January/February 2024

FESE Overwiev

General developments

- Data provided by FESE Members illustrates a slight decline in market capitalisation for listed companies and SMEs, as well as yearly and quarterly turnover increases in most - but not all - derivatives categories. Meanwhile, the number of bond trades surpasses previous levels.
- Markets in 2023 have been reflective of a stagnant European economy. High interest rates may continue to have an impact on investors, but lower inflation may signal a more positive outlook in 2024.

Equity

Market capitalisation for listed companies and SMEs declines

- Market capitalisation declines slightly quarter on quarter.
- This quarter records the highest number of new listings in 2023, but total investment flows reach lows compared to levels observed in Q1 2022.
- Market capitalisation in SME markets continues its yearly and monthly decline, reaching lows comparable to those observed in Q3 2020.
- A quarterly rise in equity trades is observed in Q4, following a decrease in the last two quarters.

Derivatives

Turnover increases in most derivatives categories

- Turnover for all derivatives categories increases quarter-on-quarter, except for commodities derivatives, which declines following an uptick in the previous quarter.
- Compared to Q4 2022, increases in turnover are observed for all derivatives categories except for foreign exchange derivatives. However, on a quarterly basis, turnover for foreign exchange derivatives has increased by 20%.

Other instruments

Number of bond trades surpasses previous levels

- Turnover for securitised derivatives, ETFs and REITS moves upwards since the previous quarter. Within the same period, turnover moves down for bonds and investment funds.
- Despite the quarterly decrease in turnover for bonds in Q4, turnover remains higher in comparison to Q4 2022.
- The number of bond trades reaches a new high.

Source: Capital Markets Fact Sheet Q4 2023

INSTITUTIONAL AFFAIRS

- On January 1, Belgium took over the Presidency of the Council of the European Union and will take the reins until 1 July. Presidency presented its priorities for upcoming term:
  - Defending rule of law, democracy and unity,
  - Strengthening EU's competitiveness,
  - Pursuing a green and just transition,
  - Reinforcing EU's social and health agenda,
  - Protecting people and borders,
  - Promoting a global Europe (Read more).

European Council Presidency timeline

Belgium	January-June	2024
Hungary	July-December	2024
Poland	January-June	2025
Denmark	July-December	2025
Cyprus	January-June	2026
Ireland	July-December	2026
Lithuania	January-June	2027
Greece	July-December	2027
Italy	January-June	2028
Latvia	July-December	2028
Luxembourg	January-June	2029
Netherlands	July-December	2029
Slovakia	January-June	2030
Malta	July-December	2030

Learn more on the Council Presidency here.

MARKET DATA

- ESMA will organise **two online workshops** related to the CTPs selection procedures and the specification of selection criteria.
  These workshops will provide relevant stakeholders with an initial understanding of ESMA's approach to the selection of CTPs (across all asset classes) and with an opportunity to share their input before the launch of a more detailed consultation expected in May 2024.
- ESMA launched a consultation on the revision of the Disclosure Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS). These standards relate to the specific information and **details of securitisation transactions** that should be made available.

CMU

- The Council and the Parliament have reached a provisional agreement on the **Listing Act**, a package that intends to make EU public capital markets more attractive for EU companies and make it easier for companies of all sizes, including SMEs, to list on European stock exchanges. The agreement will cut red tape and costs to help European companies of all sizes, in particular SMEs, access more sources of financing. Co-legislators also reached an agreement on the directive on multiple-vote share structures for companies seeking admission to trading of their shares on an SME growth market. Read more on MVS and Listing Act.
- ESMA published a Consultation Paper on the draft implementing technical standards (ITSs) regarding the tasks of the collection bodies and the functionalities of the **European Single Access Point (ESAP)**. These ITSs and the requirements they set out

are designed to enable future users to be able to effectively harness the comprehensive financial and sustainability information centralised on the ESAP. This consultation closes on 8 March 2024.

- ESMA published its sixth market report on the **costs and performance of EU retail investment products**. In this annual report ESMA finds that the average costs of investing in key EU retail financial products has declined by the end of 2022. However, cost heterogeneity persisted across EU Member States.

POST TRADING

- ESAs published the joint draft regulatory technical standards (RTS) under the **European Market Infrastructure Regulation (EMIR)** where they are proposing a two-year extension to the equity option exemption from bilateral margining, as well as issue a no-action opinion. RTS provide clarity to market participants on how to handle equity options as from 4 January 2024, the date on which the current temporary exemption is set to expire. More specifically, the ESAs are proposing to extend the temporary exemption and are issuing a no-action Opinion which includes clarifications on the supervisory expectations.
- ESMA published a Consultation Paper on Technical Advice to the European Commission on the **CSDR penalty mechanism**. The consultation runs until 29 February 2024. The aim of the consultation is to collect evidence and data from stakeholders on the effectiveness of the current penalty mechanism in discouraging settlement fails and incentivising their rapid resolution. In addition, it seeks feedback on ESMA's preliminary proposals regarding:
    - alternative parameters, when the official interest rate for overnight credit charged by the central bank issuing the settlement currency, is not available,
    - the treatment of historical reference data for the calculation of late matching fail penalties,
    - alternative methods for calculating cash penalties, including progressive penalty rates.

SUSTAINABLE FINANCE

- ESMA launched a consultation on a set of **draft Guidelines on Enforcement of Sustainability Information** and is inviting comments from interested stakeholders by 15 March 2024.

  The main goals of the draft Guidelines are to:
    - Ensure that national competent authorities carry out their supervision of listed companies' sustainability information under the Corporate Sustainability Reporting Directive (CSRD), the European Sustainability

Reporting Standards and Article 8 of the Taxonomy Regulation in a converged manner,
  - Establish consistency in, and equally robust approaches to, the supervision of listed companies' sustainability and financial information; this will facilitate increased connectivity between the two types of reporting.
- ESMA provided an update on the status of ESMA's guidelines on **ESG and sustainability-related terms in fund names**, including details on the timing of their publication. Since the launch of the work on the guidelines, the AIFMD and UCITS Directive reviews have progressed. ESMA has decided to postpone the adoption of the Guidelines to ensure that the outcome of these reviews may be fully considered. In particular, the text of the provisional agreement resulting from the interinstitutional negotiations contains two new mandates for ESMA to develop guidelines specifying the circumstances where the name of an AIF or UCITS is unclear, unfair, or misleading.
- ESAs published Final Report proposing amendments to the draft Regulatory Technical Standards (RTS) to the Delegated Regulation supplementing the **Sustainable Finance Disclosure Regulation (SFDR)**. The ESAs propose adding new social indicators and streamlining the framework for the disclosure of principal adverse impacts of investment decisions on the environment and society. The ESAs also suggest new product disclosures regarding "greenhouse gas emissions reduction" targets.
- The European Parliament and Council reached a political agreement on the **Corporate Sustainable Due Diligence Directive**. According to the new rules, the largest European as well as non-European companies will be obliged to identify, mitigate and if applicable stop business activities in their value chains which have negative effects on the environment or human rights. Technical details remain to clarify, as well as formal ratification. Implementation will be staggered, starting two years after the new rules have been published. Read more here.
- EFRAG issued a consultation on draft **European Sustainability Reporting Standards (ESRS) under CSRD for SMEs**. The package includes both mandatory standards for companies within CSRD scope, as well as voluntary standards that may be used for other SMEs. The consultation is open until 21 May.
- EFRAG issued a consultation on draft **Implementation Guidelines for certain ESRS under CSRD**. The consultation covered three topics:
  - Materiality assessment
  - Value chain
  - Detailed ESRS datapoints

RISK MONITORING

- ESMA published two articles, one outlining an approach to modelling the impact of asset price shocks from adverse scenarios involving **climate-related risks**, the other exploring the use of ESG controversies for the purpose of monitoring **greenwashing risk** (Read more).
- ESMA published its first analysis of the exposures the EU securities and markets and asset management sector have to **real estate**. The analysis suggests that:
    - Debt levels in the real estate sector are elevated with wider risk implications from non-bank financial market players.
    - Interlinkages with the banking system are important and arise through entity exposures and activities. Through these, sector shocks may get transmitted across the EU financial system.

  Going forward, interest rate risk can be expected to continue to shape real estate market exposures. Credit risk indicators for real estate companies have started to show signs of deterioration and liquidity mismatches remain a key vulnerability for real estate investment funds.

DIGITAL FINANCE

- ESMA published a discussion paper on the **digitalisation of retail investment services** and related investor protection considerations. ESMA is seeking stakeholders input by 14 March 2024 on recommendations regarding online disclosures, digital tools, and marketing practices.
- ESMA published a Report on **innovation facilitators**, a term encompassing innovation hubs and regulatory sandboxes. The Report identifies a number of benefits and challenges relating to the operation and design of such innovation facilitators and presents recommendations and considerations towards national competent authorities (NCAs), the ESAs and the European Commission to further enhance the role and efficiency of innovation facilitators in the financial sector across the European Economic Area (EEA).
- ESAs launched a public consultation on the second batch of policy mandates under the **Digital Operational Resilience Act (DORA)**. The package includes four draft regulatory technical standards (RTS), one set of draft implementing technical standards (ITS) and two sets of guidelines (GL). These policy instruments aim to ensure a consistent and harmonised legal framework in the areas of major ICT-related incident reporting, digital operational resilience testing, ICT third-party risk management and oversight over critical ICT third-party providers. The consultation runs until 4 March 2024.

- ESMA published two **Consultations Papers on guidelines under Markets in Crypto Assets Regulation (MiCA)**, one on reverse solicitation and one on the classification of crypto-assets as financial instruments. ESMA invites comments from stakeholders by 29 April 2024.
- ESAs published the first set of final draft technical standards under the **DORA** aimed at enhancing the digital operational resilience of the EU financial sector by strengthening financial entities' Information and Communication Technology (ICT) and third-party risk management and incident reporting frameworks.
  The joint final draft technical standards include:
    - Regulatory Technical Standards (RTS) on ICT risk management framework and on simplified ICT risk management framework;
    - RTS on criteria for the classification of ICT-related incidents;
    - RTS to specify the policy on ICT services supporting critical or important functions provided by ICT third-party service providers (TPPs); and
    - Implementing Technical Standards (ITS) to establish the templates for the register of information.

MIFID/MIFIR

- ESMA launched a Common Supervisory Action (CSA) with National Competent Authorities (NCAs), with the objective of assessing the implementation of **pre-trade controls (PTCs) by EU investment firms using algorithmic trading techniques**. PTCs are used by investment firms to carry out checks at order entry to limit and prevent sending erroneous orders for execution to trading venues. Following the May 2022 flash crash, ESMA and NCAs have focussed their attention on the implementation of PTCs in the EU, gathering evidence through questionnaires submitted to a sample of EU investment firms. As a follow up, ESMA and NCAs have decided to launch a CSA with the goal of gathering further and more detailed insights on how firms are using PTCs across the EU.

BENCHMARKS

- ESMA will launch a Common Supervisory Action (CSA) with National Competent Authorities (NCAs) on **ESG disclosures under the Benchmarks Regulation** (BMR). It is the first CSA for ESMA in its role as a direct supervisor of Benchmarks Administrators. The CSA will focus on supervised benchmarks administrators, located either in the Union or in a third country, that have acquired an authorisation, registration, recognition or endorsement of their benchmarks under the BMR (Read more).
- ESMA issued the final statement of the group, announcing the **completion of the EU Interest Rate Reform**. In the statement published today, ESMA summarises the key

achievements of the EUR RFR WG, such as the identification of €STR as risk-free rate for the euro area and the definition of EURIBOR fallback provisions for each asset class.

AML/AFC

- European Parliament and Council negotiators reached a provisional agreement on the sixth **Anti-Money Laundering (AML) directive** and the EU "single rulebook" regulation. The agreed provisions, part of the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) package, will have to be applied by banks and other obliged entities to protect the EU internal market from money laundering and terrorist financing.
The new bills provide access to beneficial ownership information and give more powers to Financial Intelligence Units (FIUs) to analyse and detect money laundering and terrorist financing cases as well as to suspend suspicious transactions.

CLEARING

- ESMA published its annual peer review report on the **supervision of EU Central Counterparties (CCPs)** by National Competent Authorities (NCAs). The Peer Review measured the effectiveness of NCA supervisory practices in assessing CCP compliance with EMIR requirements on due diligence of clearing members.
The NCAs participating in the current peer review have broadly met the supervisory expectations in relation to CCP clearing members. In particular, the NCAs consistently assessed the CCPs' compliance with the participation requirements, with due diligence of clearing members and with their review process.

PUBLICATIONS AND EVENTS

- **European Institutions**
  - ESMA published the Final Report on the Guidelines on stress test scenarios under the Money Market Funds Regulation (MMFR).
  - ESMA published the final report setting out the draft Regulatory Technical Standards (RTS) for the European Long-Term Investment Fund (ELTIF) regulation.
  - ESMA updated Q&As on:
    - Benchmarks Regulation (BMR)
    - MiFID II and MiFIR investor protection and intermediaries topics

        - The European crowdfunding service providers for business Regulation
    - ESMA published an update to the European Single Electronic Format (ESEF) XBRL taxonomy 2022 files and the ESEF Conformance Suite 2023 to facilitate the implementation of the ESEF Regulation.

- **European Social and Economic Committee**
    - Opinion paper 'The strategic importance of the EU financial sector – How to improve assessment and evaluation'

- **European associations and coalitions**
    - **Federation of European Securities Exchanges**
        - FESE issued a Response to the ESMA call for evidence on shortening the settlement cycle.
        - FESE responded to the second ESMA consultation on the technical standards specifying certain requirements under MICA.
        - FESE published Capital Markets Fact Sheet 2023-Q4.
        - FESE published Annual Statistical Report 2023.
        - Elina Yrgård, Nasdaq, was re-elected Chair of FESE's Equity Committee.

CALENDAR

February

7	ESMA webinar on articles on methodology for climate risk stress testing and analysis of the financial impact of greenwashing controversies (Registration).
13	FESE board
16	ESAs Open hearing on ESAP draft implementation standards.
15	ESMA Workshop on Consolidated Tape for potential applicants.
20	European Commission high level conference on 'Financial literacy, resilience and inclusion', Brussels.
20	EPFSF Flagship event 'Our Vision for Europe: the Single Market for Financial Services', Brussels

21-23 The Eurofi High Level Seminar in Gent, Belgium.

21 DIGITALEUROPE Masters of Digital 2024 annual conference.

22-24 Informal ECOFIN and Eurogroup meeting.

29 ESMA sonsultation on Technical Advice on CSDR Penalty Mechanism closes.

March

4 ESMA consultation on DORA closes.

4-5 CEPS Annual Ideas Lab, Brussels.

8 ESMA consultation on draft ITS specifying certain tasks of collection bodies and certain functionalities of the European Single Access Point closes.

13 Access to Finance for SMEs: Assessment and Perspectives conference.

14 ESMA Workshop on the Consolidated Tape for market participants.

21-22 European Council meeting.

April

22-25 Last plenary session of European Parliament before elections.

29 ESMA Consultation on MiCA closes.