



SUMMARY OF CONCLUSIONS

Board of Supervisors

Date: 18 January 2012
Location: Conference call
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Draft consultation paper on ESMA technical standards on the short selling regulation

The Chair welcomed the participants to the conference call, explaining that its purpose was to discuss the draft consultation paper on ESMA technical standards on the short selling regulation.

Members agreed with the following agenda:

1. Discussion on the different options with regard to the periodic information to be provided to ESMA by competent authorities;
2. Discussion on the feedback by the European Commission Legal Service;
3. Discussion on comments received from Board members.

1. The Chair noted that the current draft presents two options for the quarterly information in summary form to be provided to ESMA by competent authorities. The first option is supported by ESMA staff since the second option would not provide sufficient information for ESMA to carry out its tasks effectively while during the discussions in the Standing Committee and in the procedure for written comments, there was not a clear majority for either of the options. The Chair also noted that the information received by ESMA would also be available to the national competent authorities through the Board of Supervisors. The Board discussed the two options in the paper and possible alternative options such as restricting the provision of information to ESMA to the most liquid shares, shares of systemically important financial institutions or shares in the main national indices.

Conclusion: The Chair concluded that members broadly supported option 1 (CP V.III) with the possibility of restricting the information to be provided to shares in the main national indices. ESMA staff will work further on this option and bring forward a proposal to the Board.

2. The European Commission clarified that due to the different nature of implementing and regulatory standards its Legal Service was advising some amendments to certain parts of the draft technical standards, which would not affect the substance of the standards. The Board briefly discussed the proposed changes and requested the legal advice of the Commission.



Conclusion: The Chair noted that the changes did not have an influence on the substance of the technical standards. It was agreed that ESMA staff will redraft the text and bring forward a proposal to the Board.

3. The Board discussed the written comments received by Cyprus, Germany and Italy and comments brought forward by members during the conference call, focussing in particular on:
 - the exemption where the principal venue is located outside the European Union;
 - the authentication of the identity of the sender;
 - the legal interpretation of Article 9 and Article 12(1)(c).

The Chairman noted that short selling issues of a more general nature which are not directly related to the consultation paper, such as the definition of market making, possible supervisory measures, sanctioning and future ESMA guidelines, will be discussed during the Board of Supervisors meeting in February.

Conclusion: It was agreed that ESMA staff will amend the text on certain parts. The amended text will be distributed to the Board by 19 January with a deadline for further comments by 23 January (12.00 CET). The draft consultation paper will be published on 23 January.

The Chair will consider whether it is necessary to have an additional Board meeting or to reschedule the April meeting in order to discuss the final technical standards in March.

Steven Maijoor
Chair



PARTICIPANT LIST

Voting Members

Member State	Representative
Belgium	Jean-Michel van Cotte (alternate)
Bulgaria	Antonia Gineva (alternate)
Czech Republic	Marie Stankova (observer)
Denmark	Hanne Rae Larsen (alternate)
Germany	Karl-Burkhard Caspari
Estonia	-
Ireland	Gareth Murphy (alternate)
Greece	Konstantinos Botopoulos
Spain	Fernando Restoy
France	Thierry Francq (alternate)
Italy	Nicoletta Giusto (observer)
Cyprus	Demetra Calogerou
Latvia	-
Lithuania	-
Luxembourg	Karin Weirich (observer)
Hungary	Krisztian Csaky (observer)
Malta	Andre Camilleri
Netherlands	René Maatman (alternate)
Austria	Erich Schaffer (alternate)
Poland	Iлона Pieczynska-Czerny (alternate)
Portugal	Carlos Tavares
Romania	Gabriela Anghelache
Slovenia	-



Slovakia	[]
Finland	Ville Kajala (alternate)
Sweden	Martin Andersson
United Kingdom	David Lawton (alternate)

Non-voting members

ESMA Chair	Steven Maijoor
European Commission	Emil Paulis
ESRB	Francesco Mazzaferro
EIOPA	-
EBA	-

Observers

Iceland	-
Liechtenstein	-
Norway	Eirik Bunaes

ESMA

Head of Division	Rodrigo Buenaventura
Minutes	Max Simonis