

Keynote Speech by Verena Ross, Executive Director of ESMA, at the City of London Brussels Annual Reception, 11 October 2011

Good evening ladies and gentlemen,

Thank you very much for inviting me here today, not only to the reception but also to say a few words about European financial markets and their regulation and particularly about ESMA.

When Stuart asked me to give this speech I thought it would be a good opportunity to talk about the development of ESMA in the four months since I started as Executive Director in June, as well as review the new ESAs and the changes they have brought and are bringing about 9 months after they were created on 1 January this year. It also gives me the opportunity to reflect on these developments from a European perspective but at a time when my UK experience is still reasonably fresh in my mind.

These are difficult times for Europe! They are difficult times not only for Europe but for the world as a whole. But for all of us in this room the focus will be and has to be on the European dimension of the current crisis. In these difficult times, it is easy to just think about the challenges that working across a Europe of 27 Member States can bring. But I believe it is really important to remember - particularly in these times - the benefits too!

From a very personal perspective, I can say that I have experienced the benefits of a united Europe first hand. Not only as German growing up and living in a peaceful Europe (not something my parents, grandparents or great grandparents were able to experience), but also in the opportunities that a single market brought and continues to bring. I was able as a non UK citizen to settle and work in the UK - actually taking reasonably senior positions in the UK public service. And I am not the only one to benefit from Europe in this way. Thinking about business and financial services in particular, the benefits the single market has brought are immense - not least for those who operate from the City of London. With these benefits from a single market in Europe comes the need to also create a single European regulatory framework that ensures that everyone operating in the single market faces the same requirements and that investors and consumers across Europe are equally protected.

After these more philosophical thoughts, let me talk more specifically about the significant step that has been taken in terms of European financial services regulation with the creation of the ESAs.



On 1 January 2011, the System of European Financial Supervision came into being - with the establishment of the three ESAs (EBA for banking, EIOPA for insurance and occupational pensions and my own organisation ESMA for securities and markets) and the European Systemic Risk Board (ESRB). While in each financial services sectors there were committees and networks of national supervisors before (CESR in our case), the ESAs meant a step change in a number of areas.

- a) The most obvious step change is in the area of the ESAs' powers. The legislation establishing the ESAs has given them powers to create what is often termed the 'single EU rulebook'. Through formulating technical standards, the ESAs will create a much more harmonised rule book for all those operating across the European Union. In addition, through the use of guidelines and recommendations, opinions to competent authorities and other means (such as mediation between different national regulators), the ESAs have an enhanced ability to ensure harmonised implementation and actual supervisory practice on the ground. We are determined to use these powers to full effect. While this might not create a fully harmonised experience of financial regulation from tomorrow, it should reduce the opportunities for regulatory arbitrage over time and ensure that financial services players can truly operate in a single EU market under one set of rules and requirements and thus compete on equal and fair terms.

We look to work with the financial services industry and its customers, through our Securities Markets Stakeholder Group and more technically focused consultative working groups on specific topics as well as general consultation and contact with these key stakeholders, to identify the areas which we should prioritise in our work on regulatory harmonisation.

- b) Another key difference to the past, which might not be as obvious to most people, is that the ESAs governance structures and decision making processes no longer rely on consensus but that all key decisions can be taken by majority vote. In the policy making area the majority system is based on QMV, while in other matters a simple majority determines the outcome. This makes a big and I believe positive difference to the effectiveness of the decision making in the ESAs. It also makes a big difference to those wanting to influence decisions, as it is no longer enough to argue purely from one Member State's perspective and have 'your' regulator to support this view. Influencing needs a truly European spirit to it too. I can see that this is something that the UK financial services firms and their trade associations are increasingly appreciating but not something that comes naturally or is necessarily easy to do.
- c) Finally, I would emphasise the wider context in which ESMA and the other ESAs have been set up. A lot of emphasis has been put onto achieving good cooperation between the ESAs. From an institutional perspective this has been achieved through creating the Joint Committee and giving it strong roles in coordinating work between the ESAs. For example in the key area of consumer and investor protection, where each ESA has focused its attention, a Consumer Protection Sub-



Committee of the Joint Committee dealing with issues of consumer protection as well as financial innovation has been created to ensure that any work in this area does take full account of the cross-sectoral aspects of how products are actually sold to consumers and investors. There has also been and continues to be very close operational cooperation between the three ESAs. I am in regular contact with Adam Farkas at the EBA and Carlos Montalvo at EIOPA, and we each attend each others' board meetings.

Beyond the cooperation between the ESAs, not surprisingly in the current environment, the link between regulation and financial stability has also been strengthened through the set up of the ESRB and participation in and contribution to its work by the ESAs. In ESMA's particular case this has not only involved contributing regular risk analysis on the securities markets to the ESRB but also meant that ESMA's own work whether on accounting, high-frequency trading or short-selling has been discussed between us and the ESRB.

Having started my contribution this evening with a helicopter view (or as I found out 5000 meter or approximately 15000 feet) on the state of the EU and its benefits and challenges, having then moved on to the bird's eye view of let's say 1000 meter on the establishment of the ESAs, let me now come to the 324 meter (or around 1000 feet view) from the top of the Tour Eiffel down onto ESMA. Stuart has already acknowledged the significant challenges we are facing.

ESMA has a lot on its plate! And as Stuart rightly says this is unlikely to diminish but instead likely to increase over the next couple of years. Let me talk you through ESMA's five key priorities; I will explain under each what we have already done and what the future focus of the work will be:

- 1) Single rule book: As explained earlier, this is a key area of focus for ESMA. We have already published our first draft technical standards (on CRA regulation) in September. This is a very humble first start into an area which will be a major focus going forward, with EMIR, Short-Selling Regulation, AIFMD, Prospectus Directive and others giving ESMA a significant work load in the formulation of technical standards. In considering our work programme for 2012, we counted that in 2012 alone we are likely to need to work on around 40 separate technical standards. In addition to the formulation of technical standards, there will be significant work to advise the Commission and other co-legislators on regulations and directives that are about to enter or are going through the legislative process. The most obvious example here is MiFID, but there is also forthcoming activity in relation to PRIIPS, Central Securities Depositories....
- 2) Regulatory arbitrage: Linked to the first priority and also already mentioned, is the important task of going beyond just formulating new rules to targeting more harmonised implementation. This summer we published our first formal opinion to national authorities, this one concerned pre-trade transparency waivers for trading platforms. Through opinions, guidelines and recommendations

(which have a public comply and explain mechanism associated with them), wider FAQs and other supervisory assistance tools, we will promote such harmonised approaches. We will also conduct peer reviews and follow through where national authorities are not implementing legislation appropriately.

- 3) Investor protection: The ultimate objective of most of our work is to protect EU investors and consumers of financial products. Investor protection is not a new area for ESMA. CESR its predecessor made numerous recommendations in this area to the EC in its advice for revising MiFID. The ESMA Standing Committee on Financial Innovation that we have just established will give a new dimension to this area and play a key role in analysing financial market trends and identify risks to investors across the whole of ESMA's responsibilities and work closely with the other ESAs on this topic which clearly has a cross-sectoral dimension. ESMA has powers to warn investors of particular products and activities, but also - as the ultimate 'stick' - to ban such products and activity if necessary. At this point in time, we are working on ETFs and structured UCITS - an area that has a strong investor protection, but also financial stability dimension - and are planning to have guidelines ready for consultation by the end of this year. We are also looking at other areas so we can achieve real tangible results on this crucial area of investor protection.
- 4) CRA supervision: ESMA is the only ESA that has direct and day-to-day supervisory responsibility for cross-European financial entities. As Stuart has mentioned, the supervision of CRAs is therefore one of our key priorities. While, due to the transition process from national authorities to ESMA, the registration process for existing CRAs lies in the hands of national authorities (operating through colleges on which ESMA sits as an observer), in the future ESMA will register and authorise new CRAs. After registration we are responsible for the supervisory task. Establishing a supervisory team, building the relevant processes and practices, planning and conducting on-site inspections and collecting data to make sensible off-site judgements are all areas which we are actively working on at the moment. Besides CRAs, there is the prospect that we will also take on registration and supervision of Trade Repositories under EMIR and will play a role in the supervisory colleges for CCPs.
- 5) Financial stability: I have already mentioned the significant focus on financial stability issues in ESMA's work. ESMA will continue to actively contribute data and analysis - as well as risk mitigation and solutions - to financial stability issues, working closely with the ESRB and the other ESAs. Specifically our work on ETFs and highly automated trading are focused on the potential financial stability risks arising from new products and activities.



In all of these areas, working with an eye to the wider international environment will be essential - after all we need to be aware that the financial markets do not finish at the borders of the EU but are truly global in nature. The City of London research paper that Stuart mentioned points clearly to the need for this wider outlook. For this reason, ESMA has been and will continue to work actively with our international counterparts, both on improving cooperation and to aim to achieve common standards (which can be recognised as equivalent on both sides).

Making good progress against all of these five areas will require strong cooperation between ESMA and the European institutions, as well as between ESMA and other stakeholders. This has been and will continue to be a priority for ESMA. ESMA stands ready to be involved in the legislative process as early as possible. We are extremely committed to stakeholder consultation but we are concerned that tight legislative deadlines for ESMA's work on technical standards and advice will restrict our ability to consult as extensively as we would ideally like.

Making progress will also require continued work on building ESMA's capacity to deliver. As Executive Director I am very focused on this important part of my role. We have changed over the last few months the internal structure of ESMA, to reflect more clearly the new responsibilities and key priorities for ESMA. We have also recruited extensively new staff, who have joined us from national regulators, the market and the Commission. Nonetheless, the scale of operation is still very small with currently around 65 staff members (compared to currently around 4000 in the UK FSA I believe). While ESMA is due to grow gradually over the next few years (to around 250 staff by 2020), we will always need to be very clear on our priorities and focused on efficient delivery to be able to meet the high expectations and significant challenges ahead.

I hope this view from the helicopter, out of a bird's eye and from the Eiffel Tour of what is currently going on in my world has been informative and useful to you all! I am conscious I am standing between you and the chance to mingle and network over a glass of wine, so let me finish by thanking the City of London for the invitation to speak and you all for your attention. I look forward to working with you over the next years as ESMA tackles all the challenges and grasps all the opportunities ahead. I hope ESMA can count on your support. Thank you and have a good evening!