Stakeholder meetings

Procedure on publication of ESMA staff meetings with stakeholders
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2 Introduction

ESMA is committed to the highest standards of transparency in its interactions with stakeholders. A procedure for tracking ESMA staff meetings with external stakeholders, and making that information public, is hereby established.

The procedure builds on, and replaces, the tracking system for ESMA staff meetings which was established in 2013. While the tracking system was not used for publication purposes, it provided systematic information on meetings held.

The procedure will be aligned with similar initiatives initiated by EBA and EIOPA, respectively in order to address concerns raised by the European Parliament in 2015 about transparency in the ESA’s external stakeholder engagements.

3 Purpose and scope

ESMA staff shall publish all meetings held with external stakeholders with the purpose of informing the general public about stakeholders met in the course of policy-making activities. The meetings shall be registered in an internal register (excel tool).

The register additionally serves as a practical tool for ESMA staff when tracking stakeholder related activities and may assist ESMA in pursuing a forward-looking stakeholder policy.
The transparency procedure is aligned with Commission Decision of 25.11.2014 C 2014(9048) on the publication of information on meetings held between DGs and organisations or self-employed individuals.

Article 2 of this Decision defines a “meeting” as “...a bilateral encounter organised at the initiative of an organisation or self-employed individual or a DG to discuss an issue related to policy-making and implementation in the Union. Encounters in context of administrative procedure established under the Treaties of Union acts, which fall under the direct responsibility of the DG, as well as encounters of a purely private of social character or spontaneous encounters are excluded from this notion”.

An organisation or self-employed individual is “…any organisation or self-employed individual engaged in activities with the objective to influence the formulation of policy. The notion excludes other EU institutions or bodies, national, regional, and local authorities of Member states, third countries or international organisations and also meetings with religious associations or in context of social dialogue or representatives of political parties”.

4 Stakeholder contact registration

4.1 Rule

Any meeting that ESMA staff have with external stakeholders, whether they take place in ESMA premises or outside, shall be entered into the Transparency registry. Relevant information elements from that registry shall, after verification, be published quarterly.

4.2 Definitions

“External stakeholder” is for the purposes of this procedure understood as any organisation or self-employed individual having the objective of directly or indirectly influencing the formulation or implementation of ESMA policy-making and implementation.

“Meeting” shall be understood as a bilateral or multilateral encounter organised by either party(ies) for the purposes of discussing items within ESMA’s central scope of action, i.e. items related to risk assessments, the single rulebook, supervisory convergence or direct supervision.

The definition includes active participation by ESMA staff in roundtables or ad hoc groups with targeted invitees, external meetings over breakfast, lunch or dinner, or formal meetings in the margins of events such as conferences or board meetings.

The meeting definition covers also prearranged audio/video meetings.
4.3 ESMA staff

This policy applies to all staff except ESMA Chair, and ESMA Executive Director. The Chair and Executive Director already publish information on their external engagements.

The procedure does not apply to the members of the Board of Supervisors or the Management Board.

4.4 Exceptions from obligations to entry into the registry

The following exceptions apply to the meeting definition

- Meetings held with entities under direct supervision – Credit Rating Agencies and Trade Repositories, third county CCPs – shall not be covered by the obligation to entry into the registry if the subject matter of the meeting is direct supervision actions

- Social events in context of a registered meeting

- Social meetings required by social courtesy or diplomatic usage

- Encounters of a purely private or social character or spontaneous encounters

- Meetings with other EU institutions or bodies, national, regional, and local authorities of Member States, third countries, international organisations and meetings with religious associations or in context of social dialogue or representatives of political parties

- Public meetings/hearings at ESMA

- Meetings with whistle-blowers and stakeholders in need of protection, e.g. when sharing confidential information with ESMA staff on irregularities

- Meetings with media representatives

- External speaking events with a wide audience (i.e. not targeted audience)

- Attendance to an event without active participation

- Phone calls (unless pre-arranged audio/video – see above)

4.5 Meetings with several purposes

If a meeting contains agenda items covering policy-making as well as supervision and/or the sharing of confidential information, the meeting shall be entered in the registry only in regard to the policy-making part of the meeting, unless such an entry would risk revealing confidential or sensitive information.
5 Registration procedure

5.1 Persons having meetings with stakeholders

Information shall be entered into the register immediately following the meeting and in any case no later than five days after the meeting. The meeting summary, to be linked to the meeting in the register, may be added at a later date.

Each meeting organiser shall enter the information into the meeting register including the names of all ESMA staff taking part in the meeting.

Meetings of the ESMA Chair or the ESMA Executive Director to which ESMA staff take part shall be entered only in that meeting calendar of the ESMA Chair or Executive Director, respectively.

5.2 Stakeholder transparency registry contact persons

Each department is encouraged to name one person in charge of stakeholder transparency contacts handling within that department. He or she will assist colleagues by responding to questions in relation to this procedure and can ensure that entries in the transparency registry are complete by the end of each quarter. S/he will be the main contact point on stakeholder related issues with CAD and the DPO.

5.3 Publication

At the end of each quarter CAD will publish a reminder on the intranet concerning data entry into the register. On the 10th day following the end of a quarter, or immediately after if this day is a holiday or weekend, CAD will publish on the ESMA web-site the meetings held with external stakeholders in the previous quarter.

5.4 Central support

CAD will provide central support to ESMA staff, including

- Providing a help-desk to answer questions from ESMA staff about the definition of external stakeholders and meetings, and their entries into the register
- Ensuring that publication of external meetings with stakeholders takes place quarterly
- Monitoring the procedure to identify possibilities for administrative unburdening, which may be corrected
- Coordination with EBA and EIOPA which have established similar registers
6 Technical requirements and information fields

6.1 The register

The ESMA register will consist of an Excel file which will be stored, by CAD, in a central location available to all staff.

6.2 Information elements to be entered into the registry

ESMA staff are responsible for entering the following information into the registry:

- Full name, function and department of the ESMA staff member (not published, without prejudice to access requests under Regulation (EU) 1049/2001)
- Date of the meeting
- Subjects/main topics of the meeting (max 50 characters)
- Name of organisation/entity/self-employed individual met
- Name of the individual(s) met (not published, without prejudice to access requests under Regulation (EU) 1049/2001)
- Summary of conclusions and/or meeting documents (not published)
- Date of entry (not published).

Published information will be sorted according to date.

7 Procedural steps

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<tr>
<th>Step</th>
<th>Action</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>1</td>
<td>Entry of meetings into the register – Each ESMA staff member has the responsibility to enter his/her stakeholder meetings into the register as soon as they have taken place and no later than five working days after the meeting. This task, but not the responsibility, may be delegated to another staff member</td>
<td>Staff member responsible for the meeting</td>
</tr>
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<td>2</td>
<td>Quarterly reporting – Each Department will internally require all staff members to verify within three days from the end of each quarter, that all the stakeholder meetings in the previous quarter have been included into the register</td>
<td>Each department</td>
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Data verification - Data entries from the previous quarter are verified by CAD in terms of consistency, spelling mistakes etc. The responsibility for ensuring that the data is correct and complete rests with the individual staff members. 

Preparation of publication - CAD will prepare the list to be published separating out the ESMA internal information.

Publication – CAD publishes stakeholder meetings held in the previous quarter at the latest 10 days after the beginning of a new quarter (or the closest following working day).

8 Awareness campaign

All ESMA staff will be made aware of the obligation to enter information in the registry through a series of notices at the ESMA intranet, to be repeated quarterly. Information may be provided also in department meetings and All Staff Meetings as well as in introductory sessions for new staff.

9 Consultation status

This stakeholder procedure has been subject of initial discussions in the Management Meeting on 19 April and further discussions on 19 May 2016 as well as in written form involving Management and the Executive Director thereafter.

Discussions have taken place at staff level and between the ESA Executive Directors with a view to alignment to the extent possible.

10 Data protection and access to documents

Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the new register.

ESMA will gather the information in paragraph 6.2 above internally, as data controller, for the exclusive purpose of being able to inform the general public about stakeholders met in the course of policy-making activities.

ESMA is furthermore subject to Regulation (EC) No 1049/2001 regarding public access to documents according to which documents, or parts of them, in ESMA’s possession may be made public following a request to share such information. ESMA shall therefore when confirming and agreeing a meeting with a stakeholder include a disclaimer in an email stating...
that ESMA is subject to Regulations (EC) 1049/2001. The disclaimer shall refer to a link on the ESMA web-site including information on processing of personal data.

“ESMA is committed to the Treaty principles of openness and transparency. When external stakeholders attend a meeting with ESMA staff, the existence of this meeting will be recorded on ESMA’s website together with a brief description of the topics discussed in application of ESMA’s related policy ESMA/2016/1525. In addition, please note that ESMA may be requested to disclose the names of persons in attendance (further to a request for Access to Documents in accordance with Regulation (EC) No 1049/2001).

Further information regarding the processing of your personal data can be found at the following web link: https://www.esma.europa.eu/data-protection.”

11 Entry into function

Publication of stakeholder meeting information shall take place on (or immediately after) the 10th of January, April, July and October for the previous quarter.

This procedure will be applied for the first time as regards information covering the second quarter 2016, with a publication in July 2016.