others. All staff members must make a declaration in writing concerning commitment and confidentiality upon joining ESMA and are required to fill in an annual and ad hoc, if applicable, declaration regarding potential CoIs and regarding gainful employment of a spouse, as well as, where needed, if they require clearance for

(**36**) https://www.esma.europa.eu/sites/default/files/library/esma22-328-402_decision_on_conflicts_of_interest_policy_for_non-staff.pdf

(**37**) https://www.esma.europa.eu/sites/default/files/library/esma40-134-2458_conflict_of_interest_policy_esma_staff.pdf dealing in financial instruments, outside activities and intended post-service activity.

The changes introduced to the CoI policy for staff in 2020 mainly concerned (i) addressing revolving doors issues by providing further guidance and clarity regarding the rights and obligations of staff, and possible restrictions applicable in the context of taking up a new occupational activity after leaving ESMA; (ii) prohibition on dealing in financial instruments of entities directly supervised by ESMA; and (iii) reflecting institutional changes stemming from the introduction of the CCP Supervisory Committee.

Specific measures for avoiding CoIs are taken during recruitment procedures and procurement selection panels.

ESMA has developed a whistleblowing procedure for the internal reporting of cases of fraud or serious misconduct, as well as rules on conducting administrative enquiries and disciplinary procedures.

2.12. Declaration of assurance

2.12.1. Review of the elements supporting assurance

The level of reasonable assurance is down to the personal judgement of ESMA's Executive Director and the authorising officers by delegation, based on all information at their disposal. This information can be structured around pillars or building blocks of assurance.

The main building blocks of the Executive Director's declaration of assurance are:

- the Executive Director's own knowledge of the management and control system in place;
- the observations of the ECA known at the time of the declaration;
- the observations of the IAS known at the time of the declaration;
- the declarations of assurance made by the authorising officer by delegation to the Executive Director;
- the result of the assessment of the internal control system;
- the *ex ante* and *ex post* controls;
- the validation of the accounting systems;
- the analysis of the list of recorded exceptions;
- the summary of OLAF activities relevant for ESMA.

In support of the annual activity report, all authorising officers and heads of department are asked to sign a declaration of assurance for their areas of responsibility. The purpose of these declarations is to confirm, on the basis of the facts in their possession, that the information contained in the report gives a true and fair view – except if otherwise specified in any reservations related to defined areas of revenue and expenditure – and that the resources assigned have been used for their intended purpose and in accordance with the principle of sound financial management.

The heads of department and authorising officers by delegation confirmed their reasonable assurance that, overall, suitable controls are in place and working as intended and that the risks identified are being appropriately monitored and mitigated. Given the control system in place, the information obtained from the building blocks above and the lack of critical findings from the ECA and the IAS at the time of the declaration, there is no reason to question the efficiency and effectiveness of the control system in place.

2.12.2. Reservations

Based on the assurance provided by the control system in place, the Executive Director sees no reason that would justify or require a reservation.

Materiality criteria used

In line with the suggestion of the guidelines on the preparation of the annual activity report, ESMA used the qualitative and quantitative materiality criteria described below to assess if the issues identified merited a reservation.

Qualitative criteria used

ESMA would consider any weaknesses in the internal control system that fell under the following qualitative criteria as significant:

- significant errors detected during the control exercises;
- a significant weakness in the control system;

- situations in which ESMA does not have sufficient evidence from internal control systems or audit coverage to be confident in providing the necessary assurance;
- situations in which a major issue has been outlined by the ECA or the IAS of the Commission (critical audit recommendations for underlying weaknesses) relevant to the area covered by the declaration of assurance that are not adequately addressed by other internal controls and for which the materiality threshold is exceeded;
- situations revealed through own control work or audits in which significant risks remain unmitigated;
- a significant reputational risk.

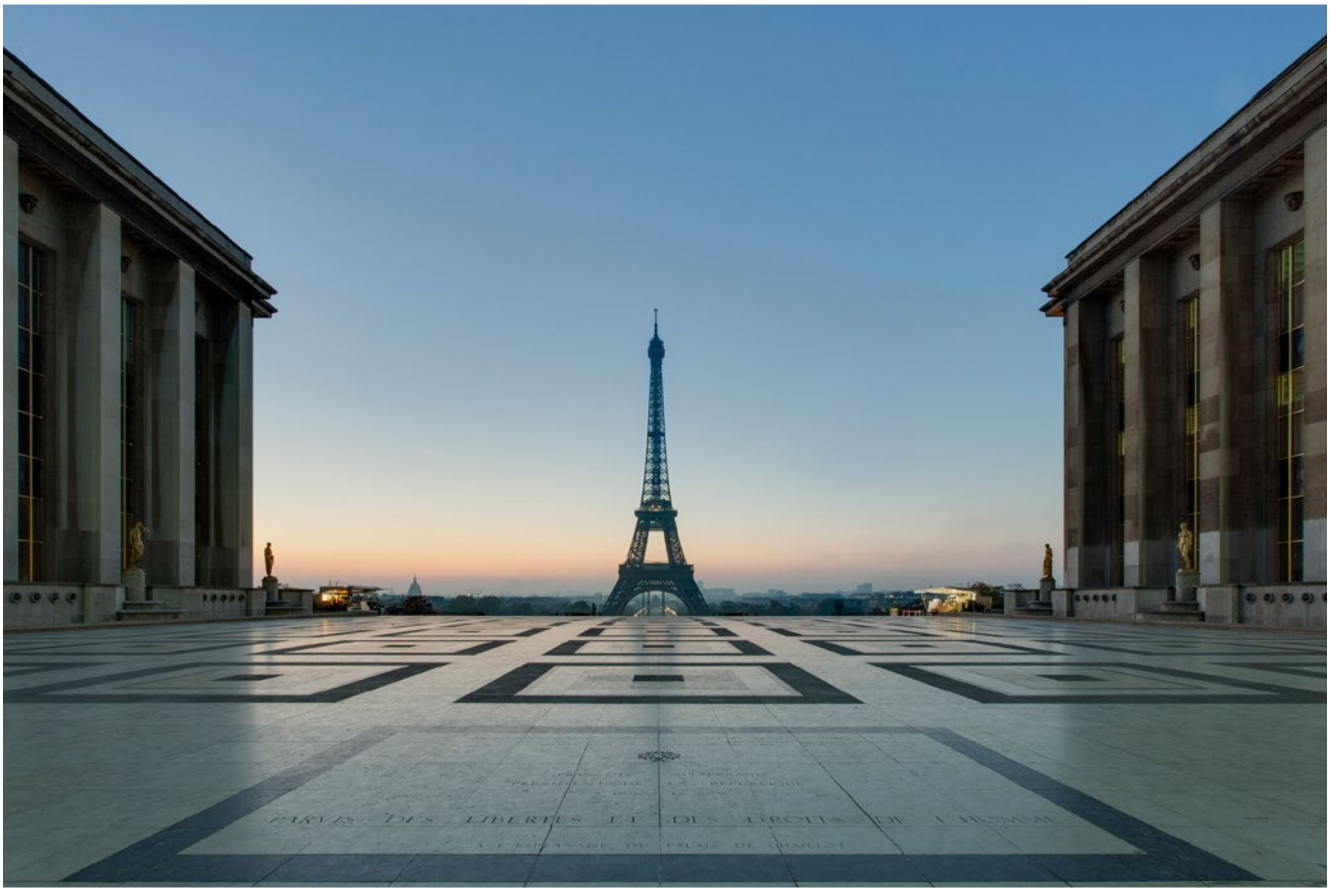
Quantitative criterion used

In accordance with the Commission guidelines on the preparation of annual activity reports, the ECA uses a 2 % materiality threshold. ESMA has therefore set the quantitative criterion of materiality at 2 % of its total budget.

2.12.3. Overall conclusions on assurance

Taking into account the review of the elements supporting assurance, the Executive Director is of the opinion that the management and control systems in place at ESMA are working as intended, risks are being appropriately monitored and mitigated, and necessary improvements and reinforcements are being implemented.

Based on all of the facts presented in the report and in the light of the opinions expressed by the ECA on the reliability of the accounts and on the legality and regularity of the transactions underlying the accounts, ESMA can conclude that the systems in place provide reasonable assurance that the resources under the responsibility of the Executive Director were used for their intended purposes and in accordance with the principles of sound financial management.



2.12.4. 2020 declaration of assurance by the Executive Director of ESMA

I, the undersigned, Executive Director of the European Securities and Markets Authority,

In my capacity as authorising officer:

Declare that the information contained in this report gives a true and fair view.

State that I have reasonable assurance that the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal such as the results of the self-assessment, *ex post* controls, the work of the Internal Audit Service and the lessons learnt from the reports of the European Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported that could harm the interests of the European Securities and Markets Authority.

Paris, 28 May 2021

[Signed]

Verena Ross
Executive Director
European Securities and Markets Authority

Annexes

ANNEX I – Reporting on key performance indicators

ESMA has defined a list of KPIs that are regularly reported to the Management Board. ESMA's work programme in 2020 was measured against these indicators.

Activity	KPI	Target	Results 2019	Results 2020
Promoting supervisory convergence	Business-related KPIs			
	Number of cases of non-compliance with guidelines and recommendations	N/A (*)	23	27
	Number of peer reviews conducted	N/A	2	1
	IT projects-related KPIs			
	Percentage of projects' phases delivered compared with planned	80 %	95 %	88 %
	Percentage of projects' budget execution for the current year	95 %	99.95 %	93 %
	Percentage of maintenance budget execution for the current year	N/A	N/A	94 %
	Percentage of open tickets versus closed	> 95 %	N/A	98.82 %
Assessing risks to investors, markets and financial stability	Number of risk topics analysed	8	8	18
	Number of risk monitoring reports delivered against the work plan, including ESMA TRVs (2), ESMA risk dashboards (2), ESAs Joint Committee risk reports (2) and ESMA ASRs (4)	10	4	10
	Data and statistics: coverage of ESMA databases under central data management	90 %	83 %	85.6 %
Direct supervision of specific financial entities	Percentage of cases that met the time designated for the overall enforcement process	N/A	N/A	80 %
	Percentage of risk scenarios that triggered a supervisory action and resulted in a drop in the risk following the action	N/A	N/A	76 %

(*) N/A = Not available

Activity	KPI	Target	Results 2019	Results 2020
Organisational implications	Rate of implementation of commitment appropriations	> 95 %	99.95 %	94 %
	Rate of cancellation of payment appropriations	< 5 %	3.7 %	4.6 %
	Rate of payments executed within legal/ contractual deadlines	> 95 %	93.4 %	96 %
	Average vacancy rate	< 10 %	7 %	14 %
	Staff turnover rate	< 10 %	5 %	5.2 %
	Percentage of completion of the activities of the annual work programme	N/A	95 %	81.5 %
	Rate of implementation of audit recommendations	> 85 %	100 %	57 %

ANNEX II – Statistics on financial management

Budget execution C1(*)

2020 C1	Voted budget for 2020 (after transfers) (1)	Commitments (2)		Payments (3)		To be carried forward (4)	
ESMA’s budget title	**Budget for 2020**	**Committed**	**(2)/(1) (%)**	**Paid**	**(3)/(1) (%)**	**(2)–(3)**	**(4)/(1) (%)**
I	30 744 439	30 666 557	99.75	30 163 949	98.11	502 607	1.63
II	7 998 115	7 825 886	97.85	7 031 209	87.91	794 677	9.94
III	12 695 868	12 438 915	97.98	6 679 458	52.61	5 759 457	45.36
IV	752 385	752 057	99.96	752 057	99.96	0	0
Total C1	**52 190 807**	**51 683 415**	**99.03**	**44 626 673**	**85.51**	**7 056 742**	**13.52**

(*) Appropriations corresponding to the EU contribution for the current year.

ESMA spent 99.03 % of its budget in 2020 on an approved budget of EUR 52 190 807 (excluding the contributions from the NCAs and other external entities for the IT delegated tasks, which represented EUR 1 748 539 in 2020).

Number and value of budget transfers

ESMA’s budget title	2020 initial budget (A)	First budget amendment	Second budget amendment	First budget transfer	Third budget amendment	Second budget transfer	Fourth budget amendment	Third budget transfer	2020 final budget (B)	(B)–(A)	VAR%
I	36 565 483	(3 040 165)	(250 000)	(592 200)	(899 185)	(745 783)	(73 711)	(220 000)	30 744 439	(5 821 044)	–16 %
II	8 021 000	(140 000)	—	190 000	(20 000)	(132 885)	—	80 000	7 998 115	(22 885)	0 %
III	10 997 000	508 000	—	402 200	(230 000)	878 668	—	140 000	12 695 868	1 698 868	15 %
IV	752 385	—	—	—	—	—	—	—	752 385	—	0 %
TOTAL	**56 335 868**	**(2 672 165)**	**(250 000)**	**—**	**(1 149 185)**	**(0)**	**—**	**—**	**52 190 807**	**(4 145 061)**	**–7 %**

Interest charged for late supplier payments

In 2020, ESMA paid a total amount of interest for late payments to suppliers of EUR 306.81.

Budget outturn and cancellation of appropriations (data from provisional accounts 2020)

Calculation of budget outturn	2018	2019	2020
Reserve from the previous year's surplus (+)	—	—	—
Revenue actually received (+)	44 296 113	47 459 449	54 762 442
Payments made (–)	–40 548 349	–42 800 419	–46 106 125
Carry-over of appropriations (–)	–5 839 674	–5 798 467	–8 137 815
Cancellation of appropriations carried over (+)	282 131	173 108	352 306
Adjustment for carry-over of assigned revenue appropriation from previous year (+)	2 145 425	1 161 381	725 157
Exchange rate differences (+/–)	–6 586	–407	–2 168
Adjustment for negative balance from previous year (–)	0	0	0
Total	**329 060**	**194 645**	**1 593 797**

Budget outturn

For the calculation of the budget outturn, the following parameters are considered. The revenue entered in the accounts is the amount actually received during the course of the year. For the purposes of calculating the budget result for the year, expenditure comprises payments made against the year's appropriations plus any of the appropriations for that year that are carried over to the following year. Payments made against the year's appropriations means payments that are made by the accounting officer by 31 December of the financial year.

The following are added to or deducted from the resulting figure: the net balance of cancellations of payment appropriations carried over from previous years and any payments that, because of fluctuations in the euro rate, exceed non-differentiated appropriations carried over from the previous year, and the balance of exchange-rate gains and losses recorded during the year.

Payment appropriations carried over include automatic carry-overs and carry-overs by decision. The cancellation of unused payment appropriations carried over from the previous year shows the cancellations of appropriations carried over automatically and by decision. It also includes the decrease in assigned revenue appropriations carried over to the next year in comparison with the previous year.

From the total of EUR 1 593 797 representing the budget outturn to be reimbursed to the Commission in 2021, EUR 1 101 268 represents the unspent portion of EU advance for the new fee funded activities under the ESAs' review (supervision of benchmarks and data reporting service providers), which were inscribed on 'hours-budget' line, outside the C1 fund source.

C1 cancelled appropriations

ESMA uses non-differentiated appropriations for its C1 credits. In 2020, the total amount of appropriations inscribed as C1 funds that were not used at the end of the year equalled EUR 507 392 (1 % of the total C1 budget), of which title I represented EUR 77 882 (15 %), title II represented EUR 172 229 (34 %) and title III represented EUR 257 281 (51 %).

C8 cancelled appropriations

In 2020, ESMA cancelled EUR 352 306 (7 %) of the total of C8 credits (EUR 5 073 310) carried over from the previous financial year.

The main reasons for the unused appropriations were the following.

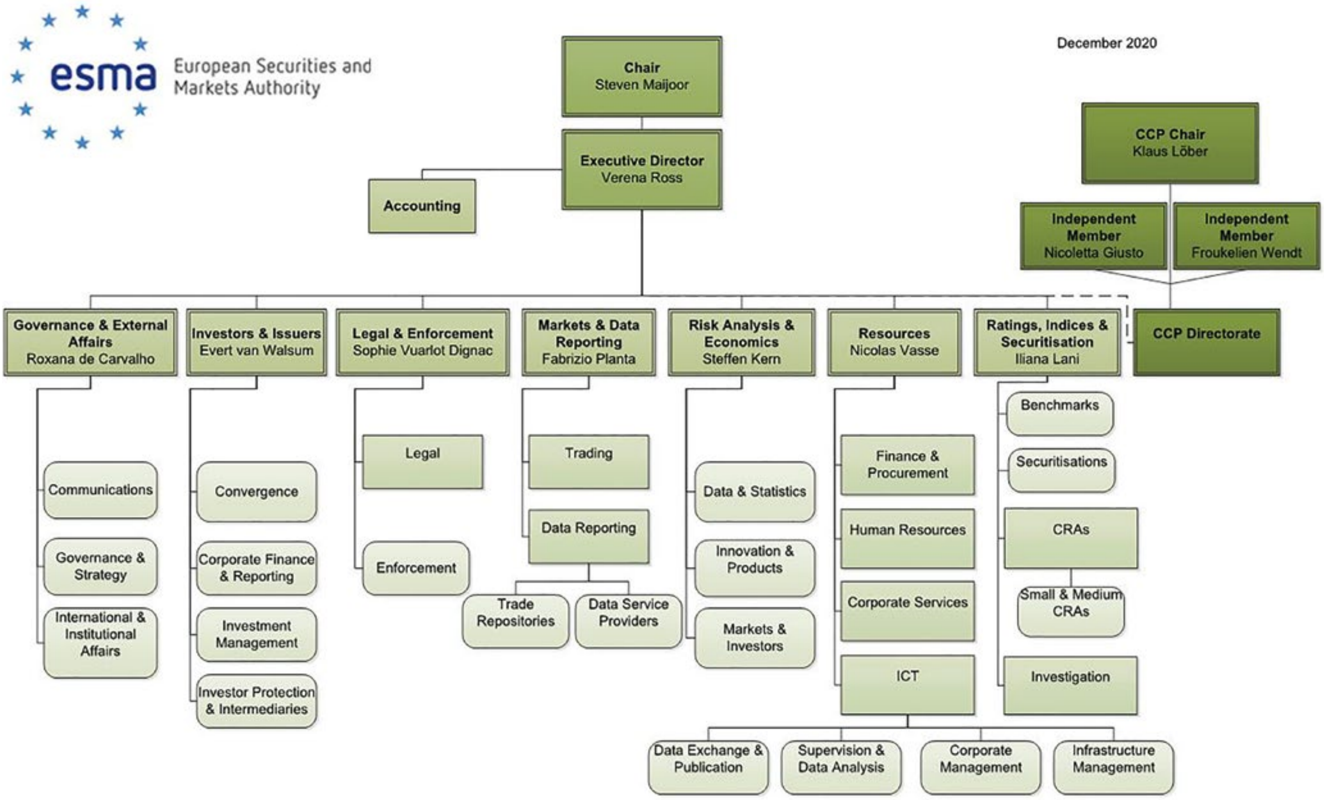
ESMA cancelled EUR 85 000 due to the need for a reserve for covering the cost of the last charges and works of the landlord in ESMA's previous headquarters.

ESMA cancelled EUR 39 000 linked to complex ICT projects with a multiannual nature.

EUR 23 000 of deductions were applied by the Translation Centre for the Bodies of the EU in the final 2020 invoices for translation costs.

The remaining EUR 205 000 of cancellations were very low value and were the result of other factors not possible to plan precisely (including the COVID-19 outbreak; e.g. the non-reimbursement of missions, meetings, recruitment expenses, medical services, canteen expenses).

ANNEX III – Organisational chart (31 December 2020)



ANNEX IV – Establishment plan and benchmarking exercise

ESMA's staff population in 2020 (all categories of staff)

Staff population		Headcounts as of 31.12.2019	Headcounts as of 31.12.2020
Officials	ADs	—	—
	ASTs	—	—
	AST/SCs	—	—
TAs	ADs	146	164
	ASTs	9	8
	AST/SCs	—	—
Total TAs		**155**	**172**
CAs FG IV		45	45
CAs FG III		23	23
CAs FG II		—	—
CAs FG I		—	—
Total CAs		**68**	**68**
SNEs		10	10
Total		**233**	**250**

AD, administrator; AST, assistant; FG, function group; AST/SC, assistant-secretaries.

ESMA’s establishment plan for 2020 (TAs)

Category and grade	Establishment plan in EU budget for 2020	Filled as of 31 December 2020
AD16	2	2
AD15	3	3
AD14	6	—
AD13	3	—
AD12	7	5
AD11	14	5
AD10	17	10
AD9	39	38
AD8	30	25
AD7	57	27
AD6	10	18
AD5	32	31
Total ADs	**214**	**164**
AST11	—	—
AST10	—	—
AST9	—	—
AST8	2	—
AST7	3	—
AST6	3	—
AST5	3	5
AST4	1	2
AST3	1	—
AST2	—	—
AST1	—	1
Total ASTs	**12**	**8**

Category and grade	Establishment plan in EU budget for 2020	Filled as of 31 December 2020
AST/SC6	—	—
AST/SC5	—	—
AST/SC4	—	—
AST/SC3	—	—
AST/SC2	—	—
AST/SC1	—	—
Total AST/SCs	**0**	**0**
Total	**226**	**172**

AD, administrator; AST, assistant; AST/SC, assistant-secretaries.

Benchmarking against previous year results [38]

The table below outlines the results of the sixth job-screening exercise conducted in ESMA and in all EU regulatory agencies. The exercise is based on Articles 29(3) and 38(1) of the framework financial regulation. The methodology was designed by a working group including representatives from different EU agencies (including ESMA) and from the Commission (the Secretariat-General, the Directorate-General for Budget and the Directorate-General for Human Resources and Security). It was generated as an adaptation, refinement and clarification of the Commission job-screening methodology, which the Commission had been implementing for several years.

(**38**) Reference date: 31 December 2019.

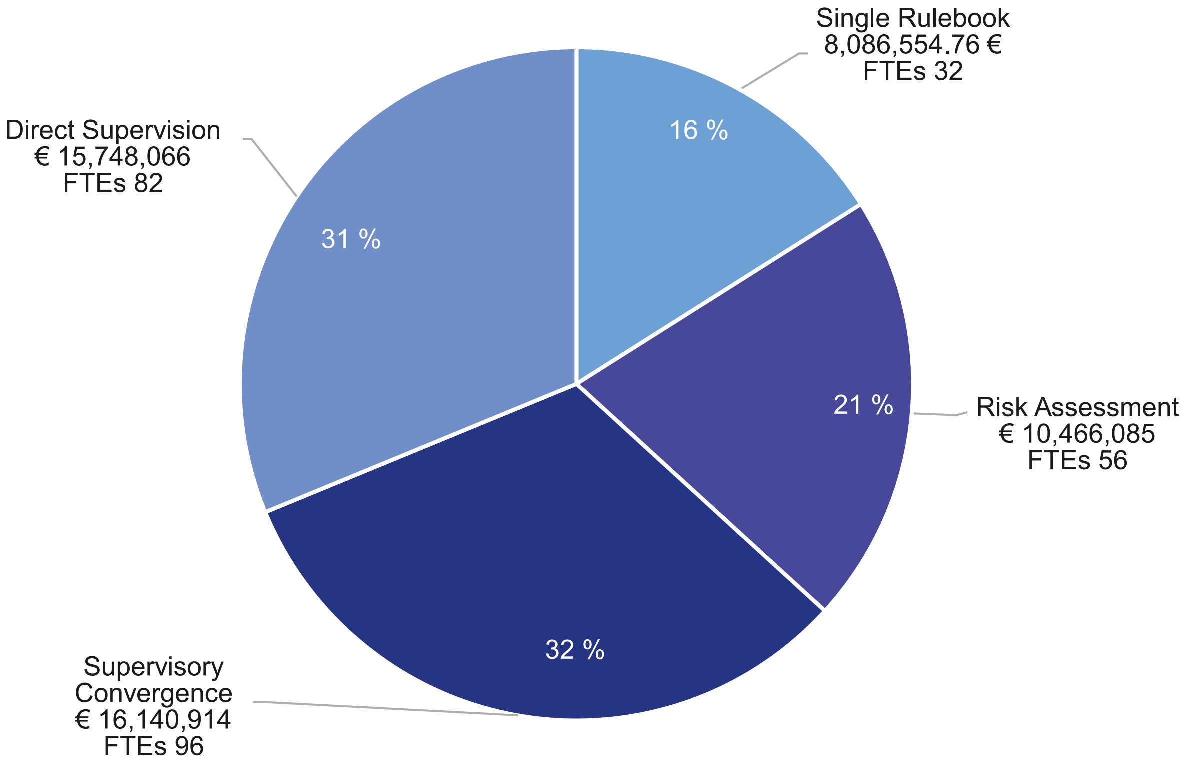
Job type (sub)category	2019 (%)	2020 (*) (%)
Administrative support and coordination	**18.5**	**20.2**
Administrative support	13.6	13.5
Coordination	4.9	6.7

Job type (sub)category	2019 (%)	2020 (*) (%)
Operational	**76.9** (*)	**75.3**
General operational activities	9.8	10.3
Programme management and implementation	60.5	57.1
Top operational coordination	2.1	3.5
Evaluation and impact assessment	4.5	4.5
Neutral	**4.5**	**4.5**
Accounting, finance, non-operational procurement, contract management and quality management, internal audit and control	4.5	4.5
Linguistic activities	0	0

(*) Reference date: 31 December 2020.
(**) Totals may not add up to 100 % due to rounding.

ANNEX V – Human and financial resources by activity

The total costs for 2020 amount to **EUR 50 441 620**, with **244** internal full-time equivalents (FTEs) (TAs, CAs and SNEs), excluding EUR 2 622 384 and 6 FTEs for delegated projects.



ANNEX VI – Contribution, grant and service level agreements

The table below lists the service level agreements in place.

Entity	Services
Directorate-General for Informatics (DG DIGIT)	Global service level agreement (SLA) for digital services (IT hosting of the ABAC system, e-Prior services, IT procurement, cloud brokering services, IT assets, ABAC assets, content management systems (CMS) services)
Translation Centre for the Bodies of the (EUCDT)	Translation services
Directorate-General for Human Resources (DG HR and Security)	HR services (learning and development, health and well-being)
European Food Safety Authority (EFSA)	Interagency cost-sharing agreement (shared support office)
Computer Emergency Response Team (CERT-EU)	IT security support
EU Publications Office	Production of the general publications of ESMA and related services
Paymaster Office (PMO)	Services provided by the PMO on the basis of the staff regulations General assistance to ESMA and the provision of PMO's IT applications
ERA	Accounting officer
European Union Aviation Safety Agency (EASA)	EASA interagency permanent secretariat (administrative, operational and secretarial support)
Directorate-General for Budget	Use of ABAC and ABAC-data warehouse (DWH) data extraction
European Personnel Selection Office (EPSO)–European School of Administration (EUSA)	EPSO – provision of staff recruitment-related services to ensure transparency and standardisation of selection procedures EUSA – training services
European Commission	Medical services (pre-recruitment medical examinations and other medical services)

ANNEX VII – Environmental management

In line with its environmental commitments in its strategic orientation for 2020–2022, ESMA is putting in place an environmental management system and is working towards being registered with the EU Eco-Management and Audit Scheme (EMAS). It conducted an environmental review to determine its significant environmental aspects and to ensure compliance with EU, as well as the applicable national and local, environmental requirements. ESMA's environmental policy, adopted on 13 June 2017, sets out the following objectives to reduce the environmental impact of its work and to improve its environmental performance:

- minimise the consumption of energy, water, paper and other resources;
- encourage the prevention of waste and environmental pollution by maximising the recycling and reuse of items and by optimising their disposal;
- take the necessary measures to reduce carbon dioxide emissions and minimise the impact of mobility and travel;
- comply with relevant environmental legislation, administrative regulations and other requirements.

To achieve these engagements, ESMA has been working with its staff and suppliers to reduce waste, improve recycling and reduce travel (e.g. by making better use of technology to work towards a paperless office and to make greater use of video conferencing). ESMA has the ambition to become a paperless supervisor by 2025. By that time, ESMA's internal process will be paperless and ESMA will have no paper-based communication with its supervised entities or with NCAs. In addition, ESMA's new premises (from 2019) have high environmental quality certification, which is France's standard for green buildings, based on the principles of sustainable development, for its construction, conception and operation. The remote working imposed during a large part of 2020 led to an improvement in several key environmental indicators such as paper recycling (7.8 tons of paper recycled in 2020 versus 21.9 tons in 2019) and missions (an 83 % decrease compared with 2019).

The measurement and monitoring of impacts or the progress towards the achievement of goals is done through a KPI control panel that is set by ESMA's management.

Following the move to its new premises at the end of 2019, ESMA adjusted its environmental KPI control panel.

Although the project to achieve EMAS registration needed to be deprioritised during 2020 in order to concentrate resources on work relating to the COVID-19 pandemic, the next steps will be to finalise the implementation of the environmental management system and achieve EMAS registration to ensure that continuous progress is achieved towards ESMA's environmental objectives. During 2020, ESMA also worked on how to continue the use of remote meetings past the pandemic to maintain the related reduction in travel and the associated environmental benefits.

ANNEX VIII – ESMA's boards and standing committees

The ultimate decision-making body of ESMA is the Board of Supervisors, whereas the Management Board ensures that the Authority carries out its mission and performs the tasks assigned to it.

ESMA's boards and their 2020 composition

Members of the Management Board as of 31 December 2020

Member	Authority	Country
Steven Maijoor	ESMA (Chair)	
Gabriela Figueiredo Dias	Comissão do Mercado de Valores Mobiliários (CMVM)	Portugal
Robert Ophèle	Autorité des Marchés Financiers (AMF)	France
Elisabeth Roegele	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany
Derville Rowland	Central Bank of Ireland	Ireland
Erik Thedéen	Finansinspektionen (FI)	Sweden
Vacant		
Anneli Tuominen	ESMA Vice-Chair (observer)	
Ugo Bassi	European Commission (non-voting member)	EU
Verena Ross	ESMA Executive Director (non-voting member)	

New members of the Management Board as of January 2021

Member	Authority	Country
Vojtech Belling	Česká národní banka (CNB)	Czechia
Vasiliki Lazarakou	Ελληνική Επιτροπή Κεφαλαιαγοράς/Hellenic Capital Markets Commission (HCMC)	Greece
Magdalena Lapsa Parczewska	Komisja Nadzoru Finansowego (KNF)	Poland

Members of the Board of Supervisors as of 31 December 2020

Member	Authority	Country
Steven Maijoor	ESMA (Chair)	
Jean-Paul Servais	Financial Services and Markets Authority (FSMA)	Belgium
Mariya Filipova	Комисията за финансов надзор (FSC)	Bulgaria
Vojtěch Belling	Česká národní banka (CNB)	Czechia
Karen Dortea Abelskov	Finanstilsynet	Denmark
Elisabeth Roegele	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany
Andre Nõmm	Finantsinspektsioon (EFSRA)	Estonia
Derville Rowland	Central Bank of Ireland	Ireland
Vasiliki Lazarakou	Ελληνική Επιτροπή Κεφαλαιαγοράς (HCMC)	Greece
Rodrigo Buenaventura Canino	Comisión Nacional del Mercado de Valores (CNMV)	Spain
Robert Ophèle	Autorité des Marchés Financiers (AMF)	France
Ante Žigman	Hrvatska agencija za nadzor financijskih usluga (HANFA)	Croatia
Paolo Savona	Commissione Nazionale per le Società e la Borsa (CONSOB)	Italy
Demetra Kalogerou	Επιτροπή Κεφαλαιαγοράς Κύπρου (CySEC)	Cyprus
Santa Purgaile	Finanšu un kapitāla tirgus komisija (FKTK)	Latvia
Vaidas Cibas	Lietuvos Bankas	Lithuania
Claude Marx	Commission de Surveillance du Secteur Financier (CSSF)	Luxembourg
Gergő Szeniczey	Magyar Nemzeti Bank (MNB)	Hungary
Christopher Buttigieg	Malta Financial Services Authority (MFSA)	Malta
Laura Van Geest	Autoriteit Financiële Markten (AFM)	Netherlands
Eduard Muller	Finanzmarktaufsicht (FMA)	Austria
Magdalena Łapsa-Parczewska	Komisja Nadzoru Finansowego (KNF)	Poland
Gabriela Figueiredo Dias	Comissão do Mercado de Valores Mobiliários (CMVM)	Portugal

Member	Authority	Country
Gabriel Gradinescu	Autoritatea de Supraveghere Financiară (ASF)	Romania
Miloš Čas	Agencija za trg vrednostnih papirjev (ATVP)	Slovenia
Peter Tkac	Národná Banka Slovenska (NBS)	Slovakia
Anneli Tuominen	Finanssivalvonta (FIN-FSA)	Finland
Erik Thedéen	Finansinspektionen (FI)	Sweden

Non-voting members of the Board of Supervisors as of 31 December 2020

Name	Authority	Country
Unnur Gunnarsdóttir	Fjármálaeftirlitið (FME)	Iceland
Marcel Lötscher	Finanzmarktaufsicht (FMA)	Liechtenstein
Anne Merethe Bellamy	Finanstilsynet	Norway
François-Louis Michaud	European Banking Authority (EBA)	EU
Fausto Parente	European Insurance and Occupational Pensions Authority (EIOPA)	EU
Francesco Mazzaferro	European Systemic Risk Board (ESRB)	EU
Ugo Bassi	European Commission	EU
Frank Buchel	European Free Trade Association (EFTA Surveillance Authority)	EFTA

Standing committees and working groups

Much of ESMA's work is supported by standing committees, working groups and task forces, which draw together senior experts. The different ESMA standing committees are established on a permanent basis. Each committee is chaired by a board member and supported by a member of ESMA staff as a rapporteur. Many standing committees also have consultative working groups made up of external stakeholder representatives.

ESMA's standing committees prepare the technical work on all areas of ESMA's activities.

The table below sets out ESMA's standing committees; more details can be found on ESMA's website (www.esma.europa.eu), including the mandates of each standing committee.

Name of standing committee	Chair
CCP Policy Committee	Klaus Löber, ESMA
CCP Supervisory Committee	Klaus Löber, ESMA
Committee of Economic and Markets Analysis	Carmine Di Noia, CONSOB, Italy

Name of standing committee	Chair
Corporate Finance Standing Committee	Benoit de Juvigny, AMF, France
Corporate Reporting Standing Committee	Vacant
Data Standing Committee	Christopher Buttigieg, MFSA, Malta
Financial Innovation Standing Committee	Birgit Puck, FMA, Austria
Investment Management Standing Committee	Gabriela Figueiredo Dias, CMVM, Portugal
Investor Protection and Intermediaries Standing Committee	Vacant
IT Management and Governance Technical Committee	Nicolas Vasse, ESMA
Market Integrity Standing Committee	Elisabeth Roegele, BaFin, Germany
Post-Trading Standing Committee	Carmine Di Noia, CONSOB, Italy
Secondary Markets Standing Committee	Robert Ophèle, AMF, France
Supervisory Convergence Standing Committee	Jos Heuvelman, AFM, Netherlands

Name of advisory committee	Chair
Advisory Committee on Proportionality	Magdalena Łapsa-Parczewska, KNF, Poland

ANNEX IX – 2020 provisional annual accounts

The 2020 annual accounts of ESMA are produced in accordance with its financial regulation; they are adopted by ESMA's Management Board and Board of Supervisors and are published on ESMA's website.

Disclaimer: please note, the annual accounts are provisional at the date of establishment of the annual report awaiting observations of the external auditor of ESMA.

Balance sheet

	31.12.2020	31.12.2019
A. NON-CURRENT ASSETS		
Intangible assets	**4 086 735**	**5 149 755**
Property, plant and equipment	**5 476 237**	**6 035 420**
Land and buildings	0	0
Plant and equipment	222	350
Computer hardware	340 346	291 654
Furniture	440 642	420 664
Other fixtures and fittings	4 695 027	5 322 752
Long-term receivables and recoverables	**0**	**0**
TOTAL NON-CURRENT ASSETS	**9 562 972**	**11 185 175**
B. CURRENT ASSETS		
Exchange receivables and recoverables	**2 868 147**	**523 147**
Current receivables	984 001	0
Deferred charges	1 829 467	501 940
Accrued income	495	0
Sundry receivables	54 184	21 208
Non-exchange receivables and recoverables	**330 204**	**315 556**
Current receivables – Member States	328 547	313 455
Other receivables with consolidated entities	1 657	2 101
Cash and cash equivalents	**11 420 188**	**6 261 957**
TOTAL CURRENT ASSETS	**14 618 539**	**7 100 660**
TOTAL ASSETS	**24 181 511**	**18 285 835**

	31.12.2020	31.12.2019
A. NET ASSETS	**7 961 792**	**4 950 938**
Accumulated surplus/deficit	4 950 938	6 898 836
Accrual result of the year – profit (+) / loss (–)	3 010 854	–1 947 898
B. NON-CURRENT LIABILITIES	**0**	**0**
C. CURRENT LIABILITIES	**16 219 719**	**13 334 897**
Current provisions	**0**	**0**
Accounts payable	**4 429 918**	**438 292**
Current payables – vendors	1 330 679	101 757
Current payables with consolidated entities	11 353	134 165
Sundry payables	640 000	0
Sundry payables with consolidated entities	1 709	7 724
Pre-financing received from consolidated entities (European Commission) – budget outturn 2020	1 593 797	194 645
EU advance for EMIR 2.2 to be reimbursed to the European Commission	852 380	0
Accrued charges and deferred income	**11 789 801**	**12 896 605**
TOTAL LIABILITIES	**24 181 511**	**18 285 835**

Statement of financial performance

	2020	2019
Non-exchange revenue	**36 989 498**	**33 635 704**
Revenue from consolidated European Commission entities	**15 369 063**	**13 488 856**
Contributions – NCAs	**21 620 435**	**20 146 848**
Contributions – Member State NCAs	21 215 167	19 659 349
Contributions – non-Member State NCAs	602 704	558 504
Deduction surplus	–197 436	–71 005

	2020	2019
Exchange revenue	**17 978 519**	**14 985 630**
Exchange revenue – fees from supervised entities	**14 708 779**	**11 527 275**
CRA fees	9 645 966	8 867 936
TR fees	2 713 483	2 459 339
SFTR fees	466 710	200 000
Third-country CCP fees	1 717 620	0
STS fees	165 000	0
Contributions – NCAs	**3 180 568**	**3 445 976**
Contributions – NCAs' IT-delegated projects	1 748 539	2 048 634
Deferred income – NCAs' IT-delegated projects	1 432 029	1 397 342
Other exchange revenue	**89 172**	**12 379**
Other administrative revenue	86 829	12 357
Exchange rate differences gains	2 343	22
TOTAL OPERATING REVENUE	**54 968 017**	**48 621 334**
Administrative expenses	**–51 354 310**	**–49 644 153**
Staff expenses	–29 999 623	–26 859 878
Staff expenses with other consolidated entities	–227 289	–232 239
Fixed asset related expenses	–3 013 236	–4 433 118
Other administrative expenses	–18 114 162	–18 118 917
Operational expenses	**–557 975**	**–918 238**
Other operational expenses	–557 975	–918 238
TOTAL OPERATING EXPENSES	**–51 912 285**	**–50 562 391**
SURPLUS/(DEFICIT) FROM OPERATING ACTIVITIES	**3 055 732**	**–1 941 057**
Financial revenues	495	0
Financial expenses	–45 373	–6 841
SURPLUS/(DEFICIT) FROM NON-OPERATING ACTIVITIES	**–44 878**	**–6 841**
ECONOMIC RESULT OF THE YEAR	**3 010 854**	**–1 947 898**

Cash flow statement

Cash flows from ordinary activities	2020	2019
Economic result of the year	**3 010 854**	**–1 947 898**
Operating activities		
Amortisation (intangible fixed assets)	2 082 692	3 327 369
Depreciation (tangible fixed assets)	904 259	718 333
Increase/(decrease) in provisions for risks and liabilities	0	–400 000
Increase/(decrease) in value reduction for doubtful debts	0	0
(Increase)/decrease in stock	0	0
(Increase)/decrease in long-term pre-financing	0	0
(Increase)/decrease in short-term pre-financing	0	0
(Increase)/decrease in long-term receivables	0	0
(Increase)/decrease in short-term receivables	–2 359 647	1 254 755
(Increase)/decrease in receivables related to consolidated European Commission entities	0	0
Increase/(decrease) in other long-term liabilities	0	0
Increase/(decrease) in accounts payable	1 614 499	2 955 998
Increase/(decrease) in liabilities related to consolidated European Commission entities	1 270 324	–7 488
(Gains)/losses on sale of property, plant and equipment		
Net cash flow from operating activities	**3 512 126**	**7 848 967**
Cash flows from investing activities		
Increase of tangible and intangible fixed assets	–1 398 516	–6 829 042
Proceeds from tangible and intangible fixed assets	33 768	387 416
Net cash flow from investing activities	**–1 364 748**	**–6 441 626**
Increase/(decrease) in employee benefits	**0**	**0**
Net increase/(decrease) in cash and cash equivalents	5 158 232	–587 557
Cash and cash equivalents at the beginning of the period	**6 261 957**	**6 849 514**
Cash and cash equivalents at the end of the period	**11 420 188**	**6 261 957**

Statement of changes in net assets

Capital	Reserves		Accumulated surplus/deficit	Economic result of the year	Net assets (total)
	Fair value reserve	Other reserves			
Balance as of 31 December 2019	**0**	**0**	**6 898 836**	**–1 947 898**	**4 950 838**
Changes in accounting policies	**0**	**0**	**0**	**0**	**0**
Balance as of 1 January 2020 (if restated)	**0**	**0**	**6 898 836**	**–1 947 898**	**4 950 838**
Allocation of the economic result of the previous year	0	0	–1 947 898	1 947 898	**0**
Economic result of the year	0	0	0	3 010 854	**3 010 854**
Balance as of 31 December 2020	**0**	**0**	**4 950 838**	**2 898 637**	**7 961 792**

ANNEX X – Overview of the activities of the Securities and Markets Stakeholder Group

The SMSG was established under the ESMA regulation to facilitate consultation with stakeholders in areas relevant to ESMA's tasks. In 2020, the membership of the SMSG changed and a new group began its term on 1 July 2020 (see also Section 1.2). In 2020, the SMSG held five meetings, four of which were shorter than usual owing to them being held online and one of which was held together with the ESMA Board of Supervisors.

The rules of procedure of the SMSG ([39]) require ESMA to include in its annual report an overview of the activities of the group, including a summary of any reports and other advice it has formulated over the course of the given year. During 2020, the SMSG, in its two formations, produced the following advice and reports. These were either in response to a consultation launched by ESMA or were as a result of the group's own initiative. All these documents are available on ESMA's website ([40]).

Response to the ESAs' joint consultation paper concerning amendments to the PRIIPs KID, 13 January 2020, ESMA22-106-2077 (rapporteur: Giovanni Petrella);

Response to ESMA's consultation paper concerning MIFIR transparency regime for equity, 23 March 2020, ESMA22-106-2354 (rapporteur: Kerstin Hermansson);

Response to ESMA's consultation paper concerning MiFIR report on systematic internalisers, 23 March 2020, ESMA 22-106-2355 (rapporteur: Kerstin Hermansson);

Own initiative report on measures relating to the COVID-19 crisis, 20 March 2020, ESMA22-106-2149 (rapporteur: Veerle Colaert);

SMSG response to ESMA's consultation paper on draft technical standards on the provision of investment services and activities in the Union by third-county firms under MIFID II and MIFIR, 28 April 2020, ESMA 22-106-2365 (rapporteurs: Ignacio Santillan and Kerstin Hermansson);

Advice to ESMA – 2021–22 peer review work plan, 8 June 2020, ESMA22-106-2273 (rapporteur: Veerle Colaert);

Own initiative SMSG report II on COVID-19-related issues, 29 June 2020, ESMA22-106-2738 (rapporteur: Rainer Riess);

SMSG – End of term report 2020, 29 June 2020, ESMA22-105-2740 (rapporteurs: Veerle Colaert, Rainer Riess and Christiane Hölz);

Advice to ESMA – ESMA draft 2021 annual work programme, 31 July 2020, ESMA22-106-2819 (rapporteur: Veerle Colaert);

SMSG advice to the ESAs' joint consultation paper on ESG disclosures, 14 September 2020, ESMA22-106-2858 (rapporteur: Chris Vervliet);

SMSG advice on the ESAs' survey on templates for environmental and/or social financial products under SFDR, 23 October 2020, ESMA22-106-2993 (rapporteur: Veerle Colaert);

SMSG response to ESMA's consultation on the draft advice to the European Commission under Article 8 of the taxonomy regulation, 16 December 2020, ESMA22-106-3050 (rapporteur: Florence Bindelle);

SMSG advice to ESMA on its consultation paper on guidelines on the MiFID II/MiFIR obligations on market data, 11 January 2021, updated 9 February 2021, ESM22-106-3087 (rapporteur: Rainer Riess).

SMSG meetings typically start with discussions on recent market developments and supervisory convergence. Such discussions allow the SMSG to highlight to ESMA and exchange views on topics of general interest in the securities markets and related areas. The presentations given at these meetings were on topics such as the following in 2020:

artificial intelligence and cloud developments (given by Andreas Gustafsson);

(**39**) https://www.esma.europa.eu/sites/default/files/library/esma22-106-2371_smsg_rules_of_procedure_2020.pdf

(**40**) https://www.esma.europa.eu/databases-library/esma-library?f%5B0%5D=im_esma_sections%3A9 the results of a study on inducements (given by Jasper de Meyer);

the actions needed in the light of the COVID-19 pandemic (several presentations given by SMSG members);

research on long-term and pension savings returns (given by Guillaume Prache);

the German legal framework for digital securities (given by Christiane Hölz);

a research paper on the impact of MiFID II on research unbundling (given by Giovanni Petrella);

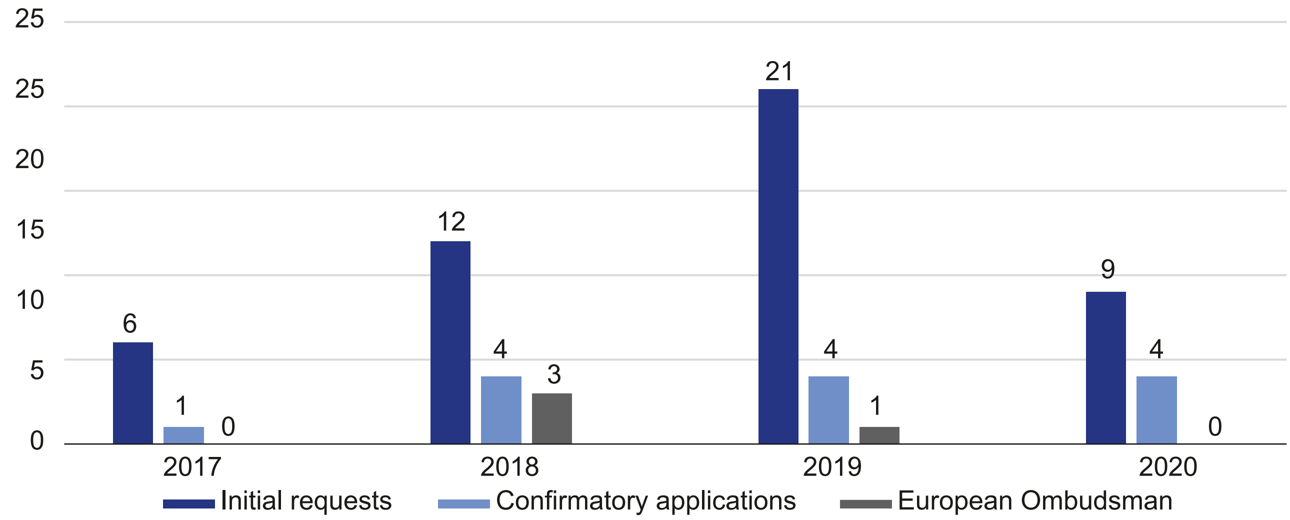
a report on the 2020 virtual shareholder meetings in Europe (given by Guillaume Prache).

ANNEX XI – Access to document requests in 2020

Owing to its core areas of expertise, the legal unit receives a number of requests for access to documents pursuant to Regulation (EC) No 1049/2001. This legislative text creates a system whereby applicants may request access to documents drawn up and received by an EU institution, body or agency. Its objective is to provide EU citizens with the widest possible access to documents.

In 2020, ESMA received nine requests for access to documents and four confirmatory applications, which was a decrease compared with the previous year, as shown in the figure below. ESMA granted access on seven occasions (full access on four occasions and partial access on three occasions) and on only two occasions was access to the requested documents refused.

Historical evolution of cases related to Access to Documents



On three occasions so far, one of which was in 2019, ESMA's refusal to grant access to the documents requested gave rise to a complaint and further proceedings before the European Ombudsman. In 2020, there were no such complaints.

ANNEX IIX – Abbreviations

ABAC	accrual-based accounting
AFM	Autoriteit Financiële Markten
AIF	alternative investment fund
AIFMD	alternative investment fund managers directive
AMF	Autorité des marchés financiers
AML/CFT	anti-money laundering and countering the financing of terrorism
AMP	accepted market practice
APM	alternative performance measure
ASR	annual statistical report
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht
BMR	benchmarks regulation
CA	contract agent
CB	central bank
CCP	central counterparty
CLO	collateralised loan obligation
CMU	capital markets union
CMVM	Comissão do Mercado de Valores Mobiliários
CNB	Česká národní banka
CNMV	Comisión Nacional del Mercado de Valores
CoI	conflict of interest
CONSOB	Commissione Nazionale per le Società e la Borsa
COSO	Committee of Sponsoring Organisations of the Treadway Commission
CRA	credit-rating agency
CSA	common supervisory action
CSD	central securities depository
CSDR	central securities depositories regulation
DTO	derivatives trading obligation
EBA	European Banking Authority
ECA	European Court of Auditors
EDPS	European Data Protection Supervisor

EEA	European Economic Area
EECS	European Enforcers Coordination Sessions
EFIF	European Forum for Innovation Facilitators
EFRAG	European Financial Reporting Advisory Group
EFTA	European Free Trade Association
EIOPA	European Insurance and Occupational Pensions Authority
EMAS	Eco-Management and Audit Scheme
EMIR	European market infrastructure regulation
ERA	EU Agency for Railways
ESAs	European Supervisory Authorities
ESEF	European single electronic format
ESFS	European system of financial supervision
ESG	environmental, social and governance
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
ETD	exchange-traded derivative
EUI	Euroclear UK & Ireland Limited
FCA	UK Financial Conduct Authority
FI	Finansinspektionen
FIRDS	financial instruments reference data system
FITRS	financial instruments transparency system
FMA	Finanzmarktaufsicht
FRANDT	fair, reasonable, non-discriminatory and transparent
FREP	Financial Reporting Enforcement Panel
FSB	Financial Stability Board
FSEG	Financial Stability Engagement Group
FSMA	Financial Services and Markets Authority
FTE	full-time equivalent
GBS	green bond standard
HCMC	Hellenic Capital Market Commission
HR	human resources
IAS	Internal Audit Service

IAS [No]	International Accounting Standard
IASB	International Accounting Standards Board
ICT	information and communication technology
IFRS	International Financial Reporting Standard(s)
IFRS IC	IFRS Interpretations Committee
IOSCO	International Organization of Securities Commissions
ISIN	international securities identification number
ISO	International Organization for Standardization
IT	information technology
ITS	implementing technical standards
KID	key information document
KNF	Komisja Nadzoru Finansowego
KPI	key performance indicator
LEI	legal entity identifier
MAR	market abuse regulation
MFSA	Malta Financial Services Authority
MiFID	markets in financial instruments directive
MiFIR	markets in financial instruments regulation
MMF	money market fund
MMFR	money market fund regulation
MoU	memorandum of understanding
NCA	national competent authority
NFRD	non-financial reporting directive
OLAF	European Anti-Fraud Office
OTC	over the counter
PRIIP	packaged retail and insurance-based investment product
Q&A	question and answer
RTS	regulatory technical standards
SCN	Supervisory Coordination Network
SFDR	sustainable finance disclosure regulation
SFT	securities financing transaction
SFTR	securities financing transactions regulation

SMEs	small and medium-sized enterprises
SMSG	Securities and Markets Stakeholder Group
SNE	seconded national expert
STO	share trading obligation
STS	simple, transparent and standardised
SupTech	supervisory technology
TA	temporary agent
TR	trade repository
TRV	trends, risks and vulnerabilities
UCITS	undertakings for collective investment in transferable securities
USSP	Union strategic supervisory priority
VPN	virtual private network

European Securities and
Markets Authority

EK-AA-21-001-EN-C

Publications Office
of the European Union

ISBN 978-92-95202-48-1
doi:10.2856/249343