

Summary of Conclusions

Management Board

Date:	Tuesday 12 December 2023
Time:	14h00 – 17h12
Location:	MS Teams
Contact:	ESMABoard@esma.europa.eu

- 1. Adoption of agenda** Decision

Decision: The agenda was adopted.

- 2. Confirmation of absence of conflict of interests** Decision

Decision: The Board endorsed the ESMA Chair's statement not to have received any indication by a Board Member of any interest which might be considered prejudicial to her/his independence in relation to any items on the agenda.

- 3. Report by ESMA Chair, Executive Director and Chair of the CCP Supervisory Committee** Discussion

The Executive Director reported on the preparation for the oversight responsibilities foreseen in the DORA regulation, and in particular: a) the ESAs' preparations to collect the relevant data to be able to identify and then designate critical third-party ICT service providers (CTPPs), b) the ESAs' preparations to perform their new oversight responsibilities, both regarding processes and resources, and finally c) the establishment of the governance of the oversight framework.

- 4. Updates on Peer Reviews**

- 1) Presentation Discussion
- 2) Cover note (including mandate for the STS peer review) Decision

The Head of the Conduct Supervision and Convergence Department presented the updates on Peer Reviews. The Chair of the Peer Review Committee (PRC) on the STS peer review presented the mandate of the STS peer review.

The Board discussed the updates on peer reviews and the mandate of the STS peer review, in particular the:

- Proposed scope of the mandatory STS peer review, and rationale behind the selected NCAs;
- The resources/effort needed, especially related to the planned onsite visits ;
- Importance to promote focused and targeted peer reviews to make the peer review process less resource-intensive and more efficient, reflecting a risk-based approach;
- Alignment of the CCP peer review methodology with the ESMA peer review methodology, while taking into consideration the need to be risk-based and to account for the specific set-up of the supervisory convergence in the CCP area (including the role of the CCP Supervisory Committee); and
- Importance of stakeholder outreach as part of the peer review (in the silent presence of NCAs that wish to be there).

Decision: The Board generally supported the mandate for the STS peer review, agreed with the proposals to enhance the efficiency of the peer review process, and the integration of the CCP peer review methodology in the ESMA Peer Review methodology. Finally, the Board took note of the revised composition of the PRC for the Depositories peer review.

5. Cross cutting approach to outsourcing

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| 1) Presentation | Discussion |
| 2) Annex – draft principles | Information |

The Head of the Conduct Supervision and Convergence Department presented a proposed cross sectoral approach to outsourcing.

The Board discussed the cross-cutting approach to outsourcing, in particular the:

- Support for the incremental approach proposed, balancing the need for cross-cutting work and principles with the sector specificities as well as proportionality vs minimum standards;
- Need to balance the high-level cross-cutting principles with sufficient guidance for supervisors, where convergence could be fostered further through discussion of real supervisory cases;
- Importance of further assess different dimensions of outsourcing, intra-group/extra-group, intra-EU/third-country and regulated/unregulated entity;
- The approach pursued by the other ESAs and
- Importance to consider the impact on the single market.

Conclusion: The Board discussed the proposed approach to outsourcing and supported the further development of a cross cutting supervisory guidance.

6. Board of Supervisors agenda planning H1 of 2024

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| 1) Note on Board of Supervisors' forward plan H1 2024 | Discussion |
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The Head of the Governance and External Affairs Department presented the note on the Board of Supervisors' forward plan for the first half of 2024.

The Board discussed the forward plan, in particular the possibility to include in the forthcoming Management Board agendas discussions on the use of Sup-tech tools, CTP selection, evaluation of the new ESMA Group Structure, the Board of Supervisors' away day agenda and the further development and evaluation of Key Performance Indicators.

Conclusion: The Board discussed the note on the Board of Supervisors' forward plan for the first half of 2024.

7. **Draft 2025-2027 Programming Document and 2024 opening budget**

1) Presentation	Discussion
2) Cover note on 2024 budget and 2025-2027 financial planning	Discussion
3) Cover note on the Data and IT Work Programme 2024-2027	Discussion
4) Cover note on Key Performance Indicators (KPIs)	Discussion
5) Draft Programming Document 2025-27	Discussion
6) Data and IT Work Programme 2024-2027	Decision
7) 2024 opening budget – Revenue	Decision
8) 2024 opening budget – Expenditure	Decision
9) 2024 NCAs contribution	Decision

The Executive Director presented the 2024 opening budget, 2025-2027 financial planning, KPIs, and the draft Programming Document 2025-2027. The Deputy Head of the Data Intelligence and Technology Department presented the Data and IT Work Programme 2024-2027.

The Board discussed the 2024 opening budget, 2025-2027 financial planning, the Data and IT Work Programme 2024-2027, KPIs, and the draft Programming Document 2025-2027. In particular it took note of and discussed the:

- Clarifications related to the specific budget lines in the 2024 opening budget;
- Proposed decision not to call EU/NCA funding related to European Single Access Point (ESAP) in 2024, based on ESMA's expectation that the funding from the Digital Europe Programme (DEP) will not be exhausted yet in 2024;
- Possible further involvement of the Management Board in relation to monitoring of progress and resources related to key IT projects; and
- Importance of further developing the set of proposed KPIs in terms of their computation and narrative, taking also into account the interaction with the evaluation of the Union Strategic Supervisory Priorities (USSPs).

Decision: The Board adopted the 2024 opening budget – Revenue, the 2024 opening budget – Expenditure, and the 2024 NCAs contribution. Ugo Bassi (European Commission) voted against the

adoption of the 2024 opening budgets given it does not call the EU subsidy nor the NCAs contributions related to ESAP in 2024, as included in the adopted Union budget.

Furthermore, the Board agreed with the Data and IT Work Programme 2024-2027.

Finally, the Board took note of the 2025-2027 financial planning and proposed KPIs that will be included in the next version of the Draft Programming Document 2025-2027 to be adopted by the Management Board and the Board of Supervisors in January 2024.

8. A.O.B.

The Board discussed the importance of effective supervisory convergence in the area of crypto-assets under the MICA Regulation.

Participants list

	Members
ESMA	Verena Ross
DE	Thorsten Pötzsch Jens Fürhoff (Alternate)
ES	Rodrigo Buenaventura Montserrat Martinez (Alternate)
EL	Nikos Kontaroudis (Alternate)
NL	Jos Heuvelman
AT	Eduard Müller
FI	Armi Taipale

Non-voting Members

Executive Director	Natasha Cazenave
European Commission	Ugo Bassi

Observer

Vice-Chair	Vojtech Belling
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ESMA

Independent Member of the CCP Supervisory Committee	Nicoletta Giusto
Head of the Governance and External Affairs Department	Roxana De Carvalho
Head of the Conduct Supervision and Convergence Department	Iliana Lani
Deputy Head of the Data Intelligence and Technology Department	Alexandru Dincov
Head of the Finance and Procurement Unit	Veronica Magrini
Chair of the PRC on the STS Peer Review	David Nadry
Summary of Conclusions	Tomáš Borovský

For the Management Board,

Done at Paris on 15 January 2024

[signed]

Verena Ross

Chair

ANNEX:

OUTCOME OF WRITTEN PROCEDURES

Written Procedures (outcomes from 3 October 2023 to 11 December 2023)

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| 1. Summary of conclusions – October 2023 Management Board meeting | 10 November 2023 |
| 1) Summary of conclusions | Decision |
| Decision: The Board adopted the summary of conclusions of the October 2023 Management Board meeting. | |
| 2. 2023 budget amendment No. 2 | 14 November 2023 |
| 1) Cover note | Information |
| 2) Budget amendment No. 2 - revenue | Decision |
| 3) Budget amendment No. 2 - expenditure | Decision |
| Decision: The Board adopted the 2023 budget amendment No. 2. Ugo Bassi (European Commission) abstained. | |