

Summary of Conclusions

Management Board

Date:	Wednesday 22 March 2023
Time:	08h30 –13h30
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:

- Ongoing discussions with the European Commission on ESMA's fee model; and
- European Supervisory Authorities (ESAs)' second annual high-level conference on gender equality.

- 4. NCAs independence: assessment criteria**

1) Presentation Discussion

2) Note Discussion

The Head of the Conduct Supervision and Convergence Department presented the note on criteria for supervisory independence of the national competent authorities (NCAs).

The Board discussed the note on criteria on the supervisory independence of NCAs, in particular the:

- Importance of alignment in independence criteria across sectors, particularly for integrated supervisors, while taking into account the differences in potential conflicts of interest in each sector;

- Interactions between this workstream and the ongoing review of the Capital Requirements Directive (CRD) and their respective timing;
- Different nomination processes of NCA senior management;
- Proposed criteria, including notice periods, cooling off period, holding of financial interests in supervised entities and renewability (both for staff and members of the governing body, where relevant);
- Appropriate level of granularity, and proportionality for the criteria; and
- Generally expressed the need to be ambitious on criteria related to conflict of interest .

Conclusion: The Board discussed the note on criteria of supervisory independence of the NCAs. The Board agreed to continue further developing the criteria, while keeping an eye on ongoing developments in the CRD review. The Board also highlighted the need for a balance between the criteria being outcome based and providing sufficient guidance.

5. 2022 Accounts

1) Cover note	Information
2) Presentation	Discussion
3) Provisional 2022 accounts	Information
4) Report on Budgetary and Financial Management	Information
5) Representation Letter 2021 Provisional Accounts	Information
6) Report from Baker Tilly	Information

The Accounting Officer presented the provisional 2022 accounts.

The Board discussed the provisional 2022 accounts, in particular the:

- Expenses categorised under operational activities;
- Relationship between the EU subsidy and the NCAs' contribution to ESMA's budget; and
- Proportion of the rise in human resources costs due to additional FTEs as compared to those due to inflation-related salary increases.

Conclusion: The Board discussed the provisional 2022 accounts. Further details will be provided in writing.

6. Internal Audit Service – Report on data management in ESMA

1) Presentation	Discussion
2) Cover note	Discussion
3) Report	Discussion
4) Action plan	Discussion

The representatives of the European Commission's Internal Audit Service presented the report of the Internal Audit Service (IAS) on data management in ESMA and the Head of ESMA's Data Intelligence and Technology Department presented the corresponding ESMA action plan.

The Board discussed the report and the action plan, in particular the:

- Scope of the audit, especially the exclusion of matters related to security and data privacy, which were in the scope of a different audit;
- Data quality and large number of datasets;
- Assessment of the costs for the implementation of, and onboarding to, the big data platform;
- NCA participation in the IAS' survey; and
- Timeframe for IAS follow up.

Conclusion: The Board discussed the report of the Internal Audit Service on data management in ESMA and supported the action plan.

7. Second ESMA Data Strategy

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| 1) Presentation | Discussion |
| 2) Data Strategy | Discussion |

The Head of the Data Intelligence and Technology Department presented the second ESMA Data Strategy.

The Board discussed the second ESMA Data Strategy, in particular the:

- Level of ambition, and the need to specify what can be done with existing resources and what would require additional funding sources, and corresponding prioritisation;
- Importance of having a dashboard for the monitoring of progress;
- Development of tools for exploiting and analysing fund data;
- Importance of aligning data management capabilities among ESMA and NCAs;
- Need to interact with other European Supervisory Authorities (ESAs) and the European Central Bank (ECB) to create synergies on data collection and usage as well as technological innovation and its use in supervision and regulation;
- Use of pull and push approaches to data;
- Lack of data on retail investor transactions, and how to obtain it; and
- Need to improve data sharing mechanisms.

Conclusion: The Board discussed the second ESMA Data Strategy and expressed their support for the direction proposed. Board Members will be invited to provide any comments and prioritisation preferences in writing. The Data Strategy will include further details on what projects can be completed with current resources and which ones would require further funding sources. ESMA staff will also reach out to the ECB to explore synergies.

8. Markets in Crypto Assets

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| 1) Presentation | Discussion |
| 2) Note on the implementation of MiCA | Discussion |

The Acting Head of the Markets and Digital Innovation Department presented the note on the implementation of the Markets in Crypto-Assets Regulation (MiCA).

The Board discussed the proposed implementation of MiCA, in particular the:

- Need for integrated market monitoring and supervisory case discussions in the context of high cross-border risks;
- Prioritisation, including whether the timeline for the production of guidelines on delimitation between MiCA and MiFID could be brought forward;
- Importance of supervisory convergence work early on to prevent forum shopping, and whether Q&As would be an effective tool in this context;
- Absence of provisions on transaction reporting in MiCA;
- Need for a communication strategy to manage the expectations on what MiCA can achieve;
- Continued investor interest in crypto assets; and
- Scarcity of resources and need for NCA participation in the policy work.

Conclusion: The Board discussed the implementation of MiCA and supported in particular the organisation of supervisory case discussions and exploring the feasibility of integrated market monitoring.

9. ESMA Strategy: implementation plan

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| 1) Presentation | Discussion |
| 2) Implementation plan | Discussion |

The Executive Director and the Acting Head of Governance and External Affairs Department presented the ESMA Strategy implementation plan.

The Board discussed the implementation plan, in particular the:

- Importance of ongoing prioritisation of the proposed activities;
- Order of priorities in the area of sustainable finance;
- Organisation of common supervisory actions and facilitation of common supervisory culture;
- Product intervention powers at ESMA's disposal; and
- Financial education initiatives.

Conclusion: The Board discussed the implementation plan. The Board agreed to include the development of proposals on the revision of ESMA's fee structure. Board Members will also be invited to provide any further comments in writing.

10. Prioritisation of 2023 deliverables

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| 1) Presentation | Discussion |
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The Executive Director presented the prioritisation of 2023 deliverables.

The Board discussed the prioritisation of 2023 deliverables, in particular the:

- Importance of conducting a prioritisation exercise and the fact that it is driven by a risk-based assessment;
- Need to assess whether any legal mandates have become superfluous and where necessary suggest to the European Institutions to revise them;
- Proportionality work relating to the Digital Operational Resilience Act;
- Resource intensity of peer reviews; and
- Comparative importance of individual workstreams.

Conclusion: The Board endorsed the prioritisation of 2023 deliverables. The European Commission will be formally informed of the outcome of the prioritisation exercise via a letter.

11. 2023 Board of Supervisors Away Day

- 1) Note Discussion

The ESMA Chair presented the proposal for topics for the 2023 Board of Supervisors Away Day.

Conclusion: The Board discussed the proposed agenda items for the 2023 Board of Supervisors Away Day and agreed that it would be relevant to discuss (i) how to ensure EU capital markets are attractive and effective for investors and companies seeking finance and at least one of the following topics: (ii) SupTech and (iii) risk-based based supervision, if not both should time allow for all three topics.

12. Securities and Markets Stakeholder Group – appointment of one member

- 1) Note Discussion

The Chair presented the appointment of one member to the Securities and Markets Stakeholder Group.

Conclusion: The Board endorsed the appointment of Agustin Reyna to the Securities and Markets Stakeholder Group in the category of consumers. His term will commence immediately and last until 30 June 2024.

13. Cooperation with the UK FCA on IT matters

- 1) Note Decision

Decision: The Board adopted the note on the cooperation with the UK FCA on IT matters.

14. Annual ethics activity report

- 1) Report Information

Conclusion: The Board took note of the annual ethics activity report.

15. Annual data protection report

- 1) Report Information

Conclusion: The Board took note of the annual data protection report.

16. A.O.B.

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Participants list

	Members
ESMA	Verena Ross
DE	Thorsten Pötzsch
ES	Rodrigo Buenaventura
IE	Patricia Dunne (alternate)
EL	Vassiliki Lazarakou
NL	Jos Heuvelman
AT	Eduard Müller

Non-voting Members

Executive Director	Natasha Cazenave
European Commission	Ugo Bassi Jorge Revilla Garcia (alternate)

Observer

Vice-Chair	Vojtech Belling
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ESMA

Summary of Conclusions	Jakub Michalik / Tomas Borovsky Laura Weil
Head of the Conduct Supervision and Convergence Department	Iliana Lani
Head of the Data Intelligence and Technology Department	Fabrizio Planta
Acting Head of the Markets and Digital Innovation Department	Carsten Ostermann
Acting Head of the Governance and External Affairs Department	Jakub Michalik
Accounting Officer	Jordi Climent-Campins

European Commission Internal Audit Service (IAS) (for item 6)

Director of Directorate C	Cristiana Giacobbo
Head of Unit C.3	Niina Lehtinen
Audit Team Leader	Emmanuel Crampon

For the Management Board,

Done at Paris on 2 May 2023

[signed]

Verena Ross

Chair

ANNEX:

OUTCOME OF WRITTEN PROCEDURES

Written Procedures (outcomes from 25 January 2023 to 21 March 2023)

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| 1. 2023 budget amendment No.1 | 13 February 2023 |
| 1) Cover note | Information |
| 2) Budget amendment No. 1 – Expenditure | Decision |
| 3) Budget amendment No. 1 – Revenue | Decision |

Decision: The Board approved the 2023 budget amendment No. 1.

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| 2. Summary of conclusions – November 2022 Management Board meeting | 23 February 2023 |
| 4) Summary of Conclusions | Decision |

Decision: The Board adopted the summary of conclusions of the November 2022 Management Board meeting.

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| 3. Summary of conclusions – December 2022 Management Board meeting | 23 February 2023 |
| 5) Summary of Conclusions | Decision |

Decision: The Board adopted the summary of conclusions of the December 2022 Management Board meeting.

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| 4. Summary of conclusions – January 2023 Management Board meeting | 6 March 2023 |
| 6) Summary of Conclusions | Decision |

Decision: The Board adopted the summary of conclusions of the January 2023 Management Board meeting.