

# Summary of Conclusions

## Securities and Markets Stakeholder Group

<b>Date:</b>	23 April 2024
<b>Time:</b>	09:00h – 17:00h
<b>Location:</b>	ESMA Offices, 201-203 rue de Bercy, 75012 Paris, France.
<b>Contact:</b>	<a href="mailto:stakeholders@esma.europa.eu">stakeholders@esma.europa.eu</a>

No Item

### 1. Report from the Steering Committee

The SMSG Chair welcomed all participants to the meeting noting that this was the last plenary meeting of the current members of the group. She noted that since the last meeting on 26 January 2024, four working groups had finished their work and would present the resulting advice during this meeting.

### 2. Adoption of summary of conclusions from joint BOS-SMSG meeting on 25 January 2024 and SMSG meeting on 26 January 2024

The summaries of conclusions of the joint BOS-SMSG meeting on 25 January 2024 and SMSG meeting on 26 January 2024 were adopted.

### 3. Recent market developments

#### a. Retail investor barometer

SMSG member, Sari Lounasmeri, presented a Finnish survey of retail investors showing trends over time. The survey results highlighted several trends including an interest in investing in foreign companies for the expected returns, whereas domestic shares were invested in for reasons of familiarity and accessibility of information. Another trend noted was a reduction in the number of respondents taking sustainability into account in their investments

The group discussed the presentation noting that it echoed trends in other European markets. They pointed to the importance of having a local market to drive investment in local companies, especially SMEs; although ESAP was cited as a method of promoting SME stocks across Europe. They pointed to the importance of surveys like the Finnish survey to understand capital supply and asked if ESMA could facilitate such surveys on a European level. The apparent reduced buy-side interest in sustainable investment was remarked on.

ESMA staff explained that EIOPA ran a similar survey and that they could investigate whether to add more questions to get evidence on the supply side. They also noted that it was important to be aware that the findings of the Finnish survey echo other trends on sustainability.

#### **b. Capital Markets Union**

SMSG member, Rainer Riess, presented a general overview of the recent reports into the capital markets union (CMU) as well as highlighting certain aspects of the recent report on the future of the single market from Enrico Letta.

SMSG members discussed the themes and ideas contained in the various recent reports. There was agreement that it was important to drive funding to the real economy, especially SMEs and that the single market was important for companies. There was discussion of what might impede that goal, including the rise in compliance costs and the need for streamlined reporting, as well as the lack of appropriate tax incentives for retail investors or pan-European products. There was criticism on certain points, including the lack of attention placed in the reports on financial education and financial advice, as well as the lack of trust of retail investors in capital markets. Investor protection concerns around securitisation were evoked, as was the role of both “patient capital” and of Public Private Partnerships.

ESMA staff reflected on the discussion, noting the benefits of the single market and the importance of building trust for EU investors and savers to invest money in Europe. They noted that a national bias is not negative but that a European scale would benefit all.

#### **4. MiCA advice**

SMSG member, Giovanni Petrella, presented draft advice on reverse solicitation and the qualification of crypto-assets as financial instruments in the context of the Markets in Crypto Assets (MiCA) Regulation. He highlighted various points in the advice including support for a restrictive approach to reverse solicitation, the need to clarify the time threshold beyond which the reverse solicitation exemption cannot be used, the potential unintended consequences of the reference in MiCA to the type of crypto-asset, and support for technological neutrality. He also noted some areas where ESMA Guidelines might provide more clarity and suggested leveraging on the technology used to reinforce monitoring of CASPs’ activities.

SMSG members suggested clarifying the advice to add which actor should disclose the regulatory regime to be applied to the transaction; with this addition, the advice was adopted by the Group.

ESMA staff thanked the group for the advice and noted that ESMA planned with National Competent Authorities (NCAs) to do convergence work on practical cases.

ESMA staff then presented the next package of consultation papers on draft technical standards and guidelines specifying certain requirements of MiCA on detection and prevention of market abuse, investor protection and operational resilience.

SMSG members decided to form a working group to provide advice on the third package of consultation papers.

## **5. DORA advice**

SMSG member, Christian Stiefmueller, presented the joint advice from the ESA's stakeholder groups on DORA that had been previously adopted by the Group via written procedure. In relation to incident reporting, the advice welcomed the ESAs' approach of seeking alignment with existing reporting frameworks. In relation to subcontracting, the advice noted that the principle of proportionality appeared not to be sufficiently taken into account. In relation to thread-led penetration testing, the advice was broadly supportive of the cross-sectoral approach but noted that further guidance was required for combined TLPT or pooled testing.

SMSG staff thanked the Group for the advice and confirmed that they were looking at how to include the elements raised in the advice including additional guidance for aspects beyond TIBER-EU, whether more proportionality could be included, and whether some timelines could be extended.

## **6. Digitalisation advice**

SMSG member, Barbara Alemanni, presented the advice on Digitalisation and Retail Investor Protection that had been previously adopted by the Group via written procedure. The advice acknowledges the transformative impact of digitalisation on retail financial services while recognising the potential investor protection challenges including asymmetry in power, control and knowledge. The advice advocates for regulatory exploration beyond ESMA's focus on MiFID 2, encompassing the MiCA and MAR regulatory frameworks due to potential market stability consequences.

ESMA staff thanked the SMSG for their advice and noted the overall balance to be struck between the transformative nature of digitalisation and the new risks it could bring.

## **7. GLESI advice**

SMSG member, Urban Funered, presented the advice on the Guidelines on enforcement of sustainability information (GLESI) that had been previously adopted by the Group via written procedure. He noted that basing GLESI on GLEFI was supported but that alignment should be maintained. He noted the steep learning curve presented by the sustainability information framework and stressed the importance of flexibility and proportionality. He also noted that it is a new field for auditors, who have an important role to play.

ESMA staff thanked the SMSG for their advice. They confirmed that ESMA had organised several training sessions for supervisors in this regard and that dialogue would be strengthened with all parties involved.

## **8. Shortening the settlement cycle**

ESMA staff provided an update on the feedback received to ESMA's recent call for evidence on shortening the settlement cycle. They outlined the identified costs and benefits of a shorter settlement cycle noting that the costs materialise quickly but that the benefits should materialise on a longer time horizon. They also noted that the move to T+1 should be at least 30 months after the decision is announced as well as some legislative changes that would be needed.

SMSG member, Urban Funered, provided his views on the effects of T+1 in the US on European markets. He noted several practical effects including increased operational risks for transaction in North

America securities, the probable need of prefunding to execute FX transactions, and a potential mismatch in cash flows.

SMSG members commented on the increased cost for asset managers, with more problems for larger players with a wide portfolio; time horizons of three to five years could be needed. It was noted that financial market infrastructure differed across the EU and so there would be divergent experiences. They also pointed to the costs of not moving to T+1 in terms of international competitiveness and the benefits of a shorter settlement cycle for individual investors as it would encourage investment firms to invest in more efficient processes. They pointed out that a monetary benefits assessment should be conducted and that the loss of liquidity from less short selling should be calculated.

## **9. Regulatory developments regarding Sustainable Finance**

### **a. CRA and EU GBS consultation papers**

ESMA staff presented two recent consultation papers, one on how the CRA RTS on methodologies can ensure better documentation around the integration of ESG factors in the credit rating process including the robustness of the methodology, better traceability, and the process of judging the relevance of ESG factors. The second consultation paper on the European Green Bonds Regulation is in relation to ESMA's upcoming supervisory mandate for external reviewers of EU green bonds and is to develop technical standards on aspects relation to the registration and supervision of external reviewers.

SMSG members commented on the presentations, including on the importance of data quality to sustainability risk, on the potential additional costs, as well as on the usefulness of explaining when ESG factors have not been integrated.

The Group decided not to form a working group to provide advice on the consultations.

### **b. Sustainable finance stress testing**

ESMA presented a methodology framework that ESMA is developing for assessing vulnerabilities in the fund sector as a result of climate-related shocks.

The SMSG commented on the framework. One observation was that the price shocks in the scenario used for illustration in the article were somewhat dramatic, highlighting the need for careful messaging so as to avoid misinterpretation. In this regard, it was suggested to provide multiple scenarios in future analysis. Another point raised was whether dynamic modelling should apply to passive funds, if certain scenarios lead to index rebalancing.

ESMA staff noted that the scenario used for illustration was not produced in-house, and that the magnitude of the shocks is an external input to the ESMA methodology. ESMA staff agreed on the importance of clearly communicating these points in published work, such as the caveats included in the ESMA article published in December 2024.

## **10. 2022 CCP peer review report**

ESMA staff presented the report into the 2022 Central Counterparty (CCP) peer review on the due diligence of clearing members. They noted that the energy crisis had put a lot of stress on non-financial

counterparties. The overall outcome of the peer review was that most NCAs fully or largely met the supervisory expectations.

#### **11. 2023 BUL activity**

ESMA staff presented an update on ESMA's 2023 Breach of Union Law (BUL) and complaints handling activities. 199 complaints were received of which 15 were admissible; they related to AIFMD, Benchmarks Regulation, Prospectus Regulation, MAR, MIFID II and MiFIR and the Transparency Directive. In response to questions from the SMSG members, they clarified that complaints could be received from an association, that the complaint form is available on ESMA's website in all EU languages and the team has many template answers to guide complainants who sent inadmissible complaints on where to seek help.

#### **12. End of Term**

The SMSG Chair presented a draft end of term report which aims to report to the public on the SMSG's activities, to inform ESMA and the next SMSG about the functioning of the group. The report will cover the role, composition and functioning of the Group. It will include an activity report and a summary of an anonymous survey run among all members of the Group and to which 80% of group members responded showing an overall positive sentiment. A summary of the survey was presented to the Group by SMSG member, Giovanni Petrella.

SMSG members discussed several topics in the report, including how to improve exchanges and joint responses with the other ESA stakeholder groups; they expressed general support for the view that reaching consensus in SMSG advice was of most use to ESMA; they also discussed whether and how to highlight the issues of composition with the newly elected EP.

The Group also discussed how to work on advice that ESMA might request before the end of their term on 30 June 2024.

#### **13. AOB**

ESMA staff extended their thanks to the members of the Group and to the Steering Committee for their time and commitment.

The SMSG Chair thanked the Group, ESMA staff and the Vice-Chairs for the respectful, open discussions held.

**PARTICIPANT LIST – SMSG 23 April 2024**

<b>Name</b>	<b>Organisation</b>	
Alemanni, Barbara	University of Bocconi	present
Avgouleas, Emiliós	University of Edinburgh	present
Balthasar, Stephan	Allianz SE	present
Bergmann, Henning	Der Mittelstandsverbund (SME Groups Germany)	present
Biernacki, Piotr	Polish Association of Listed Companies	present
Bindelle, Florence	European Issuers AISBL	present
Christov, Lubomir	Advisor to the Bulgarian National Association “Active Consumers”	present
Colaert, Veerle	KU Leuven University	present
Funered, Urban	Swedish Securities Dealers Association	present
Gažić, Ivana	Zagreb Stock Exchange	excused
Granjé, Ben	The Flemish Federation of Investors	present
Gurau Audibert, Adina	Association Française de la Gestion financière (AFG)	present
Hölz, Christiane	Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW)	present
Jewell, Dermott	Consumers' Association of Ireland	present
Litvack, Eric	Société Générale	excused
Lounasmeri, Sari	Finnish Foundation for Share Promotion	present
Mandic, Stjepan	Concepto Ltd	present
Masquelier, François	European Association of Corporate Treasurers (EACT)	present
Oberndorfer, Martha	Advisor to Austrian Public Sector Clients of ESG	excused
Pedersen, Morten Bruun	Danish Consumer Council	present
Petrella, Giovanni	Università Cattolica	present
Prache, Guillaume	Better Finance	present
Reyna, Agustín	BEUC	present
Riess, Rainer	Federation of European Securities Exchanges (FESE)	present
Saade, Virginie	Citadel	excused
Santillán, Ignacio	Spanish Investors Compensation Scheme for investment firms (FOGAIN)	present
Schuurs, Pieter	Europex	present

Name	Organisation	
Stiefmüller, Christian Martin	Finance Watch AISBL	present
Van de Werve de Schilde, Tanguy	EFAMA	present
Vervliet, Chris	European Works Council at KBC Group	present

## ESMA

Name	Position
Verena Ross	Chair
Nicoletta Giusto	Independent Member of the CCP Supervisory Committee
Natasha Cazenave	Executive Director
Alexander Harris	Consumer, Sustainability and Innovation Analysis Unit
Alessandro d'Eri	Corporate Finance and Reporting Unit
Joao Ferreria	Credit Rating Agencies Unit
Vassiliki Papaikonomou	Credit Rating Agencies Unit
Amandine Zelenko	Head of Enforcement Unit
Amandine Cordier	Investor Protection and Intermediaries Unit
Julien Nivot	Market and Digital Innovation Department
William Marshall	Market and Digital Innovation Department
Antonio Ocana Alvarez	Post-trading and Integrity Team
Karole-Anne Sauvet-Frot	Post-trading and Integrity Team
Tessa Bode	Protection Retail Investors Team
Louise Waller	International and Institutional Affairs Team