

PRESS RELEASE

ESMA recommends EU Code of Conduct for proxy advisor industry

The European Securities and Markets Authority (ESMA) has published its Final Report on *The Proxy Advisor Industry*. The report contains an analysis of the responses received to its March 2012 consultation and sets out the next steps for ESMA and the industry.

The Report has found that there is no current market failure related to proxy advisors interaction with investors and issuers in the European Union (EU), which would require regulatory intervention. However, ESMA has identified a number of concerns regarding the independence of proxy advisors, and the accuracy and reliability of the advice provided which would benefit from improved clarity and understanding amongst stakeholders.

ESMA is recommending that the proxy advising industry should develop an EU Code of Conduct (Code) that focuses on:

- identifying, disclosing and managing conflicts of interest; and
- fostering transparency to ensure the accuracy and reliability of the advice.

ESMA has had initial discussions with several participants from the industry who are supportive of beginning work on a Code, these include Glass Lewis, Institutional Shareholder Service (ISS), IVOX, Manifest, Nordic Investor Services, PIRC and Proxinvest. The work is expected to begin in the next few weeks.

Steven Maijoor, ESMA Chair, said:

“In its efforts to intensify its work on corporate governance issues, ESMA has undertaken an extensive analysis of the proxy advisor industry in the EU, with input from users, providers and issuers, and has found no evidence of a market failure requiring regulatory intervention.

“However, there are a number of concerns regarding conflicts of interest management and the transparency of analysis and advice, which we believe would benefit from improved clarity on the part of the industry.

“The establishment of an EU Code of Conduct will assist in improving understanding amongst issuers and investors of the proxy advisors’ role, allowing them to better focus on fostering effective and robust corporate governance, thereby contributing to investor protection and efficient markets.”

Proposed Framework for Proxy Advisor Industry Code of Conduct

The Report sets out a framework for a Code, including the roles of the different stakeholder groups, the relationship with other corporate governance codes for issuers and the key principles concerning proxy advisors which ESMA would expect such a Code to cover.

ESMA has identified the following principles that are intended to offer guidance to the industry committee developing an industry-wide Code:

1. Identifying, disclosing and managing conflicts of interest

Principle - Proxy advisors should seek to avoid conflicts of interest with their clients. Where a conflict effectively or potentially arises the proxy advisor should adequately disclose this conflict and the steps which it has taken to mitigate the conflict, in order that the client can make a properly informed assessment of the proxy advisor’s advice.

2. Fostering transparency to ensure the accuracy and reliability of the advice

Principle – Proxy advisors should provide investors with information on the process they have used in making their general and specific recommendations and any limitations or conditions to be taken into account on the advice provided so that investors can make appropriate use of the proxy advice.

i.) Disclosing general voting policies and methodologies

Principle – Proxy advisors should, where appropriate in each context, disclose both publicly and to client investors the methodology and the nature of the specific information sources they use in making their voting recommendations, and how their voting policies and guidelines are applied to produce voting

recommendations.

ii.) Considering local market conditions

Principle – Proxy advisors should be aware of the local market, legal and regulatory conditions to which issuers are subject, and disclose whether/how these conditions are taken into due account in the proxy advisor’s advice.

iii.) Providing information on engagement with issuers

Principle – Proxy advisors should inform investors about their dialogue with issuers, and of the nature of that dialogue.

Next steps

ESMA will facilitate the establishment of the work on a Code, but this will need to be drafted and adopted by the proxy advising industry itself.

ESMA shall review the development and the impact of any Code two years after the publication of this Final Report, and may reconsider its position if no substantial progress has been made in that time.



Notes for editors

1. ESMA/2013/84 Final Report – [*Feedback Statement on the consultation regarding the role of the proxy*](#)
2. ESMA/2012/212 Discussion Paper – [*An Overview of the Proxy Advisor Industry. Considerations on Possible Policy Options.*](#)
3. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
4. ESMA's mission 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 contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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