

## SUMMARY OF CONCLUSIONS

### Management Board

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**Date:** 26 June  
**Time:** 13:00 – 17:00h  
**Location:** ESMA, Paris  
**Contact:** max.simonis@esma.europa.eu T: +33 1 58 36 59 46

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No Items

**VOTING MEMBERS ONLY - Quarterly update on CRA and TR supervision** *MB/38 information restricted*

The Head of the Markets Division updated the Board on the activities related to Trade Repository supervision.

The Board discussed the update, in particular;

- the current status of the TR registration process and the main common issues of compliance with EMIR;
- the structure of the fees to be raised from TRs; and
- the indicative timeline for the reporting obligation.

The Head of the Credit Rating Agencies Unit updated the Board on the activities of the CRA Unit.

The Board discussed the update, in particular;

- general observations regarding supervisory findings;
- the involvement of the Board of Supervisors and the applicable procedures in case of an enforcement case;
- whether the CRA Regulation resulted in a change of CRAs' behaviour; and
- ESMA's new supervisory tasks regarding fees charged by CRAs to their clients.

**Conclusion:** The Board took note of the reports. The Board will be kept informed on these topics at future meetings.



**1. Adoption of agenda** *MB/36* *decision*

**Decision:** The agenda was adopted.

**2. Summary of conclusions of March meeting** *MB/37* *decision*

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

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

The Chair reported on;

- the meeting of the OTC Derivatives Regulators Group that took place on 20 June and the on-going negotiations with the US authorities in this area;
- the decision by the IOSCO Board to allow ESMA to participate as observer in the Board;
- the application of ESMA to become observer in the IASB Monitoring Board;
- the recent activities of the European Systemic Risk Board;
- the recent activities of the Joint Committee and joint activities by the ESAs, in particular the ESAs Consumer Day that took place on 25 June, the activities of the subcommittees, the joint letter to the European Commission on guidelines and the first decision by the ESAs Board of Appeal; and
- the recent activities of the Securities and Markets Stakeholder Group, and the renewal process for the group.

The Executive Director reported on;

- the meeting with Mr. Giegold, member of the European Parliament, regarding his survey on dangerous financial products;
- the development of a conflicts of interest policy by the ESAs that will also be applicable to members of the Management Board and the Board of Supervisors; and
- the developments regarding ESMA's 2014 budget. The representative of the European Commission updated the Board on the outcome of the negotiations between DG Markt and DG Budget regarding ESMA's 2014 budget indicating that the European Commission will propose to the Budgetary Authority a lower budget than requested by ESMA.

**4. Activity report** *MB/38* *information*

The Executive Director and the Head of the Operations Division presented the general activity report.

The Board discussed the report, in particular;

- the format of the activity report with the inclusion of performance indicators;
- the reasons for the high percentage of late payments;



- the progress made on recruitment against the recruitment plan; and
- the level of fees to be raised for TR supervision.

**Conclusion:** The Board took note of the report and welcomed the revised format.

## 5. Internal Control - overview of audit at ESMA

*MB/39 information & annexes*

The Executive Director presented the report on the overview of audit at ESMA and updated the Board on the preliminary findings of the European Court of Auditors.

The Board discussed the preliminary findings of the European Court of Auditors asking for clarifications on the findings and the role of the Management Board.

**Conclusion:** The Board took note of the report on the overview of audit at ESMA. The Board will be provided with an introductory note at a future occasion when discussing a report by the European Court of Auditors.

## 6. Draft 2014 work programme

- Cover note *MB/40 information*
- High-level work programme *MB/41 discussion*
- Detailed work programme *MB/42 discussion*

The Executive Director presented the draft 2014 work programme.

The Board discussed the work programme, in particular;

- the next steps in finalising the work programme including the consultation of the Standing Committees;
- the identified priorities, in particular with a view at the budget proposal by the European Commission;
- including a disclaimer that the work programme is depending on the outcome of the budget discussions.

**Conclusion:** The draft work programme will be amended taking into account the discussion in the Board and sent to the Standing Committees for consultation. The work programme will make clear which tasks will not be undertaken depending on the outcome of the budget discussions.

- Risk assessment 2013 *MB/43 discussion*

The Executive Director presented the 2013 risk assessment explaining that the risk assessment is an ongoing exercise by ESMA staff.

The Board discussed the report, in particular;



- the likeliness of the risk to lose key staff;
- to clarify the risk relating to the disruption due to political factors; and
- to include the risk of a lack of available resources in comparison to the required tasks as an overarching risk.

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

**7. Budget – fees by market participants** *MB/44 discussion*

The Executive Director and the Head of the Operations Division presented the report on future ESMA funding.

The Board discussed the report, in particular;

- the conditions / principles for raising additional fees from market participants;
- to clarify which tasks relate directly to ESMA’s responsibilities and where overlap exists with tasks of NCAs;
- the possibility to swap the 60/40 ratio of contributions from NCAs and the EU-budget; and
- whether legislative amendments are necessary for raising additional fees from market participants.

**Conclusion:** The Board agreed to the proposal to draft a letter to the European Commission on the future of ESMA’s funding.

**8. Final accounts 2012**

- Opinion of the Management Board *MB/45 decision*
- Final accounts 2012 *Annex 1 decision*
- Management representation letter *Annex 2 decision*

The Senior Accountant presented the 2012 final accounts.

The Board discussed the 2012 final accounts and the opinion by the Management Board, in particular the fair reallocation of the funds in proportion to the 2012 contributions.

**Decision:** The Board adopted the opinion on the final accounts for the year 2012, including an amendment to the final sentence.

**9. Roadmap to align EU agencies – presentation by the European Commission** *information*

The representative of the European Commission presented the roadmap to align EU agencies.

The Board discussed the roadmap, in particular;



- whether certain elements of the Commission’s roadmap could conflict with ESMA’s independence;
- the need to differentiate between EU agencies; and
- whether the Commission would already propose changes as part of the ESFS review.

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

**10. Freedom of information act + confidentiality** *MB/46* *information*

The Executive Director presented the item.

The Board discussed the presentation, in particular;

- whether working documents from Standing Committees are also subject to the freedom of information act; and
- to liaise with relevant NCAs when data is requested that was obtained by ESMA from NCAs.

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

**11. Revision of the 2013 IT work programme** *MB/47* *decision*

The Head of the Operations Division presented the revised 2013 IT work programme.

The Board discussed the work programme, in particular the costs related to internal projects.

**Decision:** The Board approved the revised 2013 IT work programme.

**12. IT Management and Governance Group**

- Cover note *MB/48* *information*
- ITMG Terms of Reference *MB/49* *discussion*

The Head of the Operations Division presented the ITMG terms of reference.

**Decision:** The Board approved the ITMG terms of reference. The terms of reference will be submitted to the Board of Supervisors for approval.

**13. HR implementing rules** *MB/50 & Annexes* *decision*

The Head of the Operations Division presented the HR implementing rules.

**Decision:** The Board adopted the HR implementing rules.

**14. Analysis of staff turnover** *MB/51* *information*

The Head of the Operations Division presented the report.

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



**15. Revision of ESMA's procurement plan**

*MB/52*

*decision*

The Head of the Operations Division presented the report.

**Decision:** The Board approved the revision of the 2013 procurement plan.

**16. Budget transfers**

*MB/53*

*decision*

The Head of the Operations Division presented the report.

The Board discussed the report, in particular asking for clarifications on the sum of the transfer to be made from title 1 into titles 2 and 3.

**Conclusion:** The report will be amended and sent for approval by the Board in written procedure.

**17. Future meetings**

*information*

– 23 September 2013 (Paris)

– 16 December 2013 (Paris)



## Participants list

	Members	Advisers
ESMA	Steven Maijoor (Chair)	
DK	Hanne Rae Larsen (alternate)	
DE	Karl-Burkhard Caspari	Philipp Sudeck
EE	Raul Malmstein	
FR	G�rard Rameix	Fran�oise Buisson
LU	Jean Guill	
UK	Martin Wheatley	Cristina Frazer

European Commission	Anthony Dempsey
Vice-Chair	Gabriela Figueiredo Dias (advisor)
Executive Director	Verena Ross
Head of Operations Division	Nicolas Vasse
Summary of Conclusions	Max Simonis
Head of Markets Division	Rodrigo Buenaventura (for item 4)
Head of Credit Rating Agencies	Felix Flinterman (for item 4)
Senior Accountant	Christine Kleinsasser (for item 8)
Advisor Operations Division	Louise Waller (for items 4, 6)
Advisor Legal, Cooperation & Convergence Unit	Enrico Gagliardi (for item 10)

Done at Paris on 23 September 2013

Steven Maijoor  
Chair  
For the Management Board