



SPOTLIGHT ON MARKETS

OCTOBER 2022 N°39

ESG DISCLOSURES BECOMES A STRATEGIC SUPERVISORY PRIORITY

Key ESMA work from the past year - Chair's Statement
at the European Parliament

ESMA temporarily amends CCP collateral requirements

ACER - ESMA cooperation

ESG DISCLOSURES AS A NEW USSP

ESMA is changing its Union Strategic Supervisory Priorities to include ESG disclosures alongside market data quality. The new priority of ESG disclosures represents an important step in the implementation of the ESMA Strategy.

PUBLICATIONS

Your one-stop-shop information source in the world of EU financial markets brings together the latest reports, proposals and statements.

THE MONTH AHEAD

The speaking appearances of ESMA staff in November cover topics like Supervisory, Investment Management and Sustainable Finance.

IN THIS ISSUE

ESMA is changing its [Union Strategic Supervisory Priorities](#) to include ESG disclosures alongside market data quality. The new priority represents an important step in the implementation of the ESMA Strategy, which gives a prominent role to sustainable finance.

ESMA, although an independent authority, is accountable to the European Parliament (EP) and the Council. In October, our Chair, Verena Ross, gave an overview of ESMA's recent activities at the EP. During her [opening statement](#), she underlined the need for fostering financial stability and ensuring efficient supervision in turbulent times. Details [here](#).

In addition, ESMA and ACER, the EU Agency for the Cooperation of Energy Regulators, strengthened their [cooperation](#) to further improve information exchange and avoid potential market abuse in the spot and derivatives markets in Europe by setting up a Joint Task Force.

ESMA also proposed temporary [amendments](#) of CCP collateral requirements to provide liquidity relief on energy derivatives markets. The draft regulatory technical standards expand for a period of 12 months the pool of CCP eligible collateral to uncollateralised bank guarantees.

Other major publications in October include the [withdrawal of the recognition decisions of six Indian CCPs](#), and the [Public Statement on European Common Enforcement Priorities](#).

Last, but equally important, ESMA has been recognised for its environmental management system under the European Eco-Management and Audit Scheme and ISO 14001. Details [here](#).

A full overview of all publications can be found in the newsletter, together with information on next month's speaking appearances of ESMA staff, consultations closing in January and vacancies.

For updates, follow us on [Twitter](#) and [LinkedIn](#).

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ESG DISCLOSURES BECOMES A STRATEGIC SUPERVISORY PRIORITY

The European Securities and Markets Authority (ESMA) is changing its Union Strategic Supervisory Priorities (USSPs) to include ESG disclosures alongside market data quality. The new priority of ESG disclosures replaces costs and performance for retail investment products and represents an important step in the implementation of the ESMA Strategy, which gives a prominent role to sustainable finance.

ESMA and the National Competent Authorities (NCAs) intend to accompany the growing demand for ESG-related financial products. We will foster transparency and comprehensibility of **ESG disclosures** across key segments of the sustainable finance value chain such as issuers, investment managers or investment firms and, hence tackle greenwashing.

In addition, ESMA aims to gradually promote an increased scrutiny on ESG disclosures through effective and consistent supervision. This also implies building supervisory capabilities to fully embed sustainable finance into daily supervisory work and supervisory culture. ESMA and the NCAs will therefore take active steps to protect investors and facilitate investments in a credible ESG market.

In the context of the second USSP, **market data quality**, ESMA has already developed and applied common methodologies and thematic reviews. Both ESMA and NCAs will continue to engage into further targeted and concerted supervisory work.

Regarding **costs and performance for retail investment products**, ESMA and the NCAs carried out extensive actions such as:

- Common Supervisory Action (CSA) on costs and fees under the UCITS framework;
- CSA on information on MiFID II costs and charges;
- Mystery shopping exercise (with some NCAs);
- CSA on MiFID II suitability requirements and product governance;
- Interpretative aids (Guidelines, Q&As);
- Draft regulations and technical advice; and
- Annual Statistical Report monitoring costs' performance.

The USSPs are an important tool through which ESMA coordinates supervisory action with NCAs on specific topics. The aim is to provide a structured and comprehensive response to address key market risks across the EU. NCAs are required to take these Priorities into account when drawing up their work programmes.

Next steps

ESMA and NCAs will continue working together in the areas of ESG disclosures and market data quality. At the same time, ESMA and NCAs will follow-up on the previous work, namely monitoring closely the evolution of costs as a key element for investors protection.

KEY ESMA WORK FROM THE PAST YEAR

CHAIR'S STATEMENT AT THE EUROPEAN PARLIAMENT



Verena Ross, ESMA Chair

Dear Chairwoman,

Dear Members of the Economic and Monetary Affairs Committee,

Thank you for the invitation to address you this afternoon. As is customary, I will be glad to provide you with a brief outline of ESMA's key work in the past months. However, please let me start by saying how honoured I am to appear before you for the first time as ESMA Chair.

In taking up my duties about one year ago, I knew that ESMA would have to face various challenges. At the same time, I was and remain convinced that ESMA has the strength and capability to manage through difficult times and has to, and is able to, play an important role in contributing to a sound system of European financial markets supervision.

The economic backdrop to the EU's financial markets has darkened, first with the pandemic (from which we saw a nascent recovery) and now the war in Ukraine.

Moreover, Russia's unprovoked military aggression on Ukraine, which is taking a devastating human toll, is testing our European values and unity.

Even though at ESMA we are aware of being a small organisation in the grand scheme of things, we are firmly committed to playing our role in the EU's overall response to the crisis and to continue to support the EU's efforts to build stronger EU capital markets, for the benefit of all.

That is why today I will focus my remarks on how ESMA has helped foster financial stability and ensure efficient supervision to cope with the recent market developments. I will also touch upon ESMA activities aimed at enhancing investor protection, in a context where European citizens and firms are struggling with higher prices but are also more sensitive to sustainability considerations.

Firstly, [regarding the war in Ukraine,] not only has ESMA been closely monitoring the impact of Russia's invasion on financial markets in coordination with NCAs. We have also issued guidance in key areas under our remit taking supervisory and coordinating actions to mitigate negative consequences.

As we are approaching what is likely to be a tough winter, the big issue which is now on everyone's minds is of course the energy crisis. While the root causes of rising energy prices are of geopolitical nature, the pain is already felt directly by many European citizens and companies.

ESMA's work in this field has focused on monitoring the degree of stress that some financial markets have been experiencing, and on recommending possible avenues to alleviate part of the strain, without bringing undesirable levels of risks into the EU financial system.

In this respect, at the request of the European Commission following President von der Leyen's latest speech on the state of the Union, we have drawn up a set of proposals aimed at taming some of the adverse consequences observed in the energy markets.

In order to contain excessive volatility and improve the overall functioning of commodities markets, we consider for instance that it could be useful to implement a new EU trading halt mechanism. If well calibrated, such a circuit breaker could support a more orderly price discovery process during times of extreme market stress, by giving participants sufficient time to digest information.

With regards to the substantial margin increases required by central counterparties to cover related exposures, our recommendations include extending the scope of assets that can be used as collateral, on a temporary basis and under strict conditions.

I want to emphasise that in general the quality of margins and their timely collection are fundamental characteristics of the resilience of CCPs. Margins have proven their worth since introduced following the Global Financial Crisis. Accordingly, we should ensure that any measures we take do not transfer risk from the energy sector into the financial sector.

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As we are approaching what is likely to be a tough winter, the big issue which is now on everyone's minds is of course the energy crisis. While the root causes of rising energy prices are of geopolitical nature, the pain is already felt directly by many European citizens and companies. More broadly, we would see merit in improving regulatory reporting on commodity derivatives trading by providing EU regulators with better visibility on transactions and daily positions involving wholesale energy products such as gas and electricity. They for now escape the MiFID II and EMIR transparency requirements, as they do not qualify as financial instruments.

Finally, we would consider it appropriate to have commodity traders that act like investment firms properly regulated and supervised, by ensuring that the entities with the biggest footprint on financial markets are duly subject to the same stringent requirements laid out in financial regulation.

Honourable Members of the European Parliament, as we continue to navigate geopolitical challenges, we should always think about ways to enhance the resiliency, efficiency, and transparency of our capital markets. What additional tools, competencies, and data do supervisors need to do their job? Which rules may we need to meet the promises and challenges of technological innovation and to support the Union's necessary shift towards a more sustainable model?

In an environment marked by soaring inflation, keeping the retail investor perspective in mind when answering these questions is of the essence.

Ensuring that retail investors are provided with clear and reliable information as well as with unbiased investment advice has always been core to ESMA's mandate. In the last year, we have conducted significant work and delivered detailed recommendations in support of improved disclosure requirements.

For instance, we have carried out a common supervisory action on costs and fees for UCITS funds across the single market with the NCAs to assess, foster and enforce the compliance with fundamental cost-related provisions in the EU framework. This thorough exercise demonstrated that there was room for improvement on the supervisory side, showed that some asset managers tended to over-rely on delegated portfolio managers for the pricing of the fund, and stressed the importance of ensuring fair compensation to retail investors charged with inappropriate costs and fees.

By proposing to establish the European Single Access Point and a consolidated tape, the European Commission has already shown its commitment to putting investors' information needs at the heart of the Capital Markets Union. I am confident that you, as legislators, will give ESMA the appropriate powers to do what is necessary, so that we can ultimately ease access to information and improve market transparency.

I also trust that you – like us – will be keen to see the European Commission putting forward an ambitious retail investment strategy. As part of this, we believe there is a need to initiate a broader review of the PRIIPs Regulation to resolve long-standing issues regarding for example performance information in the PRIIPs KID. ESMA also issued a report covering disclosures, digital tools & channels as part of our contribution to the retail investment review. We have notably proposed to define minimum 'vital information' that retail investors need to be able to make informed decisions. We also suggested ways to harness the opportunities offered by digital tools, such as using so-called 'layering techniques' to gradually provide investors with the information they need to help address overload and complexity of information.

Moving on, I would like to convey a few thoughts on one of the most crucial topics today, namely sustainability.

To say that the demand for sustainable financial products is strong is to state the obvious. At the same time, we should also acknowledge that, without undermining the significant achievement that the various legislative and regulatory initiatives represent, there remains great complexity and real challenge in terms of interpretation and implementation. Navigating through the many different products and offerings and understanding the differences in terms of sustainability remains extremely difficult. Furthermore, ESMA is concerned that the potential mis-selling of ESG-labelled products may lead to a loss of trust in sustainable finance products.

ESMA is determined to help in the pursuit of the transition towards sustainable finance and where possible to provide guidance to address some of the outstanding challenges. In doing so, we will be driven by the need to increase comparability, reduce complexity and, more broadly, to ensure that investors get the right picture to make informed choices about how to best engage in sustainable investing.

In this spirit, and in addition to the extensive work done jointly with EBA and EIOPA, ESMA has published a statement clarifying several areas of regulatory technical standards pertaining to the Sustainable Finance Disclosure Regulation, as we know this is a field where some market participants consider requirements too complex.

We also issued a supervisory briefing on sustainability risks and disclosures in the area of investment management. Supervisory briefings are a useful instrument in ESMA's supervisory convergence toolbox. This particular briefing promotes convergence in the way NCAs should supervise investment funds with sustainability features.

Finally, in response to the lack of transparency and comparability of methodologies underpinning ESG ratings, we have launched a call for evidence to map the landscape of providers operating in the single market. We hope that the European Commission, with your support, will pick the issue of ESG ratings up and take it forward soon in the form of a legislative proposal.

Dear Chair, dear Members of the Economic and Monetary Affairs Committee,

ESMA has published earlier this month a strategy for the next five years. This strategy will focus on fostering effective markets and financial stability, strengthening supervision, enhancing the protection of retail investors, enabling sustainable finance, as well as facilitating technological innovation and effective use of data.

This mid-term strategy is inspired by ESMA's track record, but also takes into account the future challenges that the EU and its markets and citizens will likely face. I hope the few examples I provided today of ESMA's activities over the last year have been able to reassure you that ESMA (as Europe's financial markets regulator and supervisor) is well prepared to weather the storms ahead.

Nevertheless, we will only be successful if we can count on the constructive cooperation with, and backing from, the European Parliament that ESMA has enjoyed since the very beginning. I would therefore like to stop here by thanking you for your kind attention and for your continued support in the years to come.

Verena Ross, ESMA Chair

**Economic and Monetary Affairs Committee
European Parliament
24 October 2022**

ESMA TEMPORARILY AMENDS CCP COLLATERAL REQUIREMENTS TO PROVIDE LIQUIDITY RELIEF ON ENERGY DERIVATIVES MARKETS

ESMA proposed measures to alleviate the liquidity pressure on non-financial counterparties (NFCs) active on gas and electricity regulated markets cleared in EU-based CCPs.

ESMA's Final Report provides draft regulatory technical standards (RTS) which temporarily expand for a period of 12 months the pool of CCP eligible collateral to uncollateralised bank guarantees for NFCs acting as clearing members and to public guarantees for all types of counterparties.

The report published today follows ESMA's earlier response to the Commission and is accompanied by a Q&A clarifying the eligibility of bonds and commercial paper as collateral for CCPs.

As outlined in its letter, ESMA will continue to work on other potential measures to respond to the extreme volatility in the energy markets.

Next steps

The Final Report was sent to the European Commission for endorsement and will then be subject to a scrutiny procedure by the European Parliament and the Council.

ACER AND ESMA ENHANCE COOPERATION TO STRENGTHEN OVERSIGHT OF ENERGY AND ENERGY DERIVATIVE MARKETS

The EU Agency for the Cooperation of Energy Regulators (ACER) and the European Securities and Markets Authority (ESMA) are strengthening their cooperation to further improve information exchange and avoid potential market abuse in Europe's spot and derivative markets.

The two EU agencies have a long-established cooperative relationship considering the interlinkages between spot and derivative energy markets. One of the fora where this cooperation takes place is the Energy Trading Enforcement Forum (ETEF) where the energy National Regulatory Authorities (NRAs), the financial National Competent Authorities (NCAs), ESMA and ACER discuss implementation issues concerning market abuse rules and share their experience in relation to their supervisory activity and enforcement actions to ensure consistency across the EU.

New joint ACER-ESMA Task Force

Market manipulation and its effects may occur across borders, between electricity and gas markets and across financial and commodity markets, including in emission allowances. Regulatory oversight of potential market abuse of the trading in energy and financial products falls under two EU regulatory frameworks, namely the EU Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) and the Market Abuse Regulation (MAR).

While leveraging existing cooperation tools, ACER and ESMA are establishing a joint Task Force to reinforce their cooperation and enhance coordination in respect of the exchange of data and knowledge among their staff and respective national authorities.

This enhanced coordination will further support the investigations and enforcement so that the rules are applied with vigour and in a convergent and holistic way in all national jurisdictions.

Enhanced market surveillance and enforcement

In the current energy crisis characterised by high prices and price volatility, vigilance in detecting market manipulation and insider trading is more important than ever to ensure confidence in EU wholesale energy and financial derivatives trading.

NRAs and NCAs have both supervisory and enforcement responsibilities at national level. At EU level, ACER maintains its own market surveillance system whilst both ESMA and ACER have supervisory convergence and coordination responsibility.

The joint ACER-ESMA Task Force will provide a framework for broadening cooperation on the monitoring of energy and energy derivatives markets. ACER and ESMA are also ready to cooperate in additional areas in the future. This could notably be the case in the context of the possible new LNG benchmark currently under consideration by the European Commission, and with an enhanced monitoring of risks in energy markets, helping to preserve financial stability in EU markets.

ACER and ESMA are committed to promoting supervisory oversight of wholesale markets for energy and financial derivatives by supporting NRAs and NCAs in effective enforcement of possible breaches of the rules and in assisting the European Commission in its work.

ESMA'S ENVIRONMENTAL COMMITMENT MEETS TOP EUROPEAN STANDARD

The European Securities and Markets Authority (ESMA) has been recognised for its environmental management system under the European Eco-Management and Audit Scheme (EMAS) and ISO 14001.

The registration was issued by the French Ministry for the Ecological Transition on 10 September 2022 for a duration of three years and covers all ESMA's operational and core business activities.

Natasha Cazenave, Executive Director, said



At ESMA we are very pleased to have been awarded the EMAS certification. This recognises ESMA's efforts over the past years to reduce our environmental impact as an organisation.

By embedding sustainability in all our activities, we also aim to support the transition to a more sustainable economic and financial system.



ESMA is committed to:

- ▶ 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 measures to reduce CO2 emissions and minimise the impact of mobility and travel; and
- ▶ Comply with relevant environmental legislation, administrative regulations and other requirements

To keep these engagements ESMA will promote environmental awareness within ESMA, communicate and implement the Environmental policy at all levels of the Authority, and provide suitable resources to fulfil this policy as required by the EMAS regulation.

ESMA annual public environmental statement reflects ESMA's progress on these commitments.

ESMA is the 100th organisation registered with EMAS in France and the 7th EU Agency.

PUBLICATIONS



Click to read the news items

31
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ESMA TO WITHDRAW THE RECOGNITION DECISIONS OF SIX INDIAN CCPS

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ESMA WILL NOT PERFORM THE NOVEMBER SI AND LIQUIDITY CALCULATIONS FOR BONDS DUE TO QUALITY ISSUES

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Oct

ESMA PUBLISHES DATA FOR THE SYSTEMATIC INTERNALISER CALCULATIONS

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ESMA TO WORK ON ESG DISCLOSURES AS A NEW UNION STRATEGIC SUPERVISORY PRIORITY

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ESMA ISSUES AN OPINION ON PRODUCT INTERVENTION MEASURE ON FUTURES TAKEN BY GERMANY

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ESMA WITHDRAWS THE CRA REGISTRATION OF EXPERT RA

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ESMA'S ENVIRONMENTAL COMMITMENT MEETS THE TOP EUROPEAN STANDARD



SPEAKING APPEARANCES

by ESMA staff in November

	EVENT	ORGANISER	SPEAKER
2 Nov	Central Bank of Ireland inaugural financial services conference	Central Bank of Ireland	Verena Ross, Chair
2 Nov	AIMA Global Policy and Regulatory Forum 2022	AIMA	Natasha Cazenave Antonio Barattelli
3 Nov	2022 Cumberland Lodge Financial Services Summit	Cumberland Lodge	Verena Ross, Chair
7 Nov	Meet the Experts 2022	Informa	Isabelle Grauer-Gaynor
8 Nov	COP27: Accounting for Climate: What are we still missing? 2022 Dialogue Meeting	Carbon Tracker Initiative	Alessandro d`Eri

by ESMA staff in November

	EVENT	ORGANISER	SPEAKER
8 Nov	European Institutes Chief Compliance Officer Roundtable	Institutional Investor	Antonio Barattelli
9 Nov	Conference on EU capital markets law	EBI	Verena Ross, Chair
9 Nov	EFTA Conference	EFTA	Verena Ross Chair Sophie Vuarlot-Dignac
14 Nov	Central Bank of Ireland - SFDR Seminar for the Asset Management Industry	Central Bank of Ireland	Antonio Barattelli
14 Nov	FS1A SEACEN Regulation and Supervision of Crypto Assets and Decentralized Finance (DeFi)	SEACEN Centre	Anne Chone
15 Nov	XBRL Europe Webinar on ESEF	XBRL Europe	Eduardo-Javier Moral Prieto
16 Nov	Conference on "Asset Management Supervision in the Central, Eastern and South Eastern European Region - sustainability and cross border activities"	FMA Austria	Antonio Barattelli

by ESMA staff in November

	EVENT	ORGANISER	SPEAKER
16 Nov	SFDR: Sustainability-related disclosures in the financial sector	EPRA	Guilain Cals
17 Nov	EFAMA Investment Management Forum	EFAMA	Fabrizio Planta
17 Nov	International Financial Standards Conference 2022	Herausgebergemeinschaft Wertpapier-Mitteilungen/ANNA/GLEIF	Nikolay Arnaudov
18 Nov	EFAMA Investment Management Forum	EFAMA	Verena Ross, Chair
22	Europol Expert Workshop on Trading and Market Manipulation	Europol	Stefano Sirtori
22 Nov	BaFIN consumer protection forum	BaFIN	Verena Ross, Chair
22 Nov	European learning supervisory community webinar	AFM	Salvatore Gnoni
22 Nov	CEER Specialised Training on REMIT and REMIT enforcement	Council of the European Energy Regulators (CEER)	Alberto Garcia

by ESMA staff in November

EVENT

ORGANISER

SPEAKER

29 Nov	BVI sustainable finance event	BVI	Evert van Walsum
29 Nov	PRI Sustainable Finance Policy Conference	UN PRI	Natasha Cazenave
30 Nov	RegTech Convention 2022 - Transactions Conference	Regnology	Joanna Lednicka

CONSULTATIONS



Closing



28/11/22

Call for Evidence on the implementation of the Shareholders Rights Directive 2



01/12/22

Consultation Paper on Draft RTS on Business Reorganisation Plans (Articles 37(4) and 38(4) of CCPRRR)

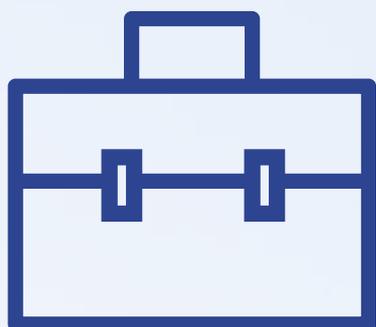


16/12/22

Consultation Paper on Market Outages

The full list of consultations and reply forms can be found on the [ESMA consultations page](#)





OPEN VACANCIES

POSITION

DEADLINE

Seconded National Experts (multiple profiles)

31/12/23

Traineeship notice - Legal profile (F/M)

Open call
(without a specific deadline)

Traineeship notice - Transversal profile (F/M)

Open call
(without a specific deadline)

Traineeship notice - Financial Markets Profile (F/M)

Open call
(without a specific deadline)

All open vacancies can be found on [ESMA's recruitment portal](#)



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