European Securities and Markets Authority

Date: January 2020
ESMA22-106-2123

Summary of Conclusions

Joint meeting of the Board of Supervisors and the Securities and Markets Stakeholder Group

Date:	4 December 2019
Time:	13:30 – 16:30
Location:	ESMA, 201-203 rue de Bercy, 75012 Paris
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1. Opening remarks

The ESMA Chair welcomed everyone to the meeting at the new ESMA premises, presented the topics and the speakers, emphasising the importance of the interactions of the Board of Supervisors directly with the SMSG. He noted that the SMSG had made good progress on different work streams on which advice would soon be delivered to ESMA. The SMSG Chair welcomed everyone and expressed the importance for the SMSG of being able to discuss key issues directly with the Board of Supervisors.

2. Fund Liquidity

SMSG member Adina Gurau Audibert presented some views on the issue of fund liquidity, including an overview of the regulatory framework. She went through a number of fundamental principles, including the objective to ensure that the liquidity of the fund assets allows meeting redemption requests from unit holders and other financial commitments (margin calls) while preserving the principle of fair treatment of investors and market integrity. She noted the role of the manager to take all necessary steps to ensure liquidity and the link to a robust valuation system, underlining that the use of risk management tools should not be considered as a failure. The EU needs to have a full set of available liquidity risk management tools to accompany the implementation of the liquidity stress tests guidelines and continued efforts on data analysis and common supervisory practices.

ESMA Board Member Gabriela Figueiredo Dias, Chair of CMVM and Chair of the ESMA Investment Management Standing Committee (IMSC) provided an overview of the work carried out in the IMSC, in order to address liquidity management issues i.a. relating to the ratio of withdrawable equity to assets, interactions between leverage and liquidity and funds' assets vis-à-vis redemption policies. She noted that recent mismatches have raised concerns and that the use of macroprudential tools may not be the best fit and the current challenge is to identify the existing tools or define new ones. Liquidity stress testing guidelines ensuring minimum principles should be included into the management guidelines. ESMA will carry out a common supervisory action regarding liquidity management obligations, which will be a significant supervisory effort to which all NCAs are highly committed. She noted the importance of regulators and asset managers staying aligned to ensure a consistent investment strategy and liquidity risk management and thereby also supporting the credibility of UCITS label.

Carmine Di Noia, Consob Commissioner and Chair of ESMA's Committee of Economic and Markets' Analysis, CEMA, provided his input on the topic focusing on the fund stress testing. He noted in particular the important size and growth of the fund industry. In a long low-interest environment there are incentives to move into riskier or less liquid investments. He referred to recent events linked to liquidity of fund assets. Furthermore, he underlined the importance of the UCITS Directive and AIFMD, with high investor protection standards in delivering the goals of the Capital Markets Union. He also outlined the fund stress testing work of ESMA, with a sectoral stress simulation for a market-level simulation based on commercial data, in order to identify potential vulnerabilities in funds and estimate the ability of the fund industry to amplify shocks to the rest of the financial system. Results had shown that most funds are largely resilient to severe redemption shocks and have enough liquid assets to meet redemptions, but there are some vulnerabilities regarding funds exposed to less liquid assets.

Several SMSG members gave their views on the topic, pointing to an increasing investment in alternative assets by professional investors. SMSG members asked the question of whether more transparency in the fund industry could in some cases add to stress rather than acting as a "disinfectant" and raised the fact that some retail investors see the use of certain risk management tools (such as suspension) as a failure, while that should in principle not be considered as such.

The ESMA Chair concluded thanking the participants for their interesting interventions and noting that fund liquidity is a topic that will remain an important area for ESMA and the National Competent Authorities.

3. ESMA strategic orientation - part II

The ESMA Chair outlined ESMA's new 2020-22 strategic orientation. It was considered very important to put this updated strategy in place, given several important milestone events such as the fact that UK will be leaving the EU and recent new legislative measures (EMIR 2.2, the ESA Review), among others.

ESMA believes that the EU needs to ensure a strong European capital market. A key element is the implementation of the CMU, including improved access by SMEs to the capital markets; a further development of the European financial markets for retail investors, who are still too dependent on deposits; and ensuring that a coordinated system of supervision at national level with supervisory convergence works well.

The strategy builds upon the well-known four activities of ESMA (i) Assessing the risks to investors, markets and financial stability; (ii) Completing a single rulebook for EU financial markets, (iii) Promoting supervisory convergence, and (iv) Directly supervising specific financial entities.

ESMA will significantly step up its risk-based approach to supervisory convergence and focus on key risks to its objectives, such as recently on CFD/Binary options and Closet indexing. In doing so, ESMA will focus on supervisory outcomes with the help of innovative convergence tools like Common Supervisory Actions and more effective peer reviews. ESMA believes that a robust system for convergence work can indeed function well in a decentralised form if the right topics are picked.

ESMA's risk identification and data collection activities will increasingly be the starting point for more risk-driven supervisory convergence, which should ensure that ESMA adequately reacts to emerging issues in the capital markets in a more agile and faster manner.

ESMA will also further expand its function as a data-hub at EU-level.

ESMA will furthermore focus on its role as a direct supervisor. For Credit Rating Agencies and Trade Repositories it will build on its successful work as a credible supervisor; while it will also develop its new competences regarding securities repositories and benchmarks, data providers and third country CCPs.

As regards the further development of a Single Rulebook, ESMA further improves the existing rulebook, while also developing the right regulatory approach in response to two increasingly important developments: technological innovation and sustainable finance.

Furthermore, ESMA will aim to have a stronger voice internationally, especially in regard of equivalence assessments.

Given the increasing demand for proportionality, a dedicated committee has been created. This will allow proportionality assessments to become an even more important part of the ESMA DNA.

4. New Benchmarks/ Euro Risk Free Rate

SMSG member Nathalie Gay Guggenheim presented her views on developments as regards the Euro Risk Free Rate and the work done following the FSB recommendation to reform the critical benchmarks.

She outlined the next steps for finding suitable LIBOR replacements and EURIBOR fall-backs. The key risks she saw relating to the introduction of risk-free rates and Euribor fall-back clauses were: (i) operational and execution risks, including market liquidity, accounting treatment and supervisors' approval; (ii) financial risks, such as capital/model risks and (iii) conduct risk, such as introduction of fallback clauses.

ESMA Board of Supervisor member Sebastien Arabella Amigo, Chair of CNMV stated that EURIBOR is the most important benchmark (also in the retail segment) in some jurisdictions and there are no alternatives available. Strengthening the panel is necessary on a permanent basis. New contracts must include a fall-back such as ESTER. There is a need for stakeholders at a national level to be prepared for the necessary changes that will follow.

ESMA Board of Supervisors member Jean-Paul Servais, Chair of FSMA, outlined his views as regards new benchmarks, stating that BMR compliance was the starting point. He emphasised the need to continue to work on alternative benchmarks and to keep the sense of urgency.

After a fruitful discussion, the ESMA Chair underlined the need for market participants to use the time provided in the preparation of the benchmark reform, to arrive at client readiness and to change legacy contracts to ensure including fall-backs.

5. Concluding remarks

The ESMA Chair thanked the SMSG members for their work during the past year and thanked all the presenters for their interventions at today's meeting. He thanked all the Board members for their valuable presence at the meeting. The SMSG Chair thanked everyone for a fruitful meeting.