

Keynote address

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Good afternoon Ladies and Gentlemen,

I'm very pleased to be with you today and to be invited to deliver a speech at this important conference where so many representatives from the financial community are present.

In today's earlier sessions, you have heard about developments in the global capital markets and the investor perspective. I believe both these topics set the scene well for what I want to talk about today. The world is changing quickly, particularly the world of financial markets, and financial regulation is part of this change. Since the financial crisis hit nearly four years ago, the change to the regulatory environment has been unprecedented and that has implications for all financial market participants, including investors, and their regulators. This is true in Europe and also globally.

Today, I will focus in my remarks on the EU regulatory framework and the role of ESMA, on the priorities and challenges for 2012 and beyond and, finally, discuss the need for international convergence and cooperation.



1. Role of ESMA in the EU framework

ESMA is part of the wider European System of Financial Supervision that was established over the last couple of years. Like its sister organisations EBA and EIOPA, and the ESRB, we began our life on 1 January 2011. The mission of ESMA is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA also contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active coordination of national supervisory activity.

Now, let me focus on three key areas of work that drove our activity last year in pursuit of our mission, and will continue to do so again this year.

Single rule book

The crisis has deeply affected and continues to affect Europe. In the financial area, initiatives have been undertaken to face issues and address areas where additional and revised regulation is necessary: As mentioned above one of ESMA's key activities is contributing to building a single rule book for the regulation of the EU's financial markets and ensuring its consistent application at national level.

ESMA has played its part in producing detailed requirements and standards by:

- producing the technical standards for credit rating agencies (CRAs) and short-selling;



- conducting significant work in order to prepare technical standards for the OTC derivatives regulation;
- providing advice to the Commission for secondary legislation in areas such as prospectuses and alternative investment funds; and
- providing more detailed guidance and recommendations in areas such as automated trading and ETFs.

Supervisory convergence

The single rule book is a necessary tool to face the crisis and build a safer and efficient financial market, but it is not sufficient. It needs to be complemented by supervisory convergence in order to be fully and efficiently implemented on the ground. This is core to ESMA's mission in achieving common approaches to regulation across the EU.

- ESMA has issued opinions on the treatment of sovereign debt under IFRS and on a number of pre-trade transparency waivers under MiFID;
- ESMA has coordinated bans on net short positions in Belgium, France, Italy and Spain last summer;
- During that period, we also coordinated the monitoring of market developments and market infrastructure resilience; and
- Finally, ESMA conducts peer reviews of national authorities' activities in order to assess the degree of convergence in the application and enforcement of EU law. We recently published the results of two of these peer reviews, one on prospectuses and the other on market abuse and the use of sanctions.



Direct supervision

Beyond the supervisory convergence agenda, the legislators have gone further in some areas and have placed significant cross-EU market players under the direct supervision of ESMA as European authority. This is the case for CRAs at the moment. Last year, following the registration process, ESMA became the sole supervisory authority for CRAs in the EU. We have already undertaken a programme of on-site visits as part of our direct supervision of these entities.

Trade repositories will also soon be placed under ESMA's direct authority, both for registration and supervision, as a result of the implementation of EMIR. Finally, ESMA will participate in the colleges that will govern the registration and supervision of CCPs in order to ensure effective functioning and consistency of these colleges.

2. Key priorities for 2012

In its first year of operation in 2011, ESMA has already made big strides. But clearly these are early days and 2012 is presenting some significant challenges to ESMA in fulfilling its mission to secure a robust and consistent regulatory framework for financial markets and all its players, and through this ultimately benefit investors and the wider economy.

ESMA is currently working on a range of issues all of which are aimed at supporting this overarching mission. Let me just mention a couple of areas that have been, or will be, of particular importance to ESMA this year and which are also likely to occupy many of you in the audience.



ESMA delivered technical standards and technical advice for Short Selling

Earlier this year, the regulatory technical standards, the implementing technical standards and the technical advice on delegated acts were delivered **on the regulation** on Short Selling and certain aspects of Credit Default Swaps.

The main objectives of this regulation are to create a harmonised framework for coordinated action at European level, increase transparency and reduce risks. The new framework aims to prevent market fragmentation and ensure the smooth functioning of the internal market, while providing clear powers for regulators to act when necessary.

All the provisions will come into effect in November this year and with it greater scope for ESMA to coordinate actions in this area across the EU.

ESMA is working on technical standards for EMIR

The Regulation on OTC derivatives, CCP and TR (EMIR) has now been agreed upon by the European Parliament and the Council. ESMA is due to deliver draft regulatory and implementing technical standards in the scope of EMIR. It will certainly dominate our agenda for the next months in view of the number and complexity of technical standards to be delivered. All together there are around 40 standards to be delivered – and most of them are highly technical and will require careful consideration and often difficult judgments to be taken.

EMIR will introduce substantial changes for players in the financial markets. The



Regulation introduces a reporting obligation for OTC derivatives, a clearing obligation for eligible OTC derivatives, measures to reduce counterparty credit risk and operational risk for non-cleared OTC derivatives, common rules for central counterparties (CCPs) and for trade repositories, and rules on the establishment of interoperability between CCPs.

We have been working to prepare technical texts on the provisions of EMIR, as far as we could in the absence of a final legal text. As a result we were able to publish a discussion paper in February and hold an open hearing in March. We intend to publish a consultation paper in June and hold a public hearing in July to take the work forward – at that point actually consulting on our proposals for the legal text of the standards. EMIR and ESMA’s technical standards contain major changes for financial markets participants and we therefore hope that many of you will actively engage in the upcoming consultation, despite the fact that due to a deadline of end September we will need to conduct the consultation during the summer.

As I said, ESMA is due to deliver the standards to the European Commission by the end of September. It is then intended that the Commission will endorse them by the end of the year, to ensure that the EU is well placed to meet the G20 commitments on moving OTC derivatives markets to be centrally cleared. You will recall that at the Pittsburgh Summit in 2009, the G20 leaders agreed that, by end-2012, all standardised OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties, that OTC derivative contracts be reported to trade repositories, and that non-centrally cleared contracts be



subject to higher capital requirements.

ESMA is preparing for new proposals

Some other regulatory proposals have been introduced and are being discussed by the Council and the Parliament. They include a new proposal related to MIFID (EC proposal of Oct. 2011), Central Securities Depository (EC proposal of March 2012) and the Market Abuse Directive (EC proposal of Oct 2011).

Where required, we provide advice to the legislators on these proposals. More importantly, ESMA needs to start conducting preparatory work in many of these areas as it is likely that we will need to work on numerous and technically complex questions in the near future.

I take this opportunity to stress the importance for us of the consultation process and the involvement of the whole range of stakeholders. One area that is an on-going challenge for us is to ensure that we have sufficient information and data to make informed policy choices when drafting technical standards and technical advice. We need the support of our key stakeholders in this undertaking – not just from the key market players but from all those who use the financial markets.

3. The need for international convergence and cooperation

In 2009, the heads of EU Member States and governments called for harmonised regulation and integrated supervision to ensure a true level playing field for all actors at EU level. With the establishment, and good start, of the ESAs and the ESRB, I think we



are making good progress in this direction. However, the financial market is global both for participants and investors. It goes beyond Europe, and therefore the greater harmonisation within the EU needs to be complemented with international convergence and cooperation. I strongly believe that Europe can lead by example here, to show how convergence and good cooperation between different national member states and their regulators provide more effective and efficient regulation of cross-border entities and markets.

The initiatives related to OTC derivatives are a good example of this need for convergence and cooperation at a global level. In Europe, the result from the G20 commitments has been EMIR (and to a degree the provisions on derivatives transparency in MiFID 2). But the same issues are occupying our counterparts in the US, Asia and other parts of the world.

Why is international convergence and cooperation important?

It is important for several reasons:

First, because market participants operate at a global level. It is important to achieve the same level of investor protection and minimise extra costs of doing business at international level.

Second, to avoid regulatory competition whereby regions end up with fundamentally different (and potentially lower) standards and ultimately a more risky environment for everyone. The world is strongly linked and any one financial market may be damaged by



another market which is not sufficiently regulated. Indeed, such *regulatory competition* also does not allow investors to benefit from appropriate protection which cannot be in the interest of any regulator or society as a whole.

How can we engage in international convergence and cooperation?

International cooperation and convergence is difficult but absolutely necessary. In coordination with the European Commission, but also in close cooperation with national regulators, ESMA plays a central role in ensuring that Europe speaks with one single voice vis-à-vis regulators outside the European Union.

Regulators have set up a number of international groups aiming at achieving international consistency of the different regimes, and ESMA plays a full role in this global dialogue. This is the case in the areas of the OTC derivatives, the regulation of CRAs and alternative investment fund managers.

As no single regulator can seek to regulate global financial markets from one location, we will need to rely on equivalence, mutual recognition and cooperation in order to make progress. There is no alternative to close international cooperation, both in the setting of standards and in the execution of day to day supervision, if we want to achieve an efficient system for the global financial markets.



Concluding remarks

Now let me make some final observations:

- The crisis has led to an unprecedented number of legislative initiatives at Level 1 and 2 aimed at enhancing transparency and creating safer and more efficient markets;
- The way regulation is prepared and supervision is performed is changing and is moving towards more international convergence and cooperation. Although the path is difficult, progress is being made; and
- We recognise it requires adaptation by market participants and also their contribution to the dialogue between regulators and markets – to ensure we, as regulators, understand the risks and can effectively monitor and respond to them.

Thank you for your attention.