

SUMMARY OF CONCLUSIONS

Joint meeting of the Board of Supervisors and the Securities and Markets Stakeholder Group

Date: 11 December 2015
Time: 09:00 – 12:30
Location: ESMA, 103, rue de Grenelle, 74345 Paris
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No Item

1. Opening remarks

The ESMA Chair welcomed all to the meeting thanking Board Members for attending the meeting.

The SMSG Chair noted how important it is for the stakeholder group to meet with the ESMA Board of Supervisors.

2. Supervisory Convergence

ESMA Board Member and Chair of the Secondary Markets Standing Committee, Lourdes Centeno Huerta, Deputy Chair of the CNMV, presented the draft ESMA supervisory convergence work programme for 2016, together with Sophie Vuarlot-Dignac, Head of the Legal Convergence and Enforcement Department, ESMA. The presentation described the increased focus on convergence including a stand-alone work programme, including a few, well defined key areas as ESMA priorities and the use of a wide range of tools, not all with a public output. A special supervisory convergence work programme (later to be multi-annual) will assist ESMA in its new focus, and will in the future be more consulted with external stakeholders. The criteria for selection of areas to focus on will be the following:

1. Impact of supervisory effectiveness in investor protection/market integrity/financial stability. 2. Value added of action at the EU level. 3. Potential efficiency increase through joint actions, 4. Opportunity for change where there are e.g. new market developments, 5. Relevance to NCAs own situation, 6. Feasibility, taking into account the available resources.

The priority areas chosen for 2016 will be:

- Preparations for MiFID II/MiFIR and associated IT infrastructure, including new investor protection areas, e.g. product governance, secondary markets areas, and product intervention.
- CCP Supervision, ensuring consistent supervision and making sure that CCPs do not compete on risk.
- Targeted actions to support CMU – prospectus review follow up and a thematic study on operation of home and host responsibilities under AIFMD and UCITS.

Other priority activities will be facilitating discussion of live cases, and providing remediation where necessary.

The SMSG members expressed strong support for ESMA's increased focus on supervisory convergence work including a dedicated work programme. SMSG members also, on the whole, agreed with the priorities made by ESMA for 2016.

On lack of convergence a discussion arose regarding the uneven disclosure of information across the EU of certain price-affecting Pillar II-requirements, and in this context the ESMA Chair noted that ESMA had issued a Q&A on how to treat the disclosure of such information.

3. PRIIPS

ESMA Board Member and Chair of the ESAs JC CPMI sub-committee Anneli Tuominen, Head of the Finnish FSA, presented the key elements of the consultation paper which will be out for consultation until end of January.

The SMSG member Guillaume Prache presented some of the key views on behalf of the SMSG as regards PRIIPS. The discussion demonstrated notably a very strong preference from SMSG members for including a requirement in the PRIIPS key information document to also have information on the historical performance of the financial instrument described in said document.

ESMA explained that the consistent message it had received through the whole process was that historical performance scenarios would not be possible to introduce under the Level 1 wording. It was thus not by accident that historical performance was left out of the CP.

4. MiFID delay – state of play

SMSG Vice-Chair Judith Hardt introduced the topic saying that a delay in the MiFID II implementation raises a lot of questions in the industry, on which more clarity would be needed. The questions are e.g. how long a delay should be and if it ought to be limited to certain aspects of MiFID or apply to all aspects.

The SMSG members presented various views, with most members favouring a delay of all aspects relating to MiFID for a limited but reasonably long amount of time.

The European Commission representative stated that the modalities of the delay should be ready around January/February and he noted that the delay in any case should not be regarded as a luxury extra amount of time.

A remark was made by a member of the SMSG on the fact that ESMA has internally begun the preparation of implementing tools that will be needed at a later stage once MiFID is in place. The ESMA Chair noted that ESMA should in any case continue to prepare the tools that will be needed to have in place once MiFID comes into play as it is imperative for both industry and users that the legal and regulatory framework becomes finalised and clear.

5. ESMA in international organisations

The SMSG member Pierre-Henri Conac presented a report he drafted for the European Parliament as regards the participation of ESMA in IOSCO.

Remarks were made re IOSCO work streams that a differentiation should be made between markets where there are fundamental differences between national/regional markets and those where there is a truly international market like forex trading. It was thought that IOSCO could work on global effects of the G20 conclusions and their implementation.

The ESMA Chair noted that there are some difficult dossiers where international progress had been less than expected like the global adoption of IFRS and regulatory cooperation regarding CCPs.

SMSG members noted that ESMA in its observer status has a strong position in IOSCO and it was generally thought that the current set-up was beneficial for ESMA, the EU and its member states.