

Summary of Conclusions

Securities and Markets Stakeholder Group

Date: 25 May 2018
Time: 9.00 - 13:00
Location: ESMA, 103 rue de Grenelle, 75007 Paris
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1. Report from the Steering Committee

The SMSG Chair reported that the joint letter of the three ESAs stakeholder groups regarding the ESAs review, dealing with the role of the stakeholder groups, had been concluded and sent to the relevant European Institutions. He informed the Group that ESMA had shared some CWG agendas with the Steering Committee. However, timely access to all CWG agendas could be improved in the future. The SMSG Chair summarized the main conclusions from the preparatory meeting on 24 May, in particular regarding the End of Term Report. The SMSG will carry out a self-assessment on the basis of the survey developed by the previous SMSG. SMSG members are asked to respond to the survey by 31 July 2018.

ESMA commented on the future call for expression of interest to the next Securities and Markets Stakeholder Group.

In light of the discussion in the joint SMSG/Board of Supervisors' meeting the previous day, the Group discussed next steps in relation to PRIIPS. The ESMA Chair gave his views as regards the possible usefulness of a letter noting important scoping issues. The Group decided to take the work forward in the existing PRIIPS working group led by Georg Baur and work towards an SMSG letter on the topic.

2. Financial Technology



SMSG Member Rainer Lenz presented the European Commission proposal for an EU regulation on investment-based and lending-based crowdfunding service providers for business. He also presented the various business models and national measures present.

ESMA staff presented the European Commission Financial Technology action plan: the legal status for ICOs, good practice on Cloud services, a survey of national authorisation and legislation models for innovative businesses.

ESMA also referred to its December 2014 advice on crowdfunding which had identified gaps on investor protection and national legislation in place, and an opinion for possible EU measures. Separately ESMA had issued a statement in November 2017 on the risks associated with ICOs and in February 2018 the ESAs issued a joint risk statement.

SMSG members' commented on issues in relation to Fin Tech in general such as:

- Issues of double taxation for not-for profit organizations,
- Investor risks and custody risks,
- Risks of intermediation,
- Possibilities of democratisation,
- Higher risks and issues with GDPR.

The SMSG Chair suggested to align the work with that of the group done in 2014 when they gave advice on this topic.

The ESMA Chair noted that crowdfunding is not a top-priority for ESMA now and that the focus for the next half-year will be on issues related to ICOs and virtual currencies, and the related legal qualifications.

3. Sustainability

SMSG member René Karsenti gave the Group a presentation of the work undertaken in the SMSG working group on sustainability, especially regarding the HLEG recommendations in relation to taxonomy, budgetary issues, standards and more.

ESMA informed the SMSG on its changes to the suitability guidelines with regard to sustainability aspects.

The SMSG Chair thanked for the presentation and concluded that the SMSG will discuss an updated version of its advice paper at its September meeting. The SMSG will also share its draft paper with ESMA Senior management in time for the ESMA July Board discussions.

4. Costs and charges

The SMSG rapporteur Giovanni Petrella informed the Group of the work done in the working group with regard to costs and charges. The Commission has requested the ESAs to make recurrent reports on the cost and past performance of the main categories of retail investment, insurance and pension products. This forms part of the CMU Action Plan to foster the participation of retail investors in capital markets by supporting the assessment of the net return of retail investment products and the impact of diverse fees and charges.

The ESMA Executive Director and ESMA staff informed the SMSG of this very ambitious agenda and that ESMA works with EBA and EIOPA on these matters. One of the main challenges relates to the availability of data, which differs a lot from market to market. The availability of distributions costs data is also scattered across markets. The ESMA Executive Director informed the SMSG that ESMA is well under way as regards its study on cost and charges in the UCITS sector for the end of this year.

5. ESMA Work Programme

The ESMA Executive Director presented ESMA's draft work programme for 2019 highlighting the long planning cycle. The draft work programme will soon be going to the ESMA Board of Supervisors and it will thereafter be decided in September, with the activity based work programmes to follow in January. New tasks for ESMA are stemming from the SFTR, the Securitisation Regulation and the changes to EuVECA/EuSEF legislations, where additional resource will be needed to carry them out. Priorities for 2019 will be the implementation of EMIR 2.2 and (depending on the outcome) the ESA's review as well as new direct supervisory responsibilities regarding Trade Repositories and Securities repositories, (provided ESMA receives the necessary resources). Other priorities will be supervisory convergence and financial stability matters in the context of Brexit, continuing work on the Capital Markets Union Action Plan, including EMIR 2.1, AIFMD review (cross-border funds), Fintech and continuing MiFID/R following the 2018 implementation. The Executive Director also highlighted some of the major outputs for the next year.

SMSG members commented on numerous topics in relation to sustainability, interactive rule-book, transparency of funds performance, prospectuses, and financial technology.

The SMSG decided to set up a working group on ICO and VC related topics under the lead of Veerle Colaert and Jean-Marc Servat, with the objective to look into concepts, risks and legal definitions in relation to ICO/VC.



6. KIID disclosure rules

SMSG Vice Chair Christiane Hölz presented the main findings of Better Finance's research on disclosures regarding the key benchmark for UCITS equity funds which found that more than a third of 2300 UCITS funds' KIIDs that have been reviewed by Better Finance are non-compliant with the legal requirements prescribed in the Regulation. As the research had yet to be published it was agreed to have a full presentation of this research at the SMSG September meeting.

7. AOB

There was no other business.

PARTICIPANT LIST

1.	Christos Alexakis	Associate Professor in Finance, ESC - Rennes Business School	Present
2.	Georg Baur	Member of Management Board, VOEB, Association of German Public Banks	Present
3.	Harald Benink	Professor of Banking and Finance, Tilburg University	Present
4.	Jean Berthon	Vice-Chair, Better Finance	Present
5.	Geoffrey Bezzina	Executive Chairman, Office of the Arbitrator for Financial Services,	Present
6.	Lubomir Christoff	Advisor, Bulgarian National Association Active Consumers	Present
7.	Blanaid Clarke	Professor of Corporate Law, Trinity College	Excused
8.	Veerle Colaert	Professor of Financial Law, University of Leuven	Present
9.	Elizabeth Corley	CEO, Allianz Global Investors	Present
10.	Bartosz Dziemaszkiewicz	Vice-President, Polish Individual Investors Association	Excused
11.	Javier Echarri	CEO, LDS Partners and Advisor on SME related matters	Excused
12.	Mark Hemsley	CEO of BATS Chi-X Europe	Present
13.	Kerstin Hermansson	Managing Director, Swedish Securities Dealers Association	Present
14.	Christiane Hölz	Lawyer, DSW	Present
15.	René Karsenti	President, ICMA	Present
16.	Paul Koster	Chair, European Investors Association	Present
17.	Eric Litvack	Managing Director, Societe Generale	Present

18.	Rainer Lenz	Chairman of the Board of Directors, Finance Watch	Present
19.	Jennifer Payne	Professor of Corporate Finance Law, University of Oxford	Excused
20.	Giovanni Petrella	Professor of Banking, Università Cattolica, Milano	Present
21.	Rainer Riess	Director General, FESE	Present
22.	Anna Maria Romano	Accounting expert, FISAC CGIL	Excused
23.	Ignacio Santillan	CEO, FOGAIN, Spanish Investor Compensation Scheme	Present
24.	Jean-Marc Servat	Chair, EACT	Present
25.	Jarkko Syyrilä	Head of Compliance, Nordea Asset Management	Present
26.	Greg Van Elsen	BEUC	Present
27.	Chris Vervliet	Senior Risk Advisor, KBC Asset Management	Present
28.	Rüdiger Veil	Professor of Law, LMU Munich	Present
29.	Juan Manuel Viver	Financial Consumer representative	Present
30.	Tim Ward	CEO, Quoted Companies Alliance	Present