

SUMMARY OF CONCLUSIONS

Securities and Markets Stakeholder Group

Date: 26 June 2015
Time: 09.00 -16:40
Location: ESMA, 103 rue de Grenelle, 75007 Paris
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No Item

1. Report from the Steering Committee

The SMSG Chair welcomed all to the meeting and informed briefly on the activities of the steering committee in preparing the meeting: he further announced that the SMSG member Stavros Thomadakis had stepped down from his post due to other time-consuming obligations.

The ESMA Chair informed the SMSG of the selection made by the Board of Supervisors of the new SMSG member to replace Stavros Thomadakis. The new member will be Antonio Mele, an Italian national who holds a chair as professor of Finance at the University of Lugano. Professor Mele will take up his role as of the 1 July 2015.

2. Recent Market Developments

(1) Rüdiger Veil reported on a case of leakage of market sensitive information of a civil servant. He suggested that ESMA should discuss the matter with the relevant public institution, notably in connection with the drafting of the future guidelines that will be needed given the wider application of the MAR in 2016 compared to the current framework.

Members of the SMSG discussed the case and it was noted i.a:

- that the exception for public policy did not apply in the case,
- it had been insider information,
- that the role of public institutions should also be looked at regarding the government bond markets.

(2) Pierre-Henri Conac presented a report he had produced for an ECON meeting regarding the Governance of international institutions within finance. He named as a positive sign the support from the ECON for ESMA's role in IOSCO, but it should be noted that the report deals with nine different International organisations and that the focus of ECON therefore is not only on this topic. .

SMSG members made various comments:

- That the ESMA Board of Supervisors could be modelled on the ECB,
- A lack of coordination of priorities between IOSCO and FSB,
- That the G20 intentions have been good, also with some extra-territorial effects.

The ESMA Chair commented that the European Parliament is focused on democratic aspects of IOSCO.

(3) Elizabeth Corley presented the results for the final report of the Fair and Effective Markets Review that has been conducted in the UK concerning the Fixed Income, Currency and Commodities (FICC) markets, and the main short-term principles the work had resulted in, as follows:

- Individuals active in FICC markets should be more accountable for their actions,
- Firms in these markets should take greater collective responsibility for developing and adhering to clear, widely understood and practical standards,
- UK authorities should extend the regulatory perimeter,
- International authorities should collaborate to raise standards in global FICC markets.

(4) ESMA informed the SMSG on the state of play as regards its work on actively traded funds and index tracking.

SMSG members remarked on the importance given to the topic notably by Nordic securities supervisors.

3. Trends, Risks and Vulnerabilities

ESMA, Christian Winkler, presented the main trends, risks and vulnerabilities that ESMA will publish in its TRV Report. He outlined the trends for the *markets* being mispricing concerns and higher volatility, as regards *investors* liquidity concerns for funds, whereas thirdly for *infrastructure and services* no major disruptions were observed.

Vulnerabilities reports are focused on issues related to non-banking financing, sovereign bond market liquidity, and US bank loan participation funds.

SMSG Members commented regarding the reasons behind the high credit risk mark and there was one suggestion to differentiate various sorts of credit risk. SMSG members also noted the continued improvements of the report including on the retail investor side, where however reliable data is difficult to obtain.

4. ESMA Strategy

The ESMA Chair presented the ESMA strategy for the years 2016-2020. He explained that ESMA has three objectives:

- Investor protection,
- Orderly markets, and
- Financial stability.

These objectives will be achieved through the four activities of:

- Assessing risks to investor, markets and financial stability - ESMA will strengthen its capabilities to identify and assess risks to investors, related to financial innovation and financial stability in the EU.
- Completing a single rulebook for EU financial markets – ESMA is becoming an increasingly important source of expertise and strategic direction at the EU level for securities markets.
- Promoting supervisory convergence - ESMA will be committing more resources and apply a wider range of tools.
- Direct supervision of specific financial entities - ESMA is continuing to strengthen its role.

Members of the SMSG commented as follows:

- Also competitiveness of the EU ought to be mentioned explicitly in the ESMA mission statement,
- The ESMA web-site is of strategic importance,
- Central Banks demonstrate ambitions in the securities sphere,
- The advisory role of ESMA vis-à-vis the European Commission in level 1 drafting,
- Financial reporting being a core issue that needs to be dealt with by ESMA,
- Concerns that resources will be tied up in coaching NCAs,
- Budgetary needs to be able to fulfil mandate,
- Markets and regulators need to work together on a common policy framework.

The ESMA Chair remarked that there is no inconsistency between the mission goals of ESMA and of a growth programme, as strong supervision and investor protection would be conducive to such goals. As regards budgetary constraints those are to a large degree the same for NCAs.

Verena Ross informed that ESMA is carrying out an internal reorganisation as a result of the new strategy.

5. Knowledge and Competence

The SMSG Rapporteur Chris Vervliet presented a draft consultation reply to the ESMA consultation on draft guidelines specifying criteria for the assessment of knowledge and competence of natural persons in investment firms that provide investment advice or information about financial instruments, investment services or ancillary services to clients.

The Group approved the draft reply and the SMSG Chair asked the rapporteur to finalise the paper based on some minor comments made.

6. PRIIPS

ESMA, Emmanuel Dumas, informed the SMSG on the state of play with regard to the work on PRIIPS noting the tight deadline of 17 August for the ESAs common discussion paper. He informed in particular on the different risk models being discussed among the ESAs, and of the consumer testing phase currently being under way.

SMSG members gave some limited preliminary remarks, among others on the use of past performance indicators, and the relevance of digital communication.

The SMSG Chair concluded that the Group would set up a working group and seek a rapporteur.

7. Corporate governance topics

ESMA, Valerio Novembre, presented the work of ESMA with regard to corporate governance issues in relation to listed companies, noting that article 1(3) of the ESMA Regulation gives ESMA the task to act in the field of corporate governance for listed companies, and its mandate is therefore limited to some corporate governance issues only.

He outlined the content of the current best practice principles for providers of shareholder voting research and analysis (proxy advisors). ESMA has in its 2013 report encouraged a market-led code of conduct to foster greater understanding and assurance in relation to proxy advisors. ESMA is now analysing the impact of the Best Practice Principles developed by a market-led group in 2014. ESMA has performed a desk analysis and published a call for evidence.

ESMA will publish its review at the end of 2015, and might in the future perform further work on the topic in the context of the revision of the Shareholder Rights Directive.

He also mentioned the work ESMA is conducting on a mapping of disclosure of remuneration for listed companies.

8. MAD/MAR

ESMA, Christophe Polisset and Head of Division Rodrigo Buenaventura, updated the SMSG on the latest developments with regard to the work on the MAD/MAR, firstly thanking the SMSG for its input at the earlier stages of the consultation process.

Rodrigo Buenaventura explained the agreement reached with the European Commission on the legal review process, aimed at ensuring that ESMA gets all the views from the European Commission legal services to take into account in a timely manner before finalising its advice to the European Commission. This process has led to a later date for ESMA's final delivery.

Christopher Polisset informed that ESMA will perform work on Guidelines on misleading information whereas management transactions form part of the technical advice to the European Commission.

The Group discussed in particular elements of the Market abuse regime, including the delay of insider information, insider lists, investor recommendations and management

transactions. ESMA will undertake further work on these aspects and would welcome further input from the SMSG, who decided to establish a working group to facilitate this.

Verena Ross highlighted that ESMA has not yet started the work on the Guidelines so there will be ample opportunity for the SMSG to provide input during the process.

9. Fourth set of clearing standards – request for advice

ESMA, Chloe Picandet and Emmanuel Boyer, shared with the SMSG an update of the work ESMA is undertaking on clearing obligations under EMIR. They informed of the progress regarding authorisations of CCPs, of the four clearing obligation consultation procedures launched by ESMA and of the frontloading issue (applied as per the ESMA opinion of 29 January 2015).

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10. AOB

There were no AOB issues.