

Terms of Reference

Sustainability Standing Committee

1. ESMA's mission is to enhance investor protection, promote orderly financial markets and safeguard financial stability, by (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) supervising specific financial entities.
2. In order to fulfil its mission the ESMA Strategy 2023-2028¹ sets out three strategic priorities: (i) fostering effective markets and financial stability, (ii) strengthening supervision of EU financial markets, and (iii) enhancing protection of retail investors and two thematic drivers: (i) enabling sustainable finance, and (ii) facilitating technological innovation and effective use of data.
3. Furthermore, ESMA is committed to support the European Commission² in its efforts in building the Savings and Investment Union which includes increasing the effectiveness of the financial markets, as well as in delivering on the goals of simplification and burden reduction while maintaining an effective supervision, a high level of financial stability and strong investor protection.
4. ESMA acts within the powers conferred by its establishing Regulation (ESMA Regulation or ESMAR³) and among others within the scope of Article 8(1a) ESMAR which, inter alia, requires the authority to take account of sustainable business models and the integration of environmental, social and governance related factors when carrying out its tasks and in relation to the matters within its remit that are covered in Regulation (EU) 2020/852⁴, the "EU Taxonomy".
5. In order to fulfil ESMA's mission and in line with ESMAR, the Board of Supervisors has established the Sustainability Standing Committee, "SSC", pursuant to Article 41 of ESMAR as a permanent internal committee. These Terms of Reference specify its tasks, responsibilities, functioning and governance.

Tasks and responsibilities

6. The SSC contributes to ESMA's mission by:

¹ https://www.esma.europa.eu/sites/default/files/library/esma_strategy_2023-2028.pdf

² See mission letter to Commissioner Albuquerque [link](#) and Council Budapest declaration [link](#)

³ ESMA Regulation No 1095/2010 of the European Parliament and of the Council

⁴ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088.

- enabling sustainable finance ('SF'), a thematic driver which is embedded across all ESMA activities and aims at achieving the ambition and objectives set out in ESMA strategic documents⁵;
 - ensuring effective integration of Environmental ("E"), Social ("S") and Governance ("G") factors across all areas as well as consistency in the SF work carried out at ESMA across various sectors⁶.
7. The SSC's contribution is carried out through its own work and by contributing to the work of relevant Standing Committees ('SCs') and Groups. The work of the SSC is not expected to duplicate with the functions of the other SCs / Groups which will remain responsible for addressing SF related matters in the respective areas of action and/or EU legislation that fall within their remits.

SSC own work

8. The SSC is responsible for SF workstreams that are horizontal in the sense that they impact across several sectors in the sustainable investment value chain ("SIVC") simultaneously, relating to several pieces of legislation or types of actors (issuers, financial market participants, retail investors). The SSC is responsible for developing the relevant work and submitting it to the Board of Supervisors, "BoS", for approval.
9. The SSC's workstreams fall under three overarching pillars and include:
- incorporating **sustainability topics**. This pillar relates to deepening the knowledge on E, S and G topics and ensuring an effective information flow on these topics across the SIVC. It also means maintaining attention to topics identified as high-risk areas to greenwashing in the Progress Report, most notable the horizontal ones such as transition, impact, etc
 - promoting the **consistency of the SF regulatory framework**. This pillar is driven by the vision set out in the ESMA Opinion on the SF Regulatory Framework to facilitate the investor journey for sustainable investments. Here belong workstreams relating to the development and change of the SF regulatory framework aiming to promote efficiency of the SIVC and to ensure smooth interaction between the different nodes of the SIVC (usability of the EU Taxonomy across the SIVC, consistency of disclosures across the SIVC etc.).
 - supporting **effective supervision** of sustainability disclosures and convergence. This pillar is anchored in the findings of the Final Report on Greenwashing and its ambition to gradually deepen supervisory scrutiny⁷. This includes promoting the building and implementation of a common culture on the supervision of sustainability disclosures, through the enhancement of supervisory convergence, the exchange of supervisory practices and the implementation of common supervisory principles and approaches

⁵ These documents include but are not limited to the ESMA Strategy 2023-2028 and the ESMA Union Strategic Supervisory Priority ("USSP") on ESG disclosures.

⁶ The reference to sectors in this document relates to sectors that are covered in ESMA's mandate.

⁷ "The priority should be to support supervisory convergence, continue building capacities so that supervisors are able to increase the level of critical scrutiny and professional judgement they exert."

on the ground. This pillar encompasses work on capacity building of supervisors, the development of supervision tools and discussion of supervisory cases.

10. Concurrently with the three overarching pillars mentioned above, the SSC will also provide strategic input to the BoS on SF matters relating to the ambition and objectives set out in ESMA strategic documents.
11. New or upcoming regulations may also fall under the SSC's remit (in particular when the requirements set out in paragraph [8] are met). Notwithstanding this, the SSC is not responsible for the specific aspects of new or upcoming legislation where ESMA would be given the power to act as a direct supervisor.
12. In addition, the SSC will contribute to the objective of simplification and burden reduction when developing its regulatory and supervisory output, and be accountable to the BoS on the manner those issues have been addressed in the final outputs.

SSC contribution to work of relevant ESMA SCs / Groups

13. Given the interlinkages amongst SF workstreams, the SSC provides its advice and expertise on SF to relevant SCs, and Groups and may convey its views to the BoS as needed in relation to specific SF workstreams of sectoral and horizontal SCs / Groups and Joint Committee Groups that are key for SF. The SSC has the discretion to select the workstreams to which it will contribute. To select these workstreams the SSC takes into account their horizontal nature and/or interlinkages with other pieces of SF legislation and / or in particular the extent to which they have a material effect on the SIVC, by impacting the flow of sustainability-related information across sectors.
14. For this selection, the SSC also considers the importance of these workstreams to the SF framework and in particular its consistency and takes into account possible mandatory aspects of the work and resource availability. As part of its contribution to the work of other SCs / Groups, the SSC strives to maintain the efficiency of the process for the development of the work. Additionally, upon request of sectoral SCs and Groups, the SSC also provides its advice and expertise regarding certain cross-cutting aspects of specific workstreams.
15. In its steer, the SSC focuses on:
 - a. whether the selected workstream achieves the ambition and objectives set out in the ESMA Strategy 2023-2028 and the Union Strategic Supervisory Priority on ESG disclosures as well as the Greenwashing Progress and Final Reports and the ESMA Opinion on the SF framework;
 - whether ESMA is effective in integrating “E”, “S” and “G” factors;
 - whether ESMA is consistent in its work across various sectors of the SIVC.

Coordination

16. The SSC should ensure close coordination in particular with the Issuer SC (ISC), the Investment Management SC (IMSC), the Investor Protection (IPSC), the Risk SC (RSC), the Data Standing Committee (DSC), the ESMA Supervisory Policy Committee (ESPC) and the Senior Supervisors' Forum (SSF) or the relevant groups reporting to

them as well as groups reporting to the Joint Committee in order to achieve an aligned outcome for ESMA.

17. Coordination with the relevant ESMA Groups and Joint Committee sub-groups may be achieved in a number of ways as set out in the following non-exhaustive list which includes some examples of such coordination:
- Invite the relevant SC Group to provide timely updates including in relation to amendments to the annual work plan in response to urgent risks and problems;
 - Provide the advice and expertise of the SSC on key workstreams on the basis of relevant documents to be shared with the SSC in a timely manner and at an appropriately early stage of the process (to be assessed on a case-by-case basis). Where appropriate, the SSC can also call for advice and expertise from other SCs / Groups;
 - Provide to relevant SCs / Groups an update on the work of the SSC in relation to matters within the mandate of the relevant SC Group.
18. On the basis of prioritisation, the SSC should also discuss technical positions in the scope of the SC to ensure a coordinated EU approach when ESMA and NCAs participate in international fora.

Composition

19. The SSC shall be composed of one person per BoS member as principal member and one person as an alternate, each representing that Board member. In addition, a maximum of three persons or a functional email address can be added to the e-mail distribution list. Where relevant, a representative of an authority other than the ones represented on the BoS can be invited to participate as an observer on an ad-hoc or permanent basis. This decision is taken in agreement with the Member or Members of the SSC from the same Member State. The SSC member shall announce this intent to the Rapporteur in advance. Participants to an SC meeting from the same Member State are expected to coordinate their positions in advance of the meeting.
20. In cases where there is more than one competent authority per country or if a Member State in charge of the topic has designated a competent authority that is not an ESMA member (e.g. a central bank), representatives from authorities other than those represented on the BoS can participate as observers of the Standing Committee and are bound by all the requirements.
21. Members of the SSC shall also coordinate their positions with those held by persons from the same NCA, who serve as members of the project groups to the SSC.
22. Members of the SSC shall coordinate internally their positions with the positions of representatives of their authority in other ESMA SCs as well as with those of colleagues in their authority working on other SF-related topics. This is essential to the well-functioning of this horizontal Standing Committee.

23. Furthermore, representatives of the European Commission shall be appointed as observers to the SSC. Representatives of EEA⁸ and FRA⁹ or other relevant bodies may be invited as observers to contribute to the discussion of topics that fall in the remit of the SSC as appropriate. The observers are not allowed to be present during discussion of confidential topics such as discussion of supervisory cases relating to individual financial market participants.
24. Members of the SSC shall have a high level of knowledge and skill in the field of SF and the seniority and mandate to be able to take a position on the matters discussed. Members shall commit to their own capacity building, by completing the Sustainable Finance Training Plan 2022-2025¹⁰ agreed by the BoS¹¹.
25. A member of the SSC may, when a topic for discussion in the SSC so requires, be accompanied by an expert from its Competent Authority for that part of the SSC meeting. The SSC member shall announce this intent to the Rapporteur in advance of the meeting.

Structure and governance

26. The responsibilities of the Chair, Rapporteur and members of the SSC are as set out in the 2023 Procedure for ESMA Groups¹², (ESMA22-104-5119) which also set out the rules concerning, inter alia, ESMA Group's structure, governance and working methods.
27. The SSC may set up permanent working groups or temporary task forces or project team/drafting teams reporting to the SSC if required by the work and in line with the Procedure for ESMA groups.
28. The SSC has established a dedicated Consultative Working Group (CWG) reporting to the SSC in line with the Procedures for ESMA groups. The CWG shall advise the SSC on matters within scope of the CWG. The SSC can, where appropriate, consult the CWG of other SCs in coordination with the rapporteur of that SC. The SSC will meet on a regular basis as required in order to deliver its tasks under ESMA's (multi-)annual work programme. Meetings of substructures will be organised as necessary to enable the SSC to fulfil its tasks.

Working methods

- The working methods of the SSC will follow the Procedure for ESMA Groups. as described in paragraphs 53 and following.

Confidentiality

29. All members of the SSC and observers are under the obligation to respect confidentiality requirements equivalent to those applicable to ESMA staff and to BoS' Members under

⁸ [European Environment Agency](#).

⁹ [European Union Agency for Fundamental Rights](#).

¹⁰ Extension to end October 2025 approved by the Board of Supervisors.

¹¹ Sustainable Finance Training Plan 2022-2024 (Ref.: ESMA30-379-1174 | 28 October 2022).

¹² ESMA22-104-5119

Article 70 of the ESMA Regulation. It is the responsibility of BoS' members to ensure that their representatives in the SSC are subject to equivalent professional secrecy rules, in line with Article 70(2a) on the ESMA Regulation.

Review

30. The Terms of Reference will be reviewed at least every two years by the BoS.