

TERMS OF REFERENCE

Post-Trading Standing Committee

1. ESMA achieves its mission to enhance investor protection and promoting stable and orderly financial markets through four activities: (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) supervising specific financial entities.
2. According to Regulation 1095/2010 of the European Parliament and Council, ESMA shall act within the powers conferred by its establishing Regulation and among others within the scope of Regulation (EU) No 648/2012 (EMIR), Regulation (EU) No 909/2014 (CSDR), Directive 98/26/EC on settlement finality (SFD), Directive 2002/47/EC on financial collateral arrangements, Directive 2014/65/EU, Regulation (EU) No 600/2014 (MIFID2 and MIFIR) and Regulation (EU) No 2015/2365 (SFTR) where related to post-trading aspects, and any further legally binding Union act which confers tasks to ESMA on post-trading matters and any other Union act for which ESMA need to be consulted for matters affecting post-trading market infrastructures or post-trading processes or operations (e.g. Directive 2014/59/EU on recovery and resolution of credit institutions and investment firms).
3. In order to fulfil its mission the Board of Supervisors has established the Post-Trading Standing Committee (“PTSC”). These Terms of Reference cover the responsibilities and tasks of the PTSC and the Procedures for ESMA groups (ESMA/2011/BS/236rev2) set out the rules concerning its structure, governance and working methods.

Responsibilities

4. In line with the ESMA 2016-2020 Strategic Orientation, (ESMA/2015/935), the PTSC contributes to ESMA’s mission by promoting safe and orderly functioning market infrastructures. In particular by:
 - *Assessing Risks to Investors, Markets and Financial Stability, including:*
 - o Definition and consistent application of organisational, conduct of business and prudential requirements applicable to financial markets infrastructures (CCPs, CSDs and trade repositories);
 - o Annual EU-wide CCP stress testing exercise;
 - o Definition of appropriate account segregation and measures to protect investors assets and collateral;
 - o Monitoring and improving settlement efficiency;
 - o Monitoring the derivative activity of non-financial counterparties and their systemic relevance as a group.



- *Promoting Supervisory Convergence on all EMIR, CSDR, SFD and SFTR obligations, including:*
 - o Development of Q&As, guidelines and opinions under EMIR, CSDR and SFTR
 - o Annual peer review analysis of the supervisory activities of national competent authorities of CCPs;
 - o Peer reviews (at least every three years) of the supervision of CSDs which make use of the freedom to provide services in another Member State or to participate in an interoperable link between CSDs;
 - o Development of common procedures for the operation of CCP colleges;
 - o Development of common procedures relating to the management of cross-border exemption requests from both the clearing obligation and the exchange of bilateral margin obligations;
 - o Co-ordinating NCAs' supervisory approach to the clearing obligation for various types of entities;
 - o Coordinating the exchange of information between authorities under the SFD, and the actions that may need to be taken where notifications are received regarding the opening of insolvency proceedings under the SFD which have cross-border implications.

 - *Completing a Single Rulebook for EU financial markets:*
 - o Development and revision of technical standards under EMIR, CSDR, SFTR, MIFID/R (for post-trading aspects) and upcoming CCP recovery and resolution regime. In particular:
 - Finalisation of technical standards on (i) bilateral margins for OTC derivatives, (ii) settlement discipline, (iii) indirect clearing for exchange-traded derivatives and OTC derivatives under EMIR and MIFIR;
 - Development of technical standards on trade repositories requirements and data access under SFTR and revision of EMIR standards on data access;
 - Potential development of new technical standards mandating the clearing of certain other classes of OTC derivatives that meet the criteria of the clearing obligation procedure under EMIR;
 - Potential revision of prudential requirements for CCPs.
 - o Reports assessing the implementation, the revision or potential extensions of EMIR, CSDR or SFTR, or similar reports related to other EU legislation for matters affecting post-trading market infrastructures or post-trading processes or operations (such as MiFIR Reports related to post-trading market infrastructures).
5. Given ESMA's role as the coordinator of NCAs supervising CSDs joining T2S, restrictive sessions of the PTSC are held solely with the authorities supervising CSDs joining T2S. The



purpose of these restrictive sessions is to coordinate those NCA's position and to convey it to the ECB or within the T2S cooperative arrangement between supervisors and overseers.

6. In line with ESMA's product monitoring obligation under Articles 39 MiFIR and its product intervention powers under Article 40 and 43 MiFIR, the PTSC shall refer any potential threats it identifies relevant to ESMA's objectives of ensuring investor protection, orderly functioning and integrity of financial/commodity markets and to stability, to the relevant Standing Committee.
7. The PTSC shall liaise and coordinate with other relevant standing committees or groups reporting to the Board of Supervisors where its activities relate or are complementary to those of other groups.

Structure and governance

8. The responsibilities of the Chair, rapporteur and members of the PTSC are as set out in the Procedures for ESMA groups.
9. Permanent or temporary groups reporting to the PTSC may be set-up when required in line with the Procedures for ESMA groups.
10. The PTSC has established a Consultative Working Group.
11. The PTSC has established no permanent working groups.
12. The PTSC will meet on a regular basis as required in order to deliver ESMA's (multi-) annual work programme. Meetings of substructures will be organised as necessary to enable the PTSC to fulfil its tasks.

Review

13. These Terms of Reference will be reviewed every two years by the Board of Supervisors.