

Terms of Reference

Risk Standing Committee

1. ESMA achieves its mission according to the ESMA Regulation No 1095/2010 of the European Parliament and of the Council (ESMAR) to enhance investor protection, promote orderly financial markets and safeguard financial stability.
2. ESMA has, in order to fulfil this mission established its 2023-2028 Strategy¹ which includes 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) enhancing sustainable finance, and (ii) facilitating technological innovation and effective use of data.
3. Furthermore, ESMA is committed to support the European Commission 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 shall, according to ESMAR, act within the powers conferred by its establishing Regulation. As stipulated in Article 32 of the ESMA Regulation, ESMA shall, in order to promote the achievement of the Authority's objective, undertake economic analysis of the markets in the area of its competence, including monitoring and assessing market developments, assessing and measuring systemic risk and other impediments to financial stability, and informing the relevant EU Institutions about relevant micro-prudential trends, potential risks and vulnerabilities.
5. In order to fulfil its mission the Board of Supervisors has established the Risk Standing Committee (thereafter RSC) pursuant to Article 41 of ESMAR as a permanent internal committee. These Terms of Reference specify its tasks, responsibilities, functioning and governance.

Responsibilities

6. The RSC contributes to ESMA's mission by monitoring developments in financial markets, assessing systemic risks and providing economic background analysis for the general tasks of ESMA. In particular by:
 - Fostering Effective Markets and Financial Stability
 - RSC contributes to Fostering Effective Markets and Financial Stability by identifying, monitoring, and assessing trends, potential risks and vulnerabilities in financial markets

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

from a micro- and macro-prudential perspective. In performing these tasks, it pays special attention to cross-sectoral and cross-border risks.

- RSC provides its members with a systematic platform to highlight, discuss and carry out new research and analysis plans to support and enhance the functions of ESMA. It also helps to disseminate these and other relevant studies and analyses among the Committee's members and market participants.
- Strengthening Supervision of EU Financial Markets
 - Support to data-driven, evidence-based supervision in NCAs and supervisory convergence by a) promoting the use of ESMA risk indicators for supervisory processes within NCAs, including sharing of relevant risk analysis outcomes with NCAs; (b) sharing of needs for data, methodical, statistical and analytical and related methodical support in supervisory processes that can be addressed at EU level.
 - RSC submits risk analysis and monitoring activities to the ESMA Board of Supervisors. In this role, RSC takes account of relevant work at ESMA level, but also at national level, facilitating efficient co-ordination and avoiding any duplication. In the areas that fall within the mandate of the other ESMA SCs, RSC can recommend that those SCs work, if appropriate, on policy measures in their areas of expertise, ensuring appropriate communication between the SCs in the area of financial stability, effective markets, investor protection, sustainable finance and digital finance.
- Enhancing protection of retail investors
 - RSC contributes to the identification and monitoring of issues, risks and data needs related to consumer protection, including cost and performance of retail investment products
- Enabling Sustainable Finance
 - RSC contributes to the identification and monitoring of issues, risks and data needs related to ESG developments. In performing these tasks, it pays special attention to cross-sectoral and cross-border risks.
- Facilitating Technological Innovation
 - RSC contributes to ESMA Financial and Technological Innovation through the identification, the monitoring and the assessment of benefits and risks of financial and technological innovation.
- Facilitating Effective Use of Data
 - RSC contributes to the exploration and exploitation of ESMA proprietary data, by contributing to the development and generation of market indicators and risk metrics for the analytical and monitoring tasks of ESMA.

7. In addition, the RSC will contribute to the objective of simplification and burden reduction when developing its outputs, and be accountable to the Board of Supervisors on the manner those issues have been addressed in the final outputs .

Coordination

8. The RSC should ensure close coordination arrangements in particular with the Sustainability Standing Committee, the Investor Protection Standing Committee, the Digital Finance Standing Committee, the Investment Management Standing Committee, the Markets Standing Committee and the Data Standing Committee in order to achieve an aligned outcome for ESMA.

Powers

9. In line with ESMA's product monitoring obligation under Articles 39 MiFIR and its product intervention powers under Article 40 and 43 MiFIR, the RSC shall refer any potential threats it identifies relevant to ESMA's objectives of ensuring investor protection, orderly functioning and integrity of financial/commodity markets and to financial stability, to the relevant Standing Committee.

Composition

The RSC shall be composed of one person per Board of Supervisors member, each representing that Board member. In case an ESMA Board Member wishes to appoint more than one person (maximum two persons can be nominated per Board member), a principal member of the RSC shall be appointed and other nominated members will serve as alternates.

Furthermore, as observers to the RSC, shall be appointed representatives of the European Commission and European Central Bank (ECB)/ Single Supervisory Mechanism (SSM), European Systemic Risk Board (ESRB), European Banking Authority (EBA) and European Insurance and Occupational Pensions Authority (EIOPA). Representatives of the European Union Agency for the Cooperation of Energy Regulators (ACER) can be invited to participate in the RSC as observers, when necessary, for agenda items concerning its responsibilities.

Members of the RSC shall where possible have an adequate level of seniority and mandate from NCAs senior management to be able to take a position.

A member of the SC may, when a topic for discussion in the SC so requires, be accompanied by an expert from its NCA for that part of the SC meeting. The SC member shall announce this intent to the Rapporteur in advance of the meeting.

Structure and governance

10. The responsibilities of the Chair, rapporteur and members of the RSC are as set out in the Procedures for ESMA groups, (ESMA/2011/BS/236rev2), which also set out the rules concerning structure, governance and working methods of ESMA Groups.

11. The RSC has established the following permanent working groups each with their own terms of reference:

- Financial Stability and Risk Monitoring Working Group (FRWG): Risk monitoring, analysis, indicators – financial stability and orderly markets
- Investor Trends and Research Working Group (IRWG): Risk monitoring, analysis, indicators – consumers, ESG and innovation

12. The RSC will meet on a regular basis as required in order to deliver its work programme. Meetings of substructures will be organised as necessary to enable the RSC to fulfil its tasks.

Working methods

13. The working methods will follow the Procedures for ESMA groups as described in paragraphs 31 and following.

Confidentiality

14. All members and observers of RSC are under the obligation to respect confidentiality requirements equivalent to those applicable to ESMA staff and to Board of Supervisors' Members under Article 70 of the ESMA Regulation. It is the responsibility of Board of Supervisors' members to ensure that their representatives in RSC are subject to equivalent professional secrecy rules, in line with Article 70(2a) on the ESMA Regulation

Review

15. The Terms of Reference will be reviewed every two years by the Board of Supervisors.