



# THE ROLE OF ESMA IN SUSTAINABLE FINANCE

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*This briefing sets out six actions that the European Securities and Markets Authority (ESMA) should undertake, as part of its mandate to protect investors and avert financial instability, to facilitate the integration and management of climate and wider sustainability risks in financial markets. The actions proposed are based on ESMA's existing powers and on areas of its existing mandate<sup>1</sup>. The briefing mainly focuses on ESMA but also touches upon the duties and roles of the other European Supervisory Authorities (ESAs).*

## Executive Summary

- > The ESAs (comprising the EBA, ESMA and EIOPA) were established in 2010 to help address shortcomings in financial supervision that were exposed following the financial crisis in 2007/8. Their creation was a move to strengthen the supervisory framework to reduce risks in the financial system.
- > Since then, there has been growing awareness that climate and sustainability risks pose a threat to the financial system. For example, work by the Bank of England, European Systemic Risk Board, EU High-Level Expert Group on Sustainable Finance and Financial Stability Board's Task Force on Climate-related Financial Disclosures have all drawn attention to this issue over the past few years.
- > The ongoing review of ESAs' role to protect financial stability should reflect the emerging understanding of these risks and explicitly include the management of climate and wider sustainability risks within their mandates. Doing so would help promote a smooth, orderly market transition to a lower carbon economy and promote the orderly functioning of the markets, to protect the EU economy, its investors, its citizens and businesses.
- > The specific mandate of ESMA is to: assess risks to investors, markets and financial stability; complete a single rulebook for EU financial markets; promote supervisory convergence and; directly supervise specific financial entities including credit rating agencies (CRAs). As such, given the widespread understanding of the risks climate and other sustainability factors pose to financial stability, it is within ESMA's existing mandate to assess these risks.

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<sup>1</sup>[Regulation \(EU\) No 1095/2010](#)

- > This briefing makes six suggestions on how ESMA can start to address climate and sustainability risks. These suggestions are listed below and would contribute to achieving the following two outcomes – 1) improve the quality of climate and wider sustainability disclosures in financial markets for investors and regulators to effectively identify and manage risks and 2) mainstream consideration of sustainability risks throughout the financial system.
- > Key actions include:
  1. Initiate a review to assess oversight by competent authorities on reporting of climate and wider sustainability risk disclosures in issuer annual reports
  2. Include climate and wider sustainability information in the draft Regulatory Technical Standards on electronic reporting
  3. Include requirements for reporting on climate and wider sustainability risks in the guidelines on risk factors in prospectuses
  4. Promote supervisory convergence for common regulatory and supervisory standards on climate and wider sustainability risk disclosures
  5. Issue guidelines to CRAs to incorporate climate and sustainability risks into CRAs' methodologies
  6. Assess risks posed by climate and wider sustainability factors in securities market to include in quarterly Risk Dashboard and bi-annual Trend Risk and Vulnerability report

## 1. Background and introduction

In September 2015, the Bank of England's Prudential Regulation Authority published a study on the impact of climate change on the UK insurance sector<sup>2</sup>, which highlighted the "profound implications"<sup>3</sup> of climate change for insurers but also the potential risks posed by climate change to the stability of the financial system and economy.

The European Systemic Risk Board (ESRB), which is responsible for macro-prudential oversight across the EU, has developed this work further and has raised concerns that climate change is a systemic risk large enough to cause financial instability and/or large negative macroeconomic shocks to the financial system<sup>4</sup>. The ESRB examined systemic risk associated with climate change in a study on the impact of the transition to a low-carbon economy on financial market stability<sup>5</sup>. It concluded that if the transition to a low-carbon economy were to occur too late and/or abruptly, systemic risk could arise in three ways: firstly, because of the macroeconomic impact of sudden changes in energy use,

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<sup>2</sup>Prudential Regulation Authority (2015) [The impact of climate change on the UK insurance sector](#)

<sup>3</sup>Breaking the tragedy of the horizon - climate change and financial stability - [Speech by Mark Carney 2015](#)

<sup>4</sup>European Systemic Risk Board (2016) [Too late, too sudden: Transition to a low-carbon economy and systemic risk](#)

<sup>5</sup>ibid

secondly due to the sudden revaluation of carbon-intensive assets and thirdly through a rise in the incidence of natural catastrophes (the physical implications of climate change).

Several organisations have attempted to quantify the potential impact of climate change on the financial system. Whilst estimates of potential losses are highly uncertain, the magnitude of these estimated impact is alarming. The Economist Intelligence Unit<sup>6</sup> puts the total financial loss due to the physical impacts of climate change in the range of US\$4.2-US\$13.8 trillion by 2100 and Citigroup<sup>7</sup> estimated that US\$100 trillion of carbon assets are at risk of economic stranding resulting from transition risk at through to 2050.

As awareness of the magnitude of these risks has emerged, new political and policy processes have started that aim to address them.

In December 2015, the Financial Stability Board established, at the request of G20 leaders, the industry-led Task Force on Climate-related Financial Disclosures (TCFD). The TCFD is in the process of developing recommendations for company reporting and will publish a final report by July 2017. The premise of the TCFD's work is that better-quality disclosure will allow market participants to better understand and manage climate-related risks. The goal of the TCFD is to set out what is required in terms of disclosures in mainstream financial filings to enable markets to better assess, price and manage these risks and help promote as orderly a transition to a lower carbon economy as possible.

In December 2016, the Commission established a High-Level Expert Group on Sustainable Finance to develop an overarching and comprehensive EU sustainable finance strategy. The mandate includes making operational and concrete recommendations on how to integrate climate, and wider environmental risks as well as social and governance risks (here referred to collectively as sustainability risks) into the EU's rules for the financial sector. It represents a key opportunity to implement the TCFD's recommendations in an EU context.

Recent developments have increased policy maker and investor understanding of the risks posed by climate and wider sustainability issues to the stability of financial system. The processes underway to develop policy recommendations are highly likely to include a requirement for evolved and stronger oversight from financial supervisors.

National supervisory authorities are responsible for ensuring the effective functioning of the financial system and maintaining financial stability. Some European supervisors such as the Swedish financial supervisor and national authorities in the UK, Netherlands, France and Finland, have begun to discuss how best to manage the systemic financial risks resulting from climate change and wider sustainability concerns<sup>8</sup>. It will be important that, whatever actions are taken by these authorities,

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<sup>6</sup>The Economist Intelligence Unit (2015) [The cost of inaction: Recognising the value at risk from climate change](#)

<sup>7</sup>Citi GPS (2015) [Energy Darwinism II](#)

<sup>8</sup>Finansinspektionen (The Swedish Financial Supervisory Authority) (2016) [Climate change and financial stability](#); Dutch Central Bank (De Nederlandsche Bank) (2016) [Time for Transition an exploratory study of the transition to a carbon-neutral economy](#); Bank of Finland (2016) Press release: [Climate change also linked to financial stability](#); French Ministry for the Economy and Finance (2016) [The financial sector facing the transition to a low-carbon climate-resilient economy](#); German Federal Ministry of Finance (2016) [Climate change and financial markets](#)

they are coordinated at an EU level to avoid fragmentation of financial markets in Europe<sup>9</sup>. Here European regulators have a key coordination role to play.

The current review of the role of ESAs is a key opportunity to begin this discussion<sup>10</sup>. ESAs should seize the opportunity to lead an EU-wide discussion on how best to facilitate the integration of climate and wider sustainability risks into financial markets and in doing so proactively evolve their current mandates to preserve financial stability and the orderly functioning of the markets to address these emerging challenges. To achieve this the ESAs' role should be two-fold: firstly, improving the quality of climate and wider sustainability disclosures in financial markets to enable both investors and regulators to effectively identify and manage risks; secondly, to act upon this information as a means to preserve financial stability as part of broader efforts to mainstream sustainability across the whole financial system.

## **2. A duty to act: ESMA's responsibility to address climate and wider sustainability risks**

ESMA was created, as a part of the European System of Financial Supervision, in 2010 to overcome some of the shortcomings in financial supervision exposed in 2007/2008 financial crisis. Its creation, along with the other ESAs, was part of a move to strengthen the supervisory framework to reduce risks in the financial system. In the European supervisory framework, ESMA and the other ESAs are responsible for contributing to the work of the ESRB and overseeing national supervisory authorities, who are responsible for supervising individual financial institutions.

ESMA's main objective, as laid out in its Founding Regulation<sup>11</sup>, is "to protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses." To fulfil this objective, it has several responsibilities<sup>12</sup>:

- > ***Assess risks to investors, markets and financial stability***
- > ***Complete a single rulebook for EU financial markets***
- > ***Promote supervisory convergence***
- > ***Directly supervise specific financial entities: credit rating agencies (CRAs) and trade repositories***

The tasks and powers to complete these responsibilities are defined in ESMA's Founding Regulation which will be reviewed later this year as part of the upcoming review of the ESAs. ESMA's role in ensuring the stability and orderly functioning of financial markets means it has a duty to act to facilitate the disclosure and integration of climate and wider sustainability risks in financial markets. There are five core arguments to support this assertion.

- First, there is growing concern that climate change and wider sustainability risks pose significant threats to stability and effective functioning of financial markets. Given that it is ESMA's role to contribute to the short, medium and long-term stability and effectiveness of

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<sup>9</sup> Bruegel (2016) [Financial risks and opportunities in the time of climate change](#);

<sup>10</sup> EC (2017) [Public consultation on the operations of the European Supervisory Authorities](#)

<sup>11</sup> [Regulation \(EU\) No 1095/2010](#)

<sup>12</sup> Activities as categorised on ESMA website - <https://www.esma.europa.eu/about-esma/who-we-are>

the financial system on behalf of investors, citizens and businesses, ESMA has a duty to proactively address these risks. The evidence for the risks posed by climate change, as shown by the work of the Bank of England's Prudential Regulation Authority and the ESRB, is the clearest. However, the importance of wider sustainability factors for the functioning of financial markets is also increasingly being recognised. This is demonstrated by the inclusion of sustainability considerations within recent proposals for EU financial legislation<sup>13</sup> and the establishment of the High-Level Expert Group on Sustainable Finance. The Expert Group has been tasked to explore steps financial institutions and supervisors should take to minimise risks related to the environment but also where relevant, social and governance risks<sup>14</sup>.

- Second, the TCFD has brought the case forward for better-quality disclosure in financial markets. Better-quality information on climate and wider sustainability matters, both (and not limited to) risks and opportunities, in company reporting will give investors the information needed to properly assess and price these factors and allow for effective stewardship of companies<sup>15</sup>. This in turn will enable a more orderly transition to a low carbon economy and smooth market price adjustments for companies at risk from the transition. ESMA is well placed to drive forward the implementation of these recommendations because it is responsible for policy activities related to corporate disclosure<sup>16</sup> as covered by the EU prospectus regime and the Transparency Directive<sup>17</sup> and corporate governance related to listed companies.
- Third, ESMA has a responsibility to contribute to the establishment of common regulatory and supervisory standards as part of its role to promote supervisory convergence. It is likely that some Member States will move ahead to implement the recommendations of the TCFD.<sup>18, 19</sup> To avoid fragmentation of EU financial markets, ESMA has a duty to identify best practices to strengthen consistency and establish common high-quality standards across Member States.
- Fourth, ESMA is responsible for completing the single market for EU financial markets and has a duty to contribute to the consistent application of legally binding EU acts, including the Transparency Directive. As such ESMA should encourage the integration of climate and

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<sup>13</sup>Examples include Prospectus Regulation, Shareholder Rights Directive, Institutions for Occupational Retirement Provisions Directive and Securitisation Regulation.

<sup>14</sup>EC(2016) 6912 [Commission Decision on the creation of a High-Level Expert Group on Sustainable Finance in the context of the Capital Markets Union](#) In addition, The Commission recognises that in light of the Paris Agreement, the UN Sustainable Development Goals and the importance of long-term and sustainable investment to maintain the EU's competitiveness, the current financial system needs to be better aligned with EU policies in support of sustainable growth and investments. Therefore, both climate and wider sustainability risks will need to be addressed by the Expert Group.

<sup>15</sup>E3G (2016) [A Sustainable Finance Plan for the EU](#)

<sup>16</sup>See <https://www.esma.europa.eu/regulation/corporate-disclosure>

<sup>17</sup> Directive 2004/109/EC

<sup>18</sup>FSB TCFD (2016) [Recommendations of the Task Force on Climate-related Financial Disclosures](#)

<sup>19</sup>In July 2015, France strengthened mandatory climate disclosure requirements for listed companies and introduced the first mandatory requirements for institutional investors as part of Article 173 of the Law for the Energy Transition and Green Growth.

wider sustainability information into corporate reporting to ensure a level playing field for investors and issuers across the EU and strengthen the quality of the single rulebook for EU financial markets.

- Fifth, ESMA's responsibility as a part of the European System of Financial Supervision is to oversee national supervisory authorities, contribute to the work of the ESRB and directly supervise CRAs. As noted above the ESRB raised concerns of the potential implication of climate change as a systemic risk in the financial system. Therefore, ESMA has a legal responsibility to support this work and help deliver the ESRB's proposal (to ESMA and all the ESAs) of incorporating climate-related prudential risks into the regular stress test exercises<sup>20</sup>. ESMA also has a duty to integrate climate and wider sustainability factors into the financial decision making procedures of CRAs in order help to avoid the negative environmental and social consequences of investments in this part of the investment process.

Given the above arguments, ESMA has a responsibility – along with the other ESAs - to address climate and wider sustainability risks as part of its existing mandate to contribute to the short, medium and long-term stability and effectiveness of the financial system for the EU economy, its citizens and businesses.

Six actions are laid out that ESMA can undertake to realise this.

### **3. From theory to practice: six actions ESMA can take to address climate and wider sustainability risks**

#### **> Action 1 – Initiate a review to assess oversight by competent authorities on reporting of climate and wider sustainability risk disclosures in issuer annual reports**

**ESMA has a responsibility for contributing to the consistent application of the Transparency Directive.** There is a requirement within the Transparency Directive for public companies<sup>21</sup> to publish an annual management report<sup>22</sup>. These reports must include a fair review of the development and performance of the reporting company, as well as a description of the principal risks and uncertainties that it faces (and how these risks are managed)<sup>23</sup>. Companies must also include financial and (where appropriate) non-financial key performance indicators<sup>24</sup>, while larger listed companies require a non-financial statement containing information on environmental and social matters.

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<sup>20</sup>European Systemic Risk Board (2016) [Too late, too sudden: Transition to a low-carbon economy and systemic risk](#)

<sup>21</sup>Specifically, it refers to issuers which are defined as 'a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a regulated market' (Article 2, Paragraph 1(d), Transparency Directive).

<sup>22</sup>This should be included in the annual financial report together with audited financial statements and statements from responsible persons (Article 4, Paragraphs 1 and 2, Transparency Directive).

<sup>23</sup>The requirements for the content of the management reports are set out in the Accounting Directive (Directive 2013/34/EU) as amended by the Non-Financial Reporting Directive (Directive 2014/95/EU).

<sup>24</sup>This includes information relating to environmental or employee matters where necessary to understand the company's development, performance or position.

**At present, there has been inadequate disclosure of climate and wider sustainability risks in the management reports of companies.** This has been observed most evidently for climate risks and for companies in the oil and gas, and coal sectors. For example ClientEarth, The Carbon Tracker Initiative, the Climate Disclosure Standards Board and CDP submitted their concerns to the Financial Reporting Council in the UK<sup>25</sup>, presenting how companies in the oil and gas and coal sectors are not satisfying existing mandatory reporting requirements by failing adequately to report on climate risk. In the UK, regulatory complaints were filed against two oil and gas companies who failed to disclose climate-related risks to investors.<sup>26</sup> These concerns have also been raised at the European level in a letter addressed to ESMA in January 2016<sup>27</sup>.

The TCFD has found that “climate-related risks and the expected transition to a lower-carbon economy affect most economic sectors and industries”<sup>28</sup>. As such, for many companies (not only those in the oil, gas and coal sectors), climate-related risk will qualify as a material risk, therefore requiring disclosure of its expected business model impact and efforts taken to mitigate this impact.

ESMA has a responsibility, as part of its role to contribute to the consistent application of the Transparency Directive, to ensure competent authorities are providing sufficient oversight and enforcement on reporting of climate and wider sustainability risks, where material and relevant, in company management reports. **ESMA should initiate a review of oversight and enforcement by competent authorities and if necessary take steps to address insufficiency of oversight.** This could include addressing recommendations to the relevant competent authorities setting out the action necessary to comply with EU law – for example that disclosures should follow best practice recommendations of the TCFD.

#### > **Action 2 - Include climate and wider sustainability information in the draft Regulatory Technical Standards on electronic reporting**

**ESMA is required to develop draft Regulatory Technical Standards on the single electronic format issuers must use to report their company information (annual financial reports) from 1 January 2020.** This is to fulfil certain requirements of the Transparency Directive as last amended by Directive 2013/50/EU. ESMA has recently concluded that Inline XBRL is the most suitable technology to meet the EU requirement for issuers to report their annual financial reports in a single electronic format. ESMA is now developing the detailed technical rules and will submit the technical standard to the Commission for endorsement around year-end 2017.

**ESMA’s Regulatory Technical Standards should incorporate non-financial and diversity information in coherence with the amendments to the Accounting Directive<sup>29</sup> arisen from the Non-Financial**

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<sup>25</sup>ClientEarth, The Carbon Tracker Initiative, Climate Disclosure Standards Board and CDP (2015) Letter to the UK Financial Reporting Council [Climate change disclosures of companies in the oil and gas, and coal sectors](#)

<sup>26</sup>ClientEarth (2016) [Complaints filed against SOCO International PLC and Cairn Energy PLC](#)

<sup>27</sup>ClientEarth, Climate Disclosure Standards Board, CDP Europe and ShareAction (2016) [Letter to ESMA on climate risk disclosures by companies in the oil and gas, and coal sectors](#)

<sup>28</sup>FSB Task Force on Climate-related Financial Disclosures (2016) [Recommendations Report](#)

<sup>29</sup>Directive 2013/34/EU

**Reporting Directive<sup>30</sup> and as part of its responsibility to help oversee and manage climate and wider sustainability risks.**

Failing to do so will not only neglect its emergent supervisory responsibilities, it will also artificially separate non-financial and diversity information from financial information, which will hinder their usability in conjunction with each other. It is already observed that non-financial reporting is expanding on the XBRL platform. Environmental and sustainability reporting initiatives, including CDP, CDSB, Dow Jones Sustainability Index and Global Reporting Initiative, promote the disclosure and use of their data through the XBRL. By producing a regulatory technical standard that incorporates a more complete dataset, ESMA can produce a valuable tool for the market.

**Taking such an approach to ensure all material non-financial information published alongside mainstream financial information would be consistent with the TCFD's recommendation that climate disclosures should be integrated into mainstream financial reports to give capital market participants timely and decision-useful information.**

> **Action 3 - Include requirements for reporting on climate and wider sustainability risks in the guidelines on risk factors in prospectuses**

The rules for the prospectus regime are currently being amended by the European institutions and a new Prospectus Regulation<sup>31</sup> is expected to enter into force later this year. In the new regime, there is expected to be a requirement for companies to disclose additional information on particular risk factors within their prospectuses<sup>32</sup>. It will be ESMA's duty to develop guidelines to assist competent authorities on the specificity and materiality of risk factors to be included in these documents.

**As part of its responsibility to address climate and wider sustainability risks, ESMA should include within the prospectus guidelines, requirements for issuers to report on specific and material climate and wider sustainability risks.**

**In the agreement reached in December 2016 between the three EU institutions on the draft Prospectus Regulation, it was recognised that "environmental, social and governance circumstances can constitute specific and material risks [...] and, in that case, should be disclosed". This approach should be applied to the guidelines drafted by ESMA.** Taking this approach will ensure consistency at EU level since other legislation, including the Shareholder Rights Directive and Institutions for Occupational Retirement Provisions Directive<sup>33</sup>, has already considered and included sustainability objectives. The guidelines being developed should also take note of the recommendations due to be made by the TCFD at the end of June. In this way, the EU can get on the front foot with aligning disclosure standards to the best practice set out by the TCFD and in doing so promote a better understanding of climate and wider sustainability risks in financial markets.

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<sup>30</sup>Directive 2014/95/EU

<sup>31</sup> On 20 December 2016, the Permanent Representatives Committee approved, on behalf of the Council, an [agreement](#) with the European Parliament reached on 7 December 2016 on the draft Prospectus Regulation.

<sup>32</sup>ibid

<sup>33</sup> Directive amending Directive 2007/36/EC and Directive 2016/2341/EU



> **Action 4 – Promote supervisory convergence for common regulatory and supervisory standards on climate and wider sustainability risk disclosures**

**ESMA has a responsibility to promote supervisory convergence through common regulatory and supervisory standards.** ESMA develops draft regulatory or implementing technical standards, issues guidelines and recommendations, provides opinions to EU institutions to contribute to the establishment of high-quality common regulatory and supervisory standards and practices. ESMA may also organise and conduct peer review analyses of competent authorities, including issuing guidelines and recommendations and identifying best practices, to strengthen consistency in supervisory outcomes.

ESMA has a duty to identify best practices to strengthen consistency and establish common high-quality standards to facilitate a smooth transition to a sustainable economy. A shared and consistent regulatory approach by national competent authorities will be fundamental and ESMA can play a key role in shaping a race to the top between Member States. In doing so it will also prevent fragmented EU markets and enable policy makers to see where risk lies across EU markets and take corrective actions where needed so the whole EU can transition to a sustainable economy.

**ESMA should monitor emerging recommendations from the TCFD and the High-Level Expert Group on Sustainable Finance and actively consider the role it can play in promoting supervisory convergence of the disclosure standards put forward in these initiatives.**

> **Action 5 – Issue guidelines to CRAs to incorporate climate and sustainability risks into CRAs methodologies**

**ESMA has had direct responsibility to supervise CRAs since 2011<sup>34</sup>.** The rules governing CRAs include the need for them to use credit rating methodologies that are rigorous and systematic. Each CRA is also required to review its credit rating methodologies on an ongoing basis – at least annually<sup>35</sup>. ESMA does not interfere with the content of CRAs’ methodologies, but does examine their compliance with the regulation.<sup>36</sup> Amongst ESMA’s responsibilities is the requirement to submit technical standards to the Commission around the information CRAs should provide. ESMA can also issue and update non-binding guidelines on any issue related to the application of the CRA Regulation<sup>37</sup>. Currently, ESMA have not issued any guidelines, or other official communications, around the integration of climate and broader sustainability risks into CRAs processes. Despite this, some CRAs have started to develop sustainability assessments, for example around environmental, social and governance criteria, which are entirely separate from their credit ratings.

**ESMA should seek to understand the extent to which each CRA integrates sustainability factors into their mainstream credit rating processes, the impact these factors have on credit ratings and the extent to which these factors are assessed separately from credit ratings.** In addition, ESMA should publish guidelines setting out how CRAs should integrate climate and sustainability factors into their methodologies. These guidelines should build on the work done by financial regulators in

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<sup>34</sup>As set out in Regulation (EU) No 513/2011

<sup>35</sup>Article 8(3) and Article 8(5) of Regulation (EC) No 1060/2009

<sup>36</sup>ESMA’s supervision of credit rating agencies and trade repositories - [2015 annual report and 2016 work plan](#)

<sup>37</sup> Regulation (EC) No 1060/2009

the EU identifying risks that arise from sustainability factors, which have, so far, been focused on risks from climate change.

**Under current legislation ESMA is specifically tasked with supervising CRAs. On this basis ESMA should ensure that CRAs are sufficiently considering climate and sustainability risks to ensure it would not be in breach of their requirements under the CRA Regulation.**

> **Action 6 – Assess risks posed by climate and wider sustainability factors in securities market to include in quarterly Risk Dashboard and bi-annual Trend Risk and Vulnerability report**

ESMA monitors and assesses market developments that have the potential to threaten financial stability, investor protection or the orderly functioning of financial markets. In doing so, **it produces a public quarterly Risk Dashboard and a bi-annual Trend Risk and Vulnerability report.** Additional assessments are provided to the European Parliament, the Council, the Commission and the ESRB when necessary.

As climate and wider sustainability risks are understood to pose threats to financial stability and effective functioning of financial markets. ESMA has duty to assess these risks in the European securities markets to fulfil its mandate. The general provisions set out for ESMA in its Founding Regulation states that ESMA “shall duly consider systemic risk as defined by Regulation (EU) No 1092/2010. It shall address any risk of disruption in financial services that: [...] (b) has the potential to have serious negative consequences for internal market and the real economy.” The ESRB raised concern that climate change is a systemic risk large enough to cause financial instability or large negative macroeconomic shocks to the financial system in its 2016 report. **As such, ESMA has a duty to assess climate risk and should include climate risks in the assessments for the public quarterly Risk Dashboard and the bi-annual Trend Risk and Vulnerability report.** It also has a responsibility to follow up the recommendations of the ESRB<sup>38</sup>. Given that the ESRB proposed incorporating climate-related prudential risks into the regular stress test exercises of ESMA and the other ESAs<sup>39</sup> ESMA therefore has a duty to act.

#### **4. Moving forward: Internal challenges to implementing sustainability issues in ESMA’s activities**

In the 2014 review of the ESAs<sup>40</sup> important questions were raised about some of the internal challenges these authorities face. These have been highlighted once more in the consultation on the operations of the ESAs published in March this year. There are indications that two key issues – governance and funding – may pose barriers to evolving ESMA’s role to address climate and wider sustainability risks.

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<sup>38</sup>Article 8 of Regulation (EU) No 1095/2010

<sup>39</sup>European Systemic Risk Board (2016) [Too late, too sudden: Transition to a low-carbon economy and systemic risk](#)

<sup>40</sup>Report from the Commission to the European Parliament and the Council on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS), SWD(2014) 261 final

#### 4a. Governance

Current internal decision making structures and stakeholder engagement practices could hinder ESMA's ability to address sustainability issues. **The internal decision-making structures in place do not allow ESMA to start addressing sustainability issues in its activities for the simple reason that the decision makers have very little knowledge and expertise on sustainability issues.** This will need to be addressed if ESMA is to play an effective role to help create a sustainable financial system. Providing external expertise and advice on wider sustainability issues to address these gaps is not sufficient to address these internal limitations for the following reasons.

- First, the primary official channel to engage with ESMA is through public consultations - yet these are not widely known outside a core group of large financial players.
- Second, ESMA advisory groups tend toward little to no participation of persons with expertise on sustainability issues.
- Third, transparency around meetings held by ESMA is limited. This must change in order to give a fair opportunity for stakeholders seeking to promote environmentally and socially sustainable financial markets and raise awareness about new trends to engage at key moments.

**Resourcing and requiring ESMA to fill internal knowledge gaps on sustainability issues should be a priority consideration and would be a significant step forward in addressing the challenges laid out above.**

#### 4b. Funding

As mentioned in the 2014 consultation<sup>41</sup>, current levels of funding are insufficient to ensure that ESAs resources are commensurate with their role and responsibilities. As the actions proposed in this briefing are based on existing powers and on areas that are in their existing mandate, it is difficult to see how -with the current funding structure – ESMA will be able to evolve its mandate to address sustainability issues. As such this will need to be reviewed and with some urgency<sup>42</sup>.

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<sup>41</sup>Ibid

<sup>42</sup>Ibid