

## SUMMARY OF CONCLUSIONS

### Board of Supervisors

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**Date:** 7 November  
**Time:** 08:30 – 17:30h  
**Location:** Vilnius, Lithuania  
**Contact:** [max.simonis@esma.europa.eu](mailto:max.simonis@esma.europa.eu) T: +33 1 58 36 59 46

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No Items

#### 1. Confidential items

##### ***VOTING MEMBERS & ADVISORS ONLY***

2. Adoption of agenda *BS/174 decision*

**Decision:** The agenda was adopted.

3. Summary of conclusions of September meeting *BS/175 decision*

**Decision:** The summary of conclusions was approved.

4. Report by Chair and Executive Director *Oral information*

The Chair reported on;

- the recent activities of the European Systemic Risk Board;
- the recent activities of the Securities and Markets Stakeholder Group;
- the recent activities of the Joint Committee and joint activities by the ESAs, in particular the activities of the subcommittee on consumer protection and on the development of working arrangements with the European Commission in relation to technical standards;
- the on-going review of the ESFS; and
- a meeting with a representative of EFRAG on the Maystadt proposals.

The Executive Director reported on;

- the handling of the 2011 budget surplus and the 2013 contributions from the NCAs;
  - the change of date of the Board of Supervisors meetings in Athens next year (19-20 May); and
  - the activities in the area of stress testing.
- Opinion of the advocate general on SSR: discussion note on possible consequences of the future judgement *BS/176 discussion*

A staff member of the Legal Cooperation and Convergence Unit presented the discussion note.

**Conclusion:** The Board took note of the report.

## 5. Post-Trading Standing Committee

- Report by Giuseppe Vegas *BS/177 information*

Giuseppe Vegas (IT) presented the report and the accompanying documents.

- Final report on draft RTS on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations *Annex 1 decision*

The Board discussed the report, in particular the legal basis of the provision including an obligation for EU entities to monitor their guarantees.

**Decision:** The Board approved the draft regulatory technical standards subject to possible adjustments regarding the monitoring obligation following legal review.

- Q&As on EMIR implementation *Annexes 2 & 3 decision*

The Board discussed the Q&A, in particular the question on how the threshold for non-financial counterparties should be calculated and whether to allow for netting.

**Decision:** The Board approved the Q&As on EMIR implementation with the exception of the question on how the threshold for non-financial counterparties should be calculated which shall be further discussed in the Post-Trading Standing Committee.

- Guidelines on MoU with the CFTC on Swap Dealers and Major Swap Participants *Annex 4 discussion*

The Board discussed the guidelines, in particular whether there was sufficient commitment from the relevant NCAs for ESMA to continue coordinating the negotiations with the CFTC.

**Conclusion:** The Board agreed that the negotiations with the CFTC will continue on a bilateral basis with each relevant NCA negotiating with the CFTC directly.

## 6. Market Integrity Standing Committee

- Report by Konstantinos Botopoulos *BS/178 information*

Konstantinos Botopoulos (EL) presented the report and the accompanying document.

- MAR discussion paper on implementing measures *Annex 1 decision*

**Decision:** The Board approved the MAR discussion paper subject to minor language changes. The consultation period will be slightly extended beyond two months.

## 7. Investment Management Standing Committee

- Report by Gareth Murphy (including update on AIFMD MoU) *BS/179 information*

Gareth Murphy (IE) presented the report and the accompanying documents.

The Board discussed the report, in particular;

- the informal coordination by ESMA staff in relation to the negotiations with Swiss FINMA on an MoU for the cross-border offering of UCITS on behalf of a number of EU authorities; and
- the foreseen timeline for the work on the impact of EMIR on the calculation of the counterparty risk for UCITS.

**Conclusion:** The Board took note of the report.

- MoUs with Egyptian Financial Supervisory Authority and New Zealand Financial Markets Authority (to be signed in the margins of the meeting) *Annexes 1 & 2 decision*

**Decision:** The Board approved the Memoranda of Understanding under the AIFMD.

## 8. Task Force on reference rates and other benchmarks-setting processes

- Report by Verena Ross *BS/180 information*

The Executive Director and the Head of Economic Research & Financial Stability Unit presented the report and the accompanying documents. It was emphasised that the notes will only be used for ESMA's contribution in international discussions and are not for publication.

- Note on contingency planning *Annex 1 discussion*

**Conclusion:** The Board agreed to the position set out in the note subject to a minor change.

- Note on system reform *Annex 2 discussion*

**Conclusion:** The Board agreed to the position set out in the note.

## 9. Corporate Reporting Standing Committee

- Report by Hannelore Lausch *BS/181 information*

Hannelore Lausch (DE) presented the report and the accompanying documents.

- Report on comparability of IFRS financial statements by banks *Annex 1 decision*

**Decision:** The Board approved the report on comparability of IFRS financial statements by banks.

- Common enforcement priorities *Annex 2 decision*

**Decision:** The Board approved the common enforcement principles.

## 10. Review Panel

- Report by Jean Guill *BS/182 information*

Jean Guill (LU) presented the report and accompanying documents.

**Decision:** The Board agreed to the timeline for the Automated Trading Guidelines peer review questionnaire.

- New Review Panel Methodology (final) *Annex 1 decision*

The Board discussed the new methodology, in particular;

- the composition of the assessment group and visiting team; and
- the reporting line of the assessment team to the Board of Supervisors, following consultation of the Review Panel.

**Decision:** The Board approved the new methodology subject to minor changes to paragraph 34. The Chair concluded that the number of participants in the assessment group should remain limited.

## 11. Follow-up away day

- Note on the functioning of the Board of Supervisors meetings *BS/128 discussion*  
*Annex 2*

The Chair presented the note on the functioning of the Board of Supervisors meetings.

The Board discussed the note, in particular;

- the need to improve the practicalities for taking decisions by written procedure;
- the possibility for delegating certain decisions to Standing Committees; and
- to have regular discussions on key trends and developments in financial markets and members' jurisdictions, for example through the organisation of Away Days.

**Conclusion:** The Chair concluded that there was limited support to delegate decisions to Standing Committees. ESMA staff will look into improving the practicalities for taking decisions by written procedure.

## 12. Progress reports

- Report by Jean-Paul Servais (IPISC) *BS/183 information*

**Conclusion:** The Board took note of the report.

- Report by Verena Ross (CRA TC) *BS/184 information*

**Conclusion:** The Board took note of the report.

## 13. A.O.B.

## 14. Future meetings

- 17 December 2013 (Paris)
- 6 February 2014 (Paris)
- 19 March 2014 (Paris)
- 19-20 May 2014 (Athens)
- 9 July 2014 (Paris)
- 25 September 2014 (Rome)
- 6 November 2014 (Paris)
- 17 December 2014 (Paris)

## Participants list

### Voting Members

<b>Member State</b>	<b>Representative</b>	<b>Accompanying Person</b>
Belgium	Jean-Paul Servais	Antoine van Cauwenberge
Bulgaria	Dimitar Koychev (alternate)	
Czech Republic	Pavel Hollmann	Karel Juráš
Denmark	Julie Galbo	Mark Andrew Ronnenfelt
Germany	Karl-Burkhard Caspari	Hannelore Lausch Philipp Sudeck
Estonia	Raul Malmstein	Gerle Reinumägi
Ireland	Gareth Murphy (alternate)	Niamh Mulholland
Greece	Konstantinos Botopoulos	Eleftheria Apostolidou
Spain	Maria Elvira Rodriguez	Antonio Mas
Croatia	Petar-Pierre Matek	
France	Gérard Rameix	Françoise Buisson
Italy	Giuseppe Vegas	Nicoletta Giusto
Cyprus	Demetra Kalogerou	Liana Ioannidou
Latvia	Kristaps Zakulis	
Lithuania	Valvonis Vytautas	Vilius Sapoka
Luxembourg	Jean Guill	

Hungary	Richárd Véggh (alternate)	
Malta	Mike Duignan (alternate)	
Netherlands	Gerben Everts (alternate)	Pim de Wild
Austria	Erich Schaffer (alternate)	Andrea Kuras-Goldmann
Poland	Marek Szuszkiewicz	Anna Skrzypek
Portugal	Carlos Tavares	Manuel Ribeiro da Costa
Romania	Daniel Daianu	Raluca Tariuc
Slovenia	Damjan Zugelj	Sabina Bešter
Slovakia	Ivan Barri	Slavomir Stastny
Finland	Anneli Tuominen	Jarmo Parkkonen
Sweden	Anna Jegnell	Oskar Ode
United Kingdom	David Bailey (alternate)	Karen Northey

### **Non-voting members**

ESMA Chair	Steven Maijoor	
European Commission	Patrick Pearson	Valerie Ledure
ESRB	Francesco de Rossi	
EIOPA	Susanne Rosenbaum	
EBA	Corinne Kaufman	

### **Observers**

Iceland	Unnur Gunnatsdottir	
Liechtenstein	Reto Degen	
Norway	Anne Merethe Bellamy	Kristin Lund

### **ESMA**

Executive Director	Verena Ross
Summary of Conclusions	Max Simonis
Head of Markets Division	Rodrigo Buenaventura
Markets Division	Fabrizio Planta Amandine Zelenko
Head of Investment and Reporting Division	Laurent Degabriel
Investment and Reporting Division	Antonio Barattelli
Head of Credit Rating Agencies Unit	Felix Flinterman



Head of Economic Research & Financial Stability Unit	Steffen Kern
Head of Legal Cooperation and Convergence Unit	Sophie Vuarlot-Dignac
Legal Cooperation and Convergence Unit	Stephan Karas Tarot Stephens Jan Klein

Done at Paris on 17 December 2013

Steven Maijor  
Chair  
For the Board of Supervisors