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1. ESMA's Market Report on Costs and Performance of EU Retail Investment Products 2024



On 14 January, the European Securities and Markets Authority (ESMA) published its [seventh Market Report on the Costs and Performance of EU Retail Investment Products](#). The report shows a **decline** in the costs of investing in key financial products, even if the cost levels of funds in the EU **"remain high by international standards"**. **Distribution costs** are generally not included.

"With more than 50,000 funds and an average fund size almost 10 times smaller than that of for example US mutual funds, EU funds do not exhaust the economies of scale commensurate with the EU's single market. The market inefficiencies revealed by this higher cost level shows the need to focus on the competitiveness of EU markets, within a future Savings and Investments Union."

ESMA lists the following as key findings of its report:

- **UCITS costs decline gradually, from high levels:** Costs have declined, but investors should continue to consider fund fees carefully in their investment decisions – especially since costs have not dropped for all categories of funds: ongoing costs of mixed funds and equity passive funds have been relatively stable over time.

- **UCITS performance slightly improved:** Returns progressed in 2023 but remained far from their 2021 levels. The annual net performance of bond and mixed funds improved between 2022 and 2023 but remained in negative territories.
- **ESG UCITS with lower costs and higher performance than non-ESG:** Ongoing costs of retail ESG funds remain lower or similar to the ongoing costs of non-ESG equivalents. Overall, ESG funds outperformed their non-ESG equivalents in 2023. This hides some disparities across asset classes: non-ETF equity ESG funds outperformed, while equity ETF, fixed income and mixed ESG funds underperformed.
- **Alternative Investment Funds less demanded by retail investors:** The market for Alternative Investment Funds (AIF) remained dominated by professional investors and is less invested by retail investors compared with the UCITS market. The share of retail investors decreased between 2022 and 2023: from 14% to 11%. In 2023, annualised gross and net performance improved significantly compared with 2022, with all fund strategies having positive returns.
- **Structured Retail Product costs improve but remain difficult to assess for clients:** In 2023, the share of products referencing interest rates and inflation rose to around one fifth of sales volumes, a sharp increase from 2022. This trend followed higher interest rates and inflation. Costs – largely charged in the form of subscription fees – fell in 2023 for some common product types, although they vary substantially by payoff type and country. Structured Retail Products that matured in 2023 consistently delivered positive returns in gross terms, but these figures do not consider the incidence of costs paid by investors.

Next steps

The report aims at **facilitating increased participation of retail investors** in capital markets by providing **consistent EU-wide information** on cost and performance of retail investment products. ESMA states that **improvements** in data availability continue, **but significant data issues persist**.

Following the review of the AIF managers Directive and the [UCITS Directive](#), ESMA has been mandated to produce a report on costs linked to investment in UCITS and AIFs. For the purpose of this report, ESMA launched a [data collection exercise](#) together with the national competent authorities. This analysis will be part of an **enhanced 2025 ESMA market report on costs and performance of EU retail investment products** that is expected to bring **new insights** and **more granular information on fund costs**.

2. The European Green Bond Standard is now available



Since December 2024, the voluntary [European Green Bond Standard](#) (=EuGBs) is available to issuers looking for more sustainability. Its aim is to increase the flow of finance to green and sustainable projects for all investors, with a strong focus on institutional investors.

It relies on the detailed criteria of the [EU taxonomy](#) to define green economic activities, ensures high levels of transparency and creates an EU level registration and supervision system for companies carrying out pre and post issuance reviews of issuers' disclosures. This means that investors will know exactly what makes a European green bond "green". Moreover, disclosures, to be published both before issuance and afterwards, will need to be assessed by independent external reviewers. This will build transparency and trust, empowering investors to hold issuers to account.

Besides, firms providing external reviews will for the first time be supervised at EU level, as ESMA has been entrusted with this task. Plus, the EuGBs will be complemented with new tools for issuers of other types of green or sustainability linked bonds. Issuers of these bonds will be able to use new pre- and post-issuance templates to voluntarily disclose the taxonomy alignment of these securities.

Key elements of the EuGBs

- Full grandfathering.
- Flexibility in the taxonomy-alignment of allocated EuGBs proceeds: The Regulation allows for a "flexibility pocket" of 15% of proceeds invested in activities not yet covered by the Taxonomy screening criteria. This flexibility pocket will be reexamined as the Taxonomy continues to develop.
- Voluntary nature of the standard.
- Bonds issued by non-cooperative tax jurisdictions cannot adopt the denomination.
- External reviews of EuGBs will need to register with ESMA and be subjected to a supervisory framework provided for in the Regulation.
- The regulation will be reviewed five years after its entry into force.

Next steps

External reviewers will operate under a transitional regime, from **21 December 2024 to 21 June 2026**, which requires them to notify ESMA. ESMA will publish on its website and keep up to date a list of the firms that have submitted such notification and provided the necessary information, so that investors and issuers of European green bonds can see who the firms are that can provide services as external reviewers of European green bonds during the transitional period.

3. Crypto-assets: ESMA's RTS and guidelines on MiCA - ESMA's investor warning - Guidelines from the ESAs Joint Committee to facilitate classification of crypto-assets



1. ESMA RTS and guidelines on MiCA

On 17 December, ESMA published the last package of final reports containing regulatory technical standards and guidelines ahead of the full entry into application of the Markets in Crypto-Assets Regulation (MiCA) on 30 December 2024.

The package contains:

[Guidelines on suitability](#) that specify how crypto-asset service providers (CASPs) providing advice on crypto-assets or portfolio management of crypto-assets have to give **suitable recommendations** to their clients or make **suitable investment decisions** on their behalf (see as of p 47). These rules are **aligned with the MiFID II requirements** so that CASPs providing advice both under MiFID II and MiCA would be subject to similar requirements.

Interesting to note in point 18: "*In order to **address potential gaps in clients' understanding** of the crypto-asset services provided through **robo-advice**, crypto-asset service providers should **inform clients, in addition to other required information**, on the following:*

- *a very clear explanation of the **exact degree and extent of human involvement** and if and how the client can ask for human interaction;*
- *an explanation that the **answers clients provide will have a direct impact in determining the suitability** of the investment decisions recommended or undertaken on their behalf;*
- *a **description of the sources of information** used to generate an investment advice or to provide the portfolio management service (e.g., if an online questionnaire is used, crypto-asset service providers should explain that the responses to the questionnaire may be the sole basis for the robo-advice or whether the crypto-asset service provider has access to other client information or accounts);*
- *an explanation of **how and when the client's information will be updated** with regard to his/her situation, personal circumstances, etc".*

[Guidelines on crypto-asset transfer services that aim at ensuring investor protection](#) for clients transferring crypto-assets, by specifying the policies and procedures that CASPs should have in place.

[Regulatory Technical Standards \(RTS\) on market abuse](#) that specify systems and procedures to **prevent and detect market abuse in crypto-assets**, the **template** for reporting suspected market abuse in crypto-assets as well as **coordination procedures** between competent authorities for the detection and sanctioning of cross-border market abuse situations. These rules will enable supervisors to address suspicions of market abuse and follow up with enforcement actions where necessary.

[Guidelines on reverse solicitation](#) that confirm ESMA's previous message that the reverse solicitation exemption should be understood as very narrowly framed and should be regarded as the exception and not be used to circumvent MiCA requirements. This exemption only applies to cases where the client is the exclusive initiator of the service. Guidance is provided on the limited circumstances where this may be the case.

[Guidelines on qualification of crypto-assets as financial instruments who provide conditions and criteria for the qualification of crypto-assets as financial instruments.](#) The guidelines aim to provide more clarity about the **delineation between the respective scopes of application** of MiCA and other sectoral regulatory frameworks (notably MiFID II).

[Guidelines on the maintenance of systems and security access protocols](#) that apply to offerors and persons seeking admission to trading who are not subject to the same operational resilience standards under MiCA and DORA as their CASP and issuer counterparts. Therefore, the guidelines provide for a streamlined set of principles for entities in scope to manage their ICT risks.

Next steps

The guidelines will be translated into the official EU languages and published on the ESMA website. They will apply from three months after the publication of their translations. The final reports with the draft RTS have been submitted to the European Commission for adoption.

2. ESMA's investor warning on crypto-assets

On 13 December, ESMA published an [investor warning](#) on crypto-assets. ESMA states that in November 2024, the value of certain crypto-assets significantly and suddenly increased, hitting new records. This reflects an intensifying interest in relation to crypto-assets and confirms their highly volatile nature.

With the warning, ESMA cautions investors "against being caught up in this hype". They should reflect carefully before making any financial decision and consider their financial needs and objectives.

Despite the new MiCA Regulation, the inherent risks of investing in crypto-assets remain and MiCA's safeguards are less extensive than those for traditional investment products.

Examples ESMA gives:

- crypto-assets will not be covered by an investor compensation scheme like there exists for MiFID II
- MiCA does not require all providers of crypto-asset services to collect clients' information to assess their ability to understand the crypto-assets products they wish to trade;
- crypto-asset service providers have no obligation to report to clients, on a periodical basis, the crypto-assets they hold on clients' behalf and their updated or current value.

Clients may also not benefit from all protections immediately after MiCA enters into application. Most Member States opted to allow existing national crypto-asset service providers to operate without a MiCA license during a transitional period of up to 18 months after MiCA becomes applicable. As a result, clients may not fully benefit from the MiCA safeguards until 1 July 2026, while national authorities will have limited supervisory powers until the crypto-asset service provider becomes authorised. Until that point in time, the national supervisory powers may be restricted only to the enforcement of anti-money laundering rules.

ESMA adds that clients should be very cautious when engaging with non-EU firms. Crypto-asset investments or related services offered by non-EU firms entail even lower safeguards, heightened risks of fraud and scams, and limited recourse (if any) in the event of disputes or claims against the provider.

Additionally, ESMA emphasises that investors are not protected by MiCA when crypto-asset services are provided by firms not authorised in the EU.

Finally, the investor warning also lists the above risks in a practical “checklist” for investors and reminds of the earlier ESAs statements and warnings on crypto.

3. ESAs' Guidelines on crypto-assets

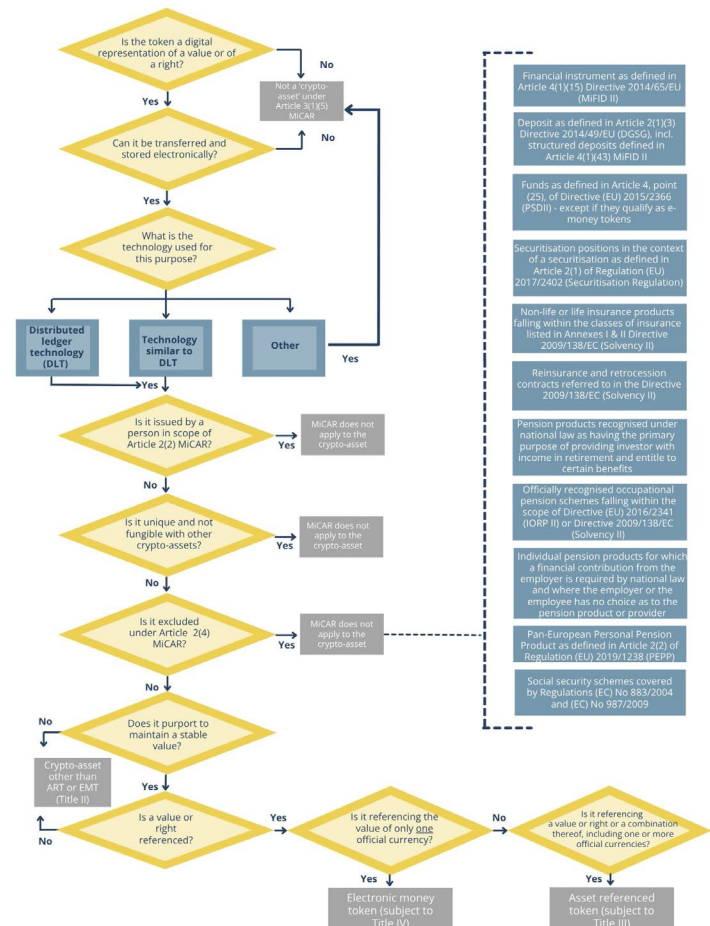
On 10 December, the joint committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA - the ESAs) published [joint Guidelines](#) to facilitate consistency in the regulatory classification of crypto-assets under the recent Regulation on markets in crypto-assets (MiCAR). This is intended to contribute to enhancing consumer/investor protection, securing a level playing field, and mitigating risks of regulatory arbitrage.

The Guidelines include a **standardised test** to promote a common approach to **classification** as well as **templates** that **market participants should use** when **communicating to supervisors the regulatory classification** of a crypto-asset.

The **templates** provide descriptions of the regulatory classification of crypto-assets in the following cases:

- Asset-referenced tokens (ARTs - in particular clarification that it is not an electronic money token (EMT) nor a crypto-asset excluded from the scope of MiCAR).
- Crypto-assets that are not ARTs or EMTs under MiCAR (in particular the fact that it is not an EMT, an ART or crypto-asset excluded from the scope of MiCAR).

The flow chart of the **standardised test** looks like this:



Next steps

The guidelines will now be translated into the official EU languages and published on the ESAs' websites. The guidelines will apply from three months after the publication of their translations.

4. EIOPA informs policyholders about liquidation of Luxembourg insurer



On 5 February, EIOPA informed policyholders that the District Court of Luxembourg decided on the [liquidation and dissolution of FWU Life Insurance Luxembourg](#) (FWU Luxembourg).

EIOPA already [provided information on this case to policyholders](#) since FWU AG (FWU Luxembourg's parent company) entered into [insolvency proceedings](#).

Following the [failure of FWU Luxembourg's recovery plan](#) and the request of the insurer's national supervisor (Commissariat aux Assurances, or CAA) to the District Court of Luxembourg to dissolve and liquidate FWU Luxembourg, the company has [suspended the collection of policyholder premiums](#) from 23 January 2025.

As [communicated](#) by the supervisor, FWU AG has recently cut off all IT access to FWU Luxembourg as well as to its French, German, Italian and Spanish branches. As a result, FWU Luxembourg's customers are, for the time being, unable to contact the company. The company is working on a solution, and more information will be made available shortly.

On 5 February 2025, the liquidator published [initial information](#) on the liquidation process. Further information to policyholders will be provided by the supervisor and the liquidator of FWU Luxembourg in the coming days, including a detailed Q&A document on the liquidation itself, the payout process and other relevant aspects. EIOPA will provide a link to these Q&As once available.

What can consumers do?

The liquidation process has started. Further guidance to policyholders will be provided by the liquidator and the CAA in due course. Consumers are advised to check their websites regularly. In addition to this communication, policyholders are invited to consult the information available on the website the Luxembourg supervisory authority and the national supervisory authority of their country of residence.

Austria

[Finanzmarktaufsicht](#)

Belgium

[L'Autorité des services et marchés financiers](#)

France

[L'Autorité de contrôle prudentiel et de résolution](#)

Germany

[Bundesanstalt für Finanzdienstleistungsaufsicht](#)

Italy

[Istituto per la vigilanza sulle assicurazioni](#)

Luxembourg

[Commissariat aux Assurances](#)

Spain

[Dirección General de Seguros y Fondos de Pensiones](#)

5. EIOPA's recommendation to Bulgarian supervisor to review its supervisory process for assessing undertakings' solvency positions



On 14 January, EIOPA issued a recommendation to Bulgaria's Financial Supervision Commission (FSC) to review its supervisory processes regarding the assessment of (re)insurers' solvency positions. This follows a review by the FSC of a Bulgarian reinsurance undertaking's solvency simulation. In EIOPA's view, the review was too superficial and did not reflect the due diligence expected of a supervisor when verifying the solvency of a supervised entity proportionate to the nature, scale and complexity of the situation.

EIOPA therefore now urges the FSC to revise its supervisory review process regarding the verification of undertakings' and groups' solvency position to ensure (under a prospective and risk-based approach proportionate to the nature, scale and complexity of the undertaking) that (re)insurance undertakings under its supervision are compliant on a continuous basis with the regulatory solvency requirements.

[Read the Recommendation in English](#)

Next steps

The FSC now has two months after the issuance of this Recommendation to confirm to EIOPA whether it complies or intends to comply with this Recommendation.

6. Cyber Resilience Act: State of play



On 10 December 2024, the [Cyber Resilience Act](#) (CRA) entered into force. The main obligations introduced by the CRA will apply from 11 December 2027.

Quid?

The CRA is the first-ever EU legislation placing mandatory cybersecurity requirements for products that include digital elements. Showing the willingness of the European Commission to ensure that digital products do not pose cyber threats to citizens and business. The Act introduces greater responsibilities on manufacturers to guarantee the security of hardware and software products. By enhancing transparency on cyber risks and product security, the Act empowers consumers to make more informed choices about products available on the European market. Products will bear the “CE” marking to indicate that they comply with the regulation’s requirements.

Content

The CRA introduces mandatory cybersecurity requirements for manufacturers and retailers, governing the planning, design, development, and maintenance of products with digital elements. These obligations must be met at every stage of the value chain. The Act also requires manufacturers to provide care during the lifecycle of their products (= obligations for manufacturers to provide software updates that fix security vulnerabilities and offer security support to consumers). Some critical products of relevance for cybersecurity will also need to undergo a third-party assessment by an authorized body before they are sold in the European market.

Scope

The Regulation applies to all products connected directly or indirectly to another device or network except for specified exclusions such as certain open-source software or services products that are already covered by existing rules, which is the case for medical devices, aviation and cars.

See Article 3.(1) of the [Regulation EU 2024/2847](#) on horizontal cybersecurity requirements for products with digital elements (p29): “*product with digital elements’ means a software or hardware product and its remote data processing solutions, including software or hardware components being placed on the market separately;*”.

Intermediaries will be impacted by the CRA, as their own platforms must be protected against cyber threats (directly if they are the manufacturer of platforms they use, or indirectly if they use platforms from a manufacturer of such a tool) and also indirectly as

specific insurance products against cyber risks could be asked by consumers, requiring more expertise on such type of coverage.

Background

The Cyber Resilience Act complements the [NIS2 cybersecurity framework](#), which entered into force last year. It is part of a series of comprehensive measures the European Commission is deploying to bolster the cybersecurity of an increasingly digital and connected Europe (as announced in the 2020 European cybersecurity strategy).

Next steps

As of December 2027, the Regulation will be applicable.

7. ESMA launches selection of consolidated tape provider for bonds



On 3 January 2025, ESMA launched the first selection procedure for the **Consolidated Tape Provider (CTP)** for **bonds**. The Markets in Financial Instruments Regulation review created the conditions for establishing CTPs for **bonds, equities (shares and ETFs) and OTC derivatives**. To appoint those CTPs, ESMA is responsible for selecting the most suitable candidates based on pre-defined criteria and subsequently authorising and supervising the CTPs. The CTP should **enhance market transparency and efficiency** by **consolidating** trade **data** from various trading venues into a single and continuous electronic stream. This consolidated view of market activity should help market participants to access **accurate and timely information** and make better-informed decisions, leading to more efficient price discovery and trading.

Entities interested to apply are encouraged to register and submit their requests to participate in the selection procedure by 7 February 2025.

Next steps

ESMA will assess the received requests and will invite successful candidates to submit their application. ESMA intends to adopt a reasoned decision on the selected applicant by early July 2025. The successful applicant will be selected to operate the CTP for a period of 5 years. For **equities (shares and ETFs)** the procedure will be launched in June this year and for **OTC derivatives** in Q1 2026.

More information can be found [here](#).