

PRESS RELEASE

ESMA reminds firms of responsibilities when selling bail-in securities

The European Securities and Markets Authority (ESMA) has today published a Statement reminding banks and investment firms ('firms') of their responsibility to act in their clients' best interests when selling bail-in-able financial instruments. New Banking Recovery and Resolution Directive (BRRD) rules in force since January 2016 mean firms are likely to issue a significant amount of potentially loss-bearing instruments to fulfil their obligations and ESMA is concerned investors – in particular retail investors - are unaware of the risks they may face when buying these instruments.

The Statement emphasises that firms must comply with their obligations under MiFID and the importance of:

- providing investors – existing and new – with up-to-date, complete information drafted under the supervision of the compliance function;
- managing potential conflicts of interest, in particular, when a firm sells its own bail-in financial instruments directly to its customers - a practice known as self-placement; and
- ensuring the product is suitable and appropriate for the investor which may entail collecting more in-depth information about the client than usual to reflect the fact a client could lose money without the firm entering into insolvency.

Steven Maijoor, ESMA Chair, said:

“Investor protection is a core part of ESMA’s mission and we are concerned that investors may find it hard to understand the risks inherent in these investments given the complexity and novelty of the BRRD regime.

“Prudential measures on recovery and resolution are extremely important but in complying with them, firms must not compromise the way they treat their clients.”



The BRRD addresses how national and cross-border firm failures which are deemed to have a public interest should be managed. EU firms are required to hold a certain amount of instruments, such as bonds, to bear some of the losses in the event of failure. These resolution measures were introduced as an alternative to government bailouts of banks with public funds.

ESMA has worked closely with the European Banking Authority (EBA) in preparing this Statement given its expertise in, and work on, the BRRD.



Notes for editors

- [ESMA Statement on potential risks associated with investing in contingent convertible instruments](#)
- [ESMA Opinion on MiFID practices for firms selling complex products](#)

ESMA's mission is to enhance investor protection and promote stable and orderly financial markets. It achieves these objectives through four activities:

- assessing risks to investors, markets and financial stability;
- completing a single rulebook for EU financial markets;
- promoting supervisory convergence; and
- directly supervising specific financial entities.

ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

Further information:

Catherine Sutcliffe

Senior Communications Officer

Tel: +33 (0)1 58 36 51 80

Email: press@esma.europa.eu