

Terms of Reference

ESMA Supervisory Policy 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) enhancing 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, while maintaining an effective supervision, 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 the following legislative acts:
 - Credit rating agencies (Regulation (EC) No 1060/2009).
 - OTC derivatives, central counterparties and trade repositories (Regulation (EU) 648/2012).
 - Markets in financial instruments (Regulation (EU) No 600/2014 as amended by Regulation (EU) 2019/2157, ESAs Review).
 - Transparency of securities financing transactions and of reuse (Regulation (EU) 2015/2365 on and amending Regulation (EU) No 648/2012).
 - Indices used as benchmarks in financial instruments and financial contracts & performance of investment funds (Regulation (EU) 2016/1011).
 - Securitisation (Regulation (EU) 2017/2402).
 - Regulation on European Green Bonds (Regulation (EU) 2023/2631).

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

- Regulation on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities (Regulation (EU) 2024/3005).

5. In order to fulfil ESMA's mission with the Procedures for ESMA groups, (ESMA/2011/BS/236rev2) the Board of Supervisors has established the ESMA Supervisory Policy Committee, thereafter ESPC 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 ESPC contributes to ESMA's mission by providing knowledge and expertise on issues related to legislative acts or proposed legislative acts that prescribe supervisory powers and responsibilities on ESMA in its role as supervisor in areas that include CRAs, Benchmark Administrators, Trade Repositories, Data Reporting Service Providers, Securitisation Repositories, External Reviewers of European Green Bonds and ESG rating providers. In particular, the ESPC contributes to the strategic priorities and thematic drivers of the ESMA Strategy in the following ways:
- Fostering Effective Markets and Financial Stability
- The ESPC contributes to fostering effective markets and financial stability through the delivery of the below tasks under legislative acts⁴, or proposed legislative acts, which include a direct supervisory role for ESMA, including:
- a) The drafting or revision of technical standards, technical advice, reports and any other input to the European Commission.
 - b) The drafting or revision of ESMA Guidelines or Recommendations and preparing any other additional policy or supervisory input to ESMA Board of Supervisors that may be relevant for the purposes of ESMA's direct supervisory mandates.
 - c) The assessment and ongoing monitoring of the legal and supervisory frameworks referred to in paragraph 3, including those of third countries for the purpose of third country regimes such as equivalence, endorsement or recognition.
- Strengthening Supervision of EU Financial Markets
- The ESPC contributes to strengthening the supervision of EU Financial Markets by ensuring that supervisory or policy outputs concerning ESMA's existing, or proposed, supervisory mandates:
- a) Deliver effective supervision that is aligned with the scope of responsibilities set out in the relevant, or proposed, legislative act.

⁴ The term "legislative acts" here refers to the regulatory frameworks referenced in paragraph 3.

- b) Maintain and support a consistent approach and common supervisory culture under relevant, or proposed, legislative acts, to the extent possible, including through the implementation of common supervisory principles and approaches on the ground.
- c) Ensure coordination of NCA's supervisory approaches as well as the cooperation and exchange of information between NCAs and other supervisory authorities, where relevant.
 - Enhancing protection of retail investors
- The ESPC contributes to enhancing protection of retail investors by ensuring that the products and services provided by ESMA's supervised entities adhere to the requirements and regulatory safeguards set out in the relevant legislative acts.
 - Enabling Sustainable Finance
- The ESPC contributes to enabling sustainable finance by ensuring that ESMA's supervisory tasks, including policy outputs adapt to, and take into account, regulatory and market developments relating to sustainable finance, in particular:
 - a) Trends and market developments relating to benchmark labels such as the climate benchmarks. The integration of ESG factors in credit ratings by credit rating agencies and across structured finance products including securitisation instruments.
 - b) The processes of external reviewers of issuances under the European green bond regulation and the development of regulatory safeguards and international cooperation in relation to ESG ratings.
- Facilitating Technological Innovation
- The ESPC facilitates technological innovation by ensuring sufficient and timely cooperation with relevant stakeholders, including other ESMA standing committee's, to ensure ESMA's supervisory practices and policy outputs reflect and support technological innovation.
 - Facilitating Effective Use of Data
- The ESPC facilitates the effective use of data by supporting the integration and development of data driven supervisory techniques within and across ESMA's direct supervisory mandates and any policy deliverables that are relevant to those mandates.
- In addition, the ESPC will
 - contribute to the objective of simplification and burden reduction when developing its supervisory output, and be accountable to the Board of Supervisors on the manner those issues have been addressed in the final outputs.
 - identify and recommend areas for burden reduction and simplification within its scope of work.

Cooperation

7. The work of the ESPC is expected to interact with the functions of the following other ESMA's Standing Committees: Sustainability Standing Committee (SSC), Senior Supervisors' Forum (SSF), Market Standing Committee (MSC), Issuers Standing Committee (ISC), or Data Standing Committee (DSC). The ESPC will ensure close cooperation arrangements in particular with the SSC on the topics of green bonds, ESG ratings and climate/ESG benchmarks and with the DSC on matters involving an interconnection of data-related aspects within DSCs remit and supervisory policy aspects within the ESPCs remit in order to achieve an aligned outcome for ESMA.
8. The ESPC should ensure appropriate coordination arrangements with the Joint Committee on Securitisation Committee (JCSC) notably on the Securitisation mandate in order to achieve an outcome for the SC that is sufficiently aligned with that of the other ESAs.
9. The ESPC 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

10. The ESPC shall be composed of one person per Board of Supervisors 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. In special circumstances, a representative of an authority other than the ones represented on the Board of Supervisors 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 ESPC from the same Member State. Participants to an SC meeting from the same Member State are expected to coordinate their positions in advance of the meeting.

The ESPC shall be composed of two configurations:

- a. Horizontal configuration to address horizontal supervisory topics or policy outputs under legislative acts, or proposed legislative acts, where ESMA has direct supervisory powers⁵
 - b. Benchmarks configuration to address policy outputs and supervisory convergence matters regarding benchmark administrators.
11. Members of ESPC, shall also coordinate their positions with those held by persons from the same NCA, who serve as members / alternates of sub-groups to the ESPC.
 12. Furthermore, representatives of the European Commission, EBA, EIOPA shall be appointed as observers to the ESPC. The observers are not allowed to be present

⁵ Including CRAs, External Reviewers, Securitisation Repositories, Trade Repositories and Data Reporting Service Providers but excluding policy outputs specific to Benchmark administrators, which are discussed under configuration (b)

during discussion of confidential supervisory cases relating to individual financial market participants.

13. Members of the ESPC shall, have an adequate level of knowledge and skill and the mandate to be able to take a position on the matters discussed.
14. A member of the SC may, when a topic for discussion in the SC so requires, be accompanied by an expert from its Competent Authority 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

15. The ESPC will be chaired by ESMA senior staff. The responsibilities of the Chair, rapporteur and members of the ESPC are as set out in the 2023 Procedures for ESMA groups, (ESMA22-104-5119), which also set out the rules concerning ESMA Group's structure, governance and working methods.
16. The ESPC may set up permanent working groups or temporary task forces or project team/drafting teams reporting to the ESPC if required by the work and in line with the Procedures for ESMA groups.
17. The ESPC has established a temporary task force to address issues regarding the implementation of the Securitisation Regulation with the Terms of reference [ESMA82-1941358105-2296]
18. The ESPC 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 ESPC to fulfil its tasks.

Working methods

19. The working methods will follow the Procedures for ESMA groups as described in paragraphs 53 and following.
20. Documents prepared by a subgroup reporting to ESPC concerning issues which are of strategic and/or cross-cutting in nature and/or which have been controversial at the level of the subgroup, will be discussed at and agreed upon by the ESPC (A-items). Documents from these subgroups concerning issues which are neither strategic nor cross-cutting in nature and which were supported by a large majority of WG members will be submitted to the ESPC for endorsement without discussion (B-items) and will hence not be subject to discussion unless requested by a significant minority of ESPC members or ESMA staff. Items on the ESPC agenda not coming from or discussed in the subgroups reporting to the ESPC should generally be classified as A-items.

Confidentiality

21. All members and observers of ESPC 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 ESPC are subject to

equivalent professional secrecy rules, in line with Article 70(2a) on the ESMA Regulation.

Review

22. The Terms of Reference will be reviewed at least every two years by the Board of Supervisors.