

# ESMA NEWSLETTER – N°21

SAVE THE DATE – ESMA 10 YEAR ANNIVERSARY CONFERENCE – 23 MARCH 2021



As part of ESMA's 10th year anniversary celebrations, we are hosting an online conference which will reflect on the progress the Authority has made in its first decade, as well as look to its future. The conference will take place on **23 March 2021, 15:00-18:35 CET**.

Registrations are now open. [Click here](#) and save your virtual seat.

The full agenda can be downloaded [here](#). The event will gather representatives from the European Institutions, supervisors and a broad range of other stakeholders. More information about our speakers and hosts [here](#).

## **SOCIAL MEDIA DRIVEN SHARE TRADING? THINK TWICE. GameStop frenzy and related phenomena**

The trading in GameStop shares and related phenomena touches on several relevant regulatory and supervisory issues, across the areas of investor protection, trading, market abuse and post-trading processes.



We remember the unprecedented trading situation centred in the second half of January 2021 on the shares of firms such as US videogame retailer GameStop or US movie theatre company AMC Entertainment, which have seen their equity

prices surge amid high trading volumes and extreme volatility. Large purchases of shares and of call options, combined with very high short positions created the conditions for unprecedented price increases.

The shares were heavily promoted by certain internet sites and in social media, which encouraged massive purchases by retail investors using leverage, and was amplified by forced buying from short sellers and underwriters of options, resulting in a so called “short squeeze”. As a result, GameStop and AMC share prices surged by 1,745% and 839% in January respectively, with consequent growth in their market capitalisation as well as their share traded volumes. At the end of January, when US brokers took steps to curtail activity, extreme movements in individual shares dissipated and concerns about possible contagion towards shares of other issuers diminished.

Overall, this had a significant impact on US equity trading volumes in January 2021, with volumes traded higher than in March 2020 – during the COVID-19 market stress – and twice as high compared to January 2020. However, trading activity related to GameStop or AMC shares on European venues remained marginal.

The likelihood of similar events happening in the European Union (EU) appears limited. While some EU shares were mentioned in the press as potential targets after the GameStop related events, European short positions levels are lower than in the US, with only 20 issuers with net short positions above 10% (at a maximum of 16%). This limits the risk of a GameStop style “short squeeze”. Moreover, short positions – especially large positions leading to public disclosures – have reduced markedly since the end of January. No increase in overall short-selling activity in the EU was observed in January 2021. While a few EU shares with larger short positions have seen some short-lived price spikes in the last week of January, the price increases were much more limited compared to US levels.

The observed extreme price volatility combined with the broad participation of retail investors raises, in the first place, investor protection concerns. In view of this, ESMA issued a [Statement](#), on 17 February 2021, urging retail investors to be careful when taking investment decisions exclusively on the basis of information from social media and other unregulated platforms, if the reliability and quality of that information cannot be verified. While alerting them to the significant risks of investing in stocks characterised by very high price volatility, which will be even more profound for investors using leverage, ESMA stresses the importance of gathering investment information from reliable sources before taking an investment decision. Retail investors also need to clearly keep in mind one’s investment objectives, the ability to bear losses and the benefits of diversification. Financial education which can help to get better outcomes for retail investors.

ESMA closely coordinated its monitoring and assessment of the Game Stop phenomena with the National Competent Authorities (NCAs), which also issued their own clarifications, as well as with colleagues from the US Securities and Exchange Commission and the Financial Conduct Authority.

The use of new technology can help increase retail investors participation in financial markets, and thus contribute to one of the objectives of the Capital Markets Union Action Plan. However, there are concerns that specific aspects of online brokers' business models may incentivise the adoption of risky short-term trading strategies by retail investors. Moreover, there are potentially concerns about the transparency of the fee structure. In particular, the role of online brokers' business models in creating the recent surge in retail investor participation should be further investigated. We have observed the growing popularity of providers like RobinHood over the last 12 months, with the pandemic appearing to act as a catalyst for this increase in retail trading, against a backdrop of further digitalisation and falling trading commissions in finance.

The phenomenon of zero-commission trading needs to be looked at in more detail. To be sure, as such lower costs for retail investors are a welcome development, given the importance of costs in determining investors' long-term returns. However, there is no such thing as a free lunch. Payments for order flow from third parties such as market makers may substitute commissions that are otherwise paid by clients, creating conflicts of interest and resulting in less transparency for retail clients. The practice of payment for order flow needs to be carefully assessed against the MiFID II requirements on conflicts of interest, best execution and inducements. Next to zero-commission trading, other practices also deserve scrutiny, such as the use of investment apps combined with a phenomenon known as the gamification of investing, potentially impacting retail investors' risk awareness and contributing to the popularity of leveraged trading strategies.

Furthermore, from a market integrity perspective, the GameStop situation posed certain questions regarding the applicable market abuse regime requirements and prohibitions. Any trading strategy likely to give misleading signals as to the supply, demand or price of a financial instrument, or likely to secure its price at an abnormal or artificial level may represent market manipulation. While a simple intention to buy the shares of an issuer on which large short sale positions are established does not constitute market abuse, coordinated strategies to buy and sell at certain conditions and at a certain point in time with the objective to inflate the share's price could constitute market manipulation. Moreover, posting false or misleading information about an issuer or a financial instrument on social media may also represent market manipulation.

Another set of considerations and lessons learnt relates to the suspension of buy orders on certain platforms. The sudden exclusion of retail investors from trading GameStop shares via RobinHood was argued, by the platform, as being driven by the large margin calls issued by the clearing house to cover the new positions and related risks, reflecting the heightened volatility and concentration associated with this sudden large trading activity by Robinhood clients. In the EU, from our discussion with the supervisors of EU CCPs, no major changes in margin requirements were noticed as the EU stocks that followed a similar situation did not experience as much volatility and concentration as in the US case.

ESMA will continue to monitor developments and may take further action where

appropriate.

*This material is based on the introductory statement given by ESMA Chair, Steven Maijor, on 23 February at the European Parliament Committee on Economic and Monetary Affairs.*




## The Month Ahead

## Speakers' corner



### SPEAKING APPEARANCES OF ESMA STAFF IN MARCH

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esma European Securities and Markets Authority

## CONSULTATIONS CLOSING IN MARCH

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



## CALL FOR CANDIDATES

ESMA calls experts to join consultative working groups



### Consultative Working Group (CWG)

### Deadline for application

ESMA <a href="#">calls experts on commodity</a> derivatives to join the the CWG for the ESMA's Commodity Derivatives Task Force (CDTF)	07/03/21
ESMA <a href="#">calls for experts on post trading</a> to the CWG for the ESMA's Post Trading Standing Committee (PTSC).	08/03/21
ESMA <a href="#">calls for fund experts</a> to the CWG which advises ESMA's Investment Management Standing Committee (IMSC).	17/03/21



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## OPEN VACANCIES AND DEADLINES

Position	Deadline for application
Traineeship notice – Legal profile (F/M)	31/03/2021
Traineeship notice – Transversal profile (F/M)	31/03/2021
Traineeship notice – Financial Markets Profile (F/M)	31/03/2021
Senior Supervision Officer (IT Profile)	21/03/2021

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



Press Office Updates

Missed any ESMA publications? Check out the [full list of news items](#) on our website.

## ESMA PUBLICATIONS IN FEBRUARY

**26 February**

[ESMA updates Q&As, templates and technical instructions for securitisation reporting](#)

ESMA has today published 4 new Q&As and modified 11 existing Q&As. ESMA also updated reporting instructions and an XML schema for the templates set out in the technical standards on disclosure requirements.

**26 February**

[ESMA consults on regulating crowdfunding](#)

ESMA has today launched a consultation on draft technical standards on crowdfunding under the European crowdfunding service providers regulation (ECSPR).

**25 February**

[ESAs issue recommendations on the application of the regulation on sustainability-related disclosures](#)

ESMA have today published a joint supervisory statement on the effective and consistent application and national supervision of the Regulation on sustainability-related disclosures in the financial services sector (SFDR). The statement aims to achieve an effective and consistent application and national supervision of the SFDR, promoting a level playing field and protecting investors.

**25 February**

[ESMA consults on methodology to calculate a benchmark in exceptional circumstances](#)

ESMA has launched a consultation on draft guidelines detailing the obligations applicable to administrators that use a methodology to calculate a benchmark in exceptional circumstances under the Benchmarks Regulation (BMR).

**25 February**

[Fabrizio Planta delivers statement on Cum-Ex-Cum-Cum at EP Subcommittee on tax matters](#)

ESMA Head of Markets and Data Reporting Department, Fabrizio Planta, addressed yesterday the Members of the European Parliament Subcommittee on Fiscal Matters regarding the "Cum-Ex/Cum-Cum" tax fraud scandal. He referred to the past and prospective role of ESMA, and the recommendations and conclusions of the Final Report on the inquiry.

**25 February**

[ESMA publishes first Q&As on crowdfunding](#)

ESMA has published a Questions and Answers (Q&A) regarding the understanding of Special Purpose Vehicle (SPV) aspects under the Regulation on European crowdfunding service providers for business.

**25 February**

[ESMA appoints new chair of its corporate reporting standing committee](#)

The Board of Supervisors of ESMA has appointed Annemie Rombouts, Deputy Chair of the Belgian Financial Services and Markets Authority, as Chair of the Corporate Reporting Standing Committee (CRSC).

**24 February**

[ESMA publishes guidelines to harmonise CCP Supervisory Reviews and Evaluation Under EMIR](#)

ESMA has today published the final report on Guidelines aimed at assisting competent authorities in the application of EMIR provisions that deal with the review and evaluation of central counterparties (CCPs).

**24 February**

[ESMA publishes second annual report on waivers and deferrals for non-equity instruments](#)

ESMA has today published its second Annual Report on waivers and deferrals for non-equity instruments under MiFIR

**23 February**

[Steven Maijor delivers statement on GameStop at the ECON Committee](#)

ESMA Chair, Steven Maijor, addressed today the Members of the European Parliament within the Committee on Economic and Monetary Affairs (ECON). He was invited together with the European Commission's Director for Financial Markets, Ugo Bassi, for an exchange of views on GameStop share trading and related phenomena.

**17 February**

[ESMA highlights risks to retail investors of social media driven share trading](#)

**16 February**

[ESMA submits IFRS 9 and IAS 20 related questions to IFRS Interpretations Committee](#)

**15 February**

[ESMA calls for fund experts to join consultative stakeholder group](#)

**9 February**

[ESMA withdraws the registrations of Fitch entities following mergers with Fitch Ratings Ireland](#)

**9 February**

[ESMA organises workshop on "CCP margins and procyclicality in times of crisis"](#)

**4 February**

[Steven Maijor delivers keynote speech at conference on FinTech and Regulation](#)

**4 February**

[The three European Supervisory Authorities publish final report and draft RTS on disclosure under SFDR](#)

**3 February**

[EIOPA's Board of Supervisors agrees on changes to the PRIIPs key information document](#)

ESMA has released a statement to highlight to retail investors the risks connected with trading decisions based exclusively on exchanges of views, informal recommendations and sharing of trading intentions through social networks and unregulated online platforms. The statement is issued as part of ESMA's investor protection objective to safeguard retail investors, whose participation is key to the development of the Capital Markets Union.

ESMA submitted questions related to the accounting for the third series of the European Central Bank's (ECB) Targeted Longer-Term Refinancing Operations (TLTRO III) to the International Financial Reporting Standards Interpretations Committee (IFRS IC).

ESMA has issued today a call for candidates in order to renew the composition of its Consultative Working Group (CWG) which advises ESMA's Investment Management Standing Committee (IMSC).

ESMA has today withdrawn the credit rating agency (CRA) registrations of Fitch France, Fitch Polska, Fitch Italia and Fitch Ratings España following the merger with Fitch Ratings Ireland.

ESMA is organising a workshop on CCP margins and procyclicality in times of crisis which will take place on 17 February 2021 from 2:30 to 6:00 PM (Paris time).

ESMA Chair, Steven Maijor, addressed today senior policymakers and industry at the 5th Annual Conference on 'FinTech and Regulation: New Challenges and New Solutions'. His speech touched upon: digitalisation: risks and opportunities; accelerating trends; and safe navigation.

The Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) delivered today to the European Commission (EC) the Final Report, including the draft Regulatory Technical Standards (RTS), on the content, methodologies and presentation of disclosures under the EU Regulation on sustainability-related disclosures in the financial services sector (SFDR).

The European Supervisory Authorities – ESAs (the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) submitted today to the European Commission draft Regulatory Technical Standards (RTS) on amendments to the key information document for packaged retail and insurance-based investment products (PRIIPs).



### **3 February**

[ESMA updates Q&As on MiFID II and MiFIR market structures topics](#)

ESMA has today updated its Questions and Answers (Q&As) regarding market structures issues under MiFID II and MiFIR.

### **3 February**

[ESMA provides input to the Commission on improvements for ELTIF](#)

ESMA today sent a letter to the European Commission consultation on the review of the European Long Term Investment Funds (ELTIF) Regulation. ESMA highlights the key topics of the ELTIF review where we see the need to consider amendments to this framework.

### **2 February**

[ESMA calls experts on post trading to join consultative industry group](#)

ESMA has published today a call for candidates to renew the Consultative Working Group (CWG) for the ESMA's Post Trading Standing Committee (PTSC).

### **2 February**

[ESMA publishes annual report on the application of waivers and deferrals for equity instruments](#)

ESMA has today published its Annual Report on the application of waivers and deferrals for equity instruments under MiFIR.

### **1 February**

[ESMA publishes report on proposed fees for benchmarks administrators](#)

ESMA has published today the Final Report on its Technical Advice regarding supervisory fees for benchmarks administrators under the BMR.

### **1 February**

[ESMA finalises rules on standardises information to facilitate cross-border distribution of funds](#)

ESMA has today published a final report on implementing technical standards (ITS) under the Regulation on cross-border distribution of funds. The ITS focus on the publication of information by national competent authorities (NCAs) on their websites, the notification of information by NCAs to ESMA and the publication of information by ESMA on its website.

### **1 February**

[ESMA launches a common supervisory action with NCAs on MiFID II product governance rules](#)

ESMA is launching a common supervisory action (CSA) with national competent authorities (NCAs) on the application of MiFID II product governance rules across the European Union (EU). The CSA will be conducted during 2021.