

## SUMMARY OF CONCLUSIONS

### Board of Supervisors

---

**Date:** 29 March 2017  
**Time:** 09h00 – 17h00  
**Location:** ESMA, rue de Grenelle 103, 75007 Paris, France  
**Contact:** [frederiek.vermeulen@esma.europa.eu](mailto:frederiek.vermeulen@esma.europa.eu) Tel: +33 1 58 36 43 37

---

**1. Adoption of agenda** 22-247440098-109 Decision

**Decision:** The agenda was adopted.

**2. Summary of conclusions 26 January 2017 meeting** 22-24744098-103 Decision

**Decision:** The summary of conclusions of the 26 January 2017 meeting was adopted.

**3. Oral Report by Chair and Executive Director** Information

The Chair reported on:

- The fact that during its confidential session the Board of Supervisors had elected Sebastian Albella (ES) and Birgitte Sogaard Holm (DE) as Management Board Member. Joao Gao (PT) was elected as chair of the Supervisory Convergence Standing Committee (SCSC).
- The informal meeting of the EU27 Board Members that took place to discuss the implications of the United Kingdom's withdrawal from the European Union;
- His meeting with European Commission Vice-President Valdis Dombrovskis and in particular the discussion on the review of the operations of the European Supervisory Authorities;
- ESMA's participation in European Parliament hearings on third country regimes and the European Commission's CCP recovery and resolution proposals;
- The adoption process of the technical standards related to the Packaged Investment and Insurance-based Investment Products Regulation (PRIIPS) and the work done in relation to social and environmental PRIIPS;
- The ongoing discussions between the EU institutions on securitisation ;
- The activities of the Joint Committee and in particular the upcoming joint consumer protection day;
- The concerns of the European Supervisory Authorities (ESAs) regarding the proposal to allow insurance undertakings to defer the application of IFRS 9;
- The activities of the European Systemic Risk Board;
- The activities of the Securities and Markets Stakeholder Group (SMSG) and in particular the vacant positions;
- The February 2017 IOSCO Board meeting;

- The March 2017 meeting of the Management Board and in particular the discussion on the 2016 provisional accounts and on ESMA's data strategy; and
- His participation in the Euribor-panel and the fact that ESMA will continue working on the consistent implementation and application of the Benchmark Regulation, including mandatory contributions.

The Executive Director reported on the

- Meetings of the Financial Services Committee and in particular the discussions related to third country regimes and the Capital Markets Union;
- Fact that all Board Members had submitted their annual conflict of interest declarations; and
- Fact that two national competent authorities have approached ESMA on an upcoming delegation agreement between those two authorities and on which ESMA, in line with its founding Regulation, could express an opinion where needed.

#### 4. Review of the European System of Financial Supervision

1)	Cover Note	22-103-307	Discussion
2)	European Commission Consultation Paper	22-103-308	Information

The Chair introduced the session by summarising the European Commission consultation paper reviewing the operations of the ESAs, which was published shortly before the meeting.

The Board discussed the consultation on the review of the operations of the ESAs, in particular:

- Whether or not there is a need for certain entities or activities to be directly supervised by ESMA, especially market infrastructures;
- The need for appropriate tools for ESMA to promote supervisory convergence;
- The need for appropriate funding for ESMA to fulfil its mandate and the ongoing discussion on revising the funding mechanism;
- Its experience with the current governance framework and whether certain decisions could be delegated from the Board to internal bodies; and
- The co-operation between the three ESAs and the functioning of the Joint Committee.

**Conclusion:** A Board conference call will be organised to allow for the development of a draft response to be presented to the May 2017 Board of Supervisors.

#### 5. Capital Markets Union mid-term review 2

1)	Cover Note	31-68-146	Discussion
2)	ESMA response to the Commission consultation document on Capital Markets Union Mid-Term Review 2017	31-68-147	Decision
3)	European Commission consultation paper on the Capital Markets Union mid-term review 2017	31-68-150	Information

The Head of Investors and Issuers department presented the proposed response to the European Commissions' consultation document on the Capital Markets Union mid-term review.

The Board discussed the response, in particular the:

- Importance of supervisory convergence in light of the Capital Markets Union and in particular the enhanced use of peer reviews and whether ESMA need additional tools and, if so, which ones; and
- Existing crowd-funding related initiatives.

**Conclusion:** The Board discussed the draft response and agreed that whether or not further tools are needed to promote supervisory convergence should be discussed as part of the review of the operations

of the ESAs. The proposed response will be amended to reflect the Board’s previous positions and be shared with the Board of Supervisors.

## 6. CCP Recovery and Resolution

- |   |            |            |
|---|------------|------------|
| 1) Cover Note   | 70-151-276 | Discussion |
| 2) Opinion on the European Commission’s proposal on CCP Recovery and Resolution | 70-151-222 | Decision   |

Giuseppe Vegas presented the opinion on the European Commission’s proposal on CCP Recovery and Resolution.

The Board discussed the opinion, in particular:

- The composition of the resolution colleges; and
- ESMA’s mediation role.

**Decision:** The Board adopted the opinion noting a preference for a broader composition of the colleges and refraining to advice on any specific arrangement for mediation while highlighting the current experience in the EMIR colleges.

	Support the proposed amendment	Refrain to advice on specific arrangement	Abstain
Klaus Kumfmüller (AT)	X		
Jean-Paul Servais (BE)		X	
Karina Karaivanova (BG)	X		
Demetra Kalogirou (CY)		X	
Pavel Hollmann (CZ)		X	
Anne Bruun (DK)		X	
Andre Nõmm (EE)		X	
Anneli Tuominen (SU)	X		
G�rard Rameix (FR)		X	
Pierre Matek (HR)		X	
Elisabeth Roegele (DE)			X
Charalampos Gotsis (EL)		X	
Gergo Szeniczey (HU)	X		

Cyril Roux (IE)	X		
Giuseppe Vegas (IT)	X		
Gunta Razane (LV)		X	
Vytautas Valvonis	X		
Francoise Kauthen			X
Christophe Buttigieg (MT)			X
Merel van Vroonhoven (NL)			X
Marek Szuszkiewicz (PL)	X		
Joao Giao		X	
Raluca Tariuc (RO)		X	
Ivan Barri (SK)			X
Sabina Bešter (SI)			X
Sebastian Albella (ES)		X	
Sophie Degenne (SE)		X	
Edwin Schooling Latter (UK)		X	

## 7. Investment fund leverage, liquidity and stress-testing

- 1) Issues Note – fund leverage and liquidity 34-45-293 Discussion

The Team Leader Asset Management presented the issues note.

The Board discussed the note, in particular:

- The need for further work on the tools available under UCITS and on stress testing;
- How to balance financial stability concerns and investor protection, and in particular whether investors should remain responsible and whether there should be a role for national authorities; and
- Concerns around illiquidity restrictions of funds and the use of suspension rights.

The ESRB representative updated the Board on the discussions taking place within the ESRB on the ongoing international developments and the balance between investor protection and financial stability.

**Conclusion:** The Board supported to continue looking at the convergence of liquidity management tools and that redemption measures should be in place for individual funds. ESMA will also discuss its work further with the Securities and Markets Stakeholder Group (MSG)

- 2) Presentation – fund stress testing 50-157-385 Discussion

3) Issues Note – fund stress testing 50-157-389 Discussion

The Head of Risk Analysis and Economics Department presented the Note.

The Board discussed the note and, in particular

- Whether the stress-tests should be conducted at entity, sectoral or system-wide level;
- The resources required by supervised entities and competent authorities to conduct stress-tests; and
- The importance of data quality.

**Conclusion:** The Board discussed the work ESMA is doing in relation to fund stress testing and agreed to develop supervisory convergence principles for fund-level stress-tests by asset managers.

### 8. Update on AIFMD reporting

1) Issues Note 50-164-537 Discussion

The Team Leader Asset Management presented the issues note.

The Board discussed the Note, in particular the:

- Importance of data quality; and
- Need for good co-operation between ESMA and national competent authorities.

**Conclusion:** The Board took note of the update on AIFMD reporting.

### 9. Traded on a Trading Venue Concept

1) Issues Note 70-156-79 Decision

The Head of Markets Department presented the Note on Traded on a Trading Venue Concept.

The Board discussed the Note, and in particular the level of transparency needed today and future expectations.

**Decision:** The Board expressed a preference for a narrow definition limiting the application of transparency and transaction reporting to those derivatives that are traded on a trading venue and for which reference data is already available. Only fields related to the venue of execution and the issuer will be excluded from any matching requirement in order to determine if an OTC derivative is TOTV. The Board acknowledged that this might lead to reduced transparency and indicated the wish to reconsider and revise its approach in the future. On the basis of this decision, ESMA staff will draft an ESMA opinion that will be presented to the Board for adoption by written procedure.

### 10. Approach on MiFID Third Country Issues

1) Issues Note on Position Limits, and systematic internalisers and post-trade transparency 70-154-89 Decision

Elisabeth Roegele and Edwin Schooling Latter presented the Note.

The European Commission representative expressed concerns on the interaction with the Commission's equivalence assessment of third-country venues for trading obligations.

**Decision:** The Board endorsed the suggested approach.

## 11. Content of ESMA Opinions on position limits on commodity derivative contracts

- |                |           |          |
|----------------|-----------|----------|
| 1) Issues Note | 70-156-83 | Decision |
|----------------|-----------|----------|

The Head of Markets Department presented the Note on the content of ESMA opinions on position limits on commodity derivative contracts.

The Board discussed the Note in particular ESMA's accountability towards stakeholders and the EU Institutions, especially the European Parliament.

**Conclusion:** The Board agreed that ESMA's opinions should include a clear description of their rationale.

## 12. Market Structure

- |                 |           |             |
|-----------------|-----------|-------------|
| 1) Cover Note   | 70-154-92 | Information |
| 2) MiFID II Q&A | 70-154-96 | Decision    |

The Head of Markets Department presented the MiFID II Q&A.

The Board discussed the Q&A on the characteristics of an OTF and in particular the trading arrangements that need to be in place.

**Decision:** The Board adopted the Q&As. Regarding the Q&A on the characteristics of an OTF the Board opted for the approach suggested under option 1.

	Option 1	Option 2	Abstain
Klaus Kumfmüller (AT)	X		
Jean-Paul Servais (BE)	X		
Karina Karaivanova (BG)	X		
Demetra Kalogirou (CY)	X		
Pavel Hollmann (CZ)	X		
Anne Bruun (DK)	X		
Andre Nõmm (EE)		X	
G�rard Rameix (FR)		X	
Pierre Matek (HR)	X		
Elisabeth Roegele (DE)	X		

Charalampos Gotsis (EL)	X		
Gergo Szeniczey (HU)	X		
Cyril Roux (IE)	X		
Giuseppe Vegas (IT)	X		
Gunta Razane (LV)		X	
Christophe Buttigieg (MT)	X		
Merel van Vroonhoven (NL)	X		
Marek Szuszkiewicz (PL)	X		
Raluca Tariuc (RO)	X		
Ivan Barri (SK)			X
Sabina Bešter (SI)		X	
Sebastian Albella (ES)		X	
Edwin Schooling Latter (UK)		X	

### 13. Technical Standards on the Securities Financing Transaction Regulation

1) Cover Note	70-151-279	Discussion
2) Final Report on SFTR technical standards and the related amendments to the EMIR RTS	70-708036281-82	Decision
3) Cost-Benefit Analysis	70-151-287	Decision

The Senior Officer Post-Trading presented the Final Report.

**Decision:** The Board adopted the Final Report on SFTR technical standards and the related amendments to the EMIR RTS and the cost-benefit analysis.

### 14. Technical Standards on the Benchmark Regulation

1) Cover Note	70-145-65	Discussion
2) Final Report on the Benchmark Regulation	70-145-48	Decision

Giuseppe Vegas presented the Final Report on the Benchmark Regulation.

The European Commission representative voiced concerns on the need for smaller benchmark providers to have a Legal Entity Identifier (LEI).

**Decision:** The Board adopted the Final Report on the Benchmarks Regulation.

#### 15. Service Level Agreement with HCMC

1) Cover Note	70-148-121	Information
2) 2017 Service Level Agreement with HCMC	70-148-112	Decision

The Board discussed the Service Level Agreement with HCMC and in particular the involvement of ESMA staff and the temporary character of the Agreement. .

The Executive Director updated the Board on the resources impact for ESMA staff.

**Decision:** The Board adopted the 2017 Service Level Agreement. Karel Juras (CZ) voted against.

#### 16. Q&A on CFD Passporting 35-36-794 Decision

The Board discussed the Q&A on CFD passporting, in particular:

- The interaction with national legislation; and
- The entities that should be required to provide investment services.

**Decision:** The Board adopted the Q&A on CFD passporting. Sebastian Albella (ES), Marek Szuszkiewicz' (PL) and Misu Negritoiu (RO) abstained.

#### 17. Impact of the Data Protection Regulation on Cooperation with third countries

1) Issues Note	40-133-485	Discussion
----------------	------------	------------

The Chair presented the Note on the impact of the Data Protection Regulation on cooperation with third countries, and in particular the recent meetings he had with the article 29 Working Party.

The Board discussed the Note, in particular:

- The discussion taking place within IOSCO;
- The impact the Data Protection Regulation might have on market participants; and
- Whether here is a need to consider administrative arrangements and, if so, which ones.

**Conclusion:** The Board agreed to continue the work related to the impact of the Data Protection Regulation on cooperation with third countries and start work towards potential administrative arrangements where necessary.

#### 18. Guidelines on the application of the endorsement regime for credit rating agencies

1) Cover Note	33-9-160	Information
2) Consultation Paper on the update of the Guidelines on the application of the endorsement regime for credit rating agencies	33-9-159	Decision

**Decision:** The Board adopted the consultation paper.



**19. Peer Review on MiFID Conduct of Business - Rules on fair, clear and not misleading information**

- |                     |             |             |
|---------------------|-------------|-------------|
| 1) Cover note       | 42-111-3525 | Information |
| 2) Follow-up Report | 42-113-627  | Decision    |

**Decision:** The Board adopted the Follow-up Report subject to drafting comments.

**20. IT work programme**

- |  |            |             |
|--|------------|-------------|
| 1) Cover Note                          | 65-11-1066 | Information |
| 2) Revised 2017-2019 IT work programme | 65-11-495  | Information |

**Conclusion:** The Board took note of the revised 2017-2019 IT work programme.

**21. ESMA financial stability work in EU and international bodies** 50-157-363 Information

**Conclusion:** The Board took note of the update on ESMA financial stability work in EU and international bodies.

**22. Post-Trading Standing Committee**

- |                |            |             |
|----------------|------------|-------------|
| 1) PTSC Report | 70-151-278 | Information |
|----------------|------------|-------------|

**Conclusion:** The Board took note of the PTSC Report.

- |             |            |          |
|-------------|------------|----------|
| 2) CSDR Q&A | 70-151-233 | Decision |
|-------------|------------|----------|

**Decision:** The Board adopted the CSDR Q&A.

**23. Memorandum of Understanding for CCPs**

- |  |                   |             |
|--|-------------------|-------------|
| 1) Cover Note                            | 70-152-326        | Information |
| 2) Memorandum of Understanding with SEBI | 70-1388964104-227 | Decision    |

**Decision:** The Board adopted the Memorandum of Understanding with SEBI.

**24. Market Data Standing Committee**

- |                |           |             |
|----------------|-----------|-------------|
| 1) MDSC report | 70-145-68 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the MDSC Report.

- |  |           |          |
|--|-----------|----------|
| 2) Validation rules for the new RTS/ITS under EMIR Article 9 | 70-145-63 | Decision |
|--|-----------|----------|

**Decision:** The Board adopted the validation rules for the new RTS/ITS under EMIR Article 9.

- |  |           |          |
|--|-----------|----------|
| 3) EMIR reporting Q&As adapted to the new RTS/ITS under EMIR Article 9 | 70-145-69 | Decision |
|--|-----------|----------|

**Decision:** The Board adopted the EMIR reporting Q&As adapted to the new RTS/ITS under EMIR Article 9.

- |              |           |          |
|--------------|-----------|----------|
| 4) MiFIR Q&A | 70-145-70 | Decision |
|--------------|-----------|----------|

**Decision:** The Board adopted the MiFIR Q&A.

## 25. Secondary Markets Standing Committee

- |                |           |             |
|----------------|-----------|-------------|
| 1) SMSC Report | 70-154-94 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the SMSC Report.

- |                           |                  |          |
|---------------------------|------------------|----------|
| 2) RTS on non-equity tape | 70-8792942901-40 | Decision |
|---------------------------|------------------|----------|

**Decision:** The Board adopted the RTS on non-equity tape.

- |                                |                                    |          |
|--------------------------------|------------------------------------|----------|
| 3) Guidelines on Trading Halts | 70-872942901-63<br>70-872942901-17 | Decision |
|--------------------------------|------------------------------------|----------|

**Decision:** The Board adopted the Guidelines on trading halts.

- |                 |           |          |
|-----------------|-----------|----------|
| 4) MiFID II Q&A | 70-154-95 | Decision |
|-----------------|-----------|----------|

**Decision:** The Board adopted the MiFID II Q&As.

## 26. Commodity Derivatives Task Force

- |                |           |             |
|----------------|-----------|-------------|
| 1) CDTF Report | 70-154-88 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the CDTF Report.

- |                 |           |          |
|-----------------|-----------|----------|
| 2) MiFID II Q&A | 70-154-90 | Decision |
|-----------------|-----------|----------|

**Decision:** The Board adopted the MiFID II Q&A.

## 27. Market Integrity Standing Committee

- |                |           |          |
|----------------|-----------|----------|
| 1) MISC Report | 70-145-64 | Decision |
|----------------|-----------|----------|

**Conclusion:** The Board took note of the MISC Report.

- |  |                 |          |
|--|-----------------|----------|
| 2) Terms of Reference of the SSR Review Task Force | 70-1024332118-7 | Decision |
|--|-----------------|----------|

**Decision:** The Board adopted the terms of reference of the SSR Review Task Force.

## 28. CRA Technical Committee

- |                  |          |             |
|------------------|----------|-------------|
| 1) CRA TC Report | 33-9-149 | Information |
|------------------|----------|-------------|

**Conclusion:** The Board took note of the CRA TC Report.

- |  |          |          |
|--|----------|----------|
| 2) Supervisory briefing on the appointment of smaller CRAs | 33-9-158 | Decision |
|--|----------|----------|

**Decision:** The Board adopted the supervisory briefing on the appointment of smaller CRAs.

- |                        |          |          |
|------------------------|----------|----------|
| 3) CRA Regulation Q&As | 33-9-154 | Decision |
|------------------------|----------|----------|

**Decision:** The Board adopted the CRA Regulation Q&As.

### 29. Corporate Finance Standing Committee

- |                |           |             |
|----------------|-----------|-------------|
| 1) CFSC Report | 31-59-706 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the CFSC Report.

- |   |           |          |
|---|-----------|----------|
| 2) Supervisory Briefing on Prospectus Scrutiny (Update) | 31-59-709 | Decision |
|---|-----------|----------|

**Decision:** The Board adopted the updated supervisory briefing on prospectus scrutiny.

- |  |           |          |
|--|-----------|----------|
| 3) Report on Shareholder Information and Communication Systems | 31-54-435 | Decision |
|--|-----------|----------|

**Decision:** The Board adopted the Report on shareholders information and communication systems.

### 30. Corporate Reporting Standing Committee

- |                |           |             |
|----------------|-----------|-------------|
| 1) CRSC Report | 32-51-402 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the CRSC Report.

- |   |           |          |
|---|-----------|----------|
| 2) Activity Report on enforcement and regulatory activities on IFRS | 32-51-382 | Decision |
|---|-----------|----------|

**Decision:** The Board adopted the Activity Report on enforcement and regulatory activities on IFRS.

### 31. Investor Protection and Intermediaries Standing Committee

- |                 |           |             |
|-----------------|-----------|-------------|
| 1) IPISC Report | 35-36-793 | Information |
|-----------------|-----------|-------------|

**Conclusion:** The Board took note of the IPISC Report.

- |                    |           |          |
|--------------------|-----------|----------|
| 2) Q&A on MiFID II | 35-36-797 | Decision |
|--------------------|-----------|----------|

**Decision:** The Board adopted the MiFID II Q&A.

### 32. Investment Management Standing Committee

- |                |           |             |
|----------------|-----------|-------------|
| 1) IMSC Report | 34-39-508 | Information |
|----------------|-----------|-------------|

**Conclusion:** The Board took note of the IMSC Report.

- |   |           |          |
|---|-----------|----------|
| 2) Report on thematic study on Notification frameworks and home-host responsibilities under UCITS and AIFMD | 34-43-340 | Decision |
|---|-----------|----------|

**Decision:** The Board adopted the report on the thematic study on notification frameworks and home-host responsibilities under UCITS and AIFMD.

- |              |           |          |
|--------------|-----------|----------|
| 3) AIFMD Q&A | 34-32-352 | Decision |
|--------------|-----------|----------|

**Decision:** The Board adopted the AIFMD Q&A.

- |              |           |          |
|--------------|-----------|----------|
| 4) UCITS Q&A | 34-43-392 | Decision |
|--------------|-----------|----------|

**Decision:** The Board adopted the UCITS Q&A.

**33. Supervisory Convergence Standing Committee**

1) SCSC Report 42-112-165 Decision

**Conclusion:** The Board took note of the SCSC Report.

2) Mandate on Enforcement Work 42-114-469 Decision

**Decision:** The Board adopted the mandate on enforcement work.

**34. A.O.B.**

/

**35. Future meetings**

- 23 May 2017 and 24 May 2017 (including Away Day – Malta)
- 5 and 6 July 2017 (including joint Board/SMSG – Paris)
- 27 September 2017 (Paris)
- 7 and 8 November 2017 (including joint Board/SMSG – Paris)
- 14 December 2017 (Paris)

## Participants list

### Voting members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	Antoine van Cauwenberge
Bulgaria	Karina Karaivanova	
Czech Republic	Pavel Hollmann	Karel Juras
Denmark	Birgitte Sogaard Holm	Anne Bruun
Germany	Elisabeth Roegele	Hannelore Lausch Marcus Hein
Estonia	Andre Nomm	
Ireland	Cyril Roux	Martin Moloney Cian Murphy
Greece	Charalampos Gotsis	Anastasia Maltoudi
Spain	Sebastian Albella	Antonio Mas
France	Gerard Rameix	Benoit de Juvigny Antonio Ocana Alvarez Stéphanie Cabossioras
Croatia	Petar-Pierre Matek	
Italy	Giuseppe Vegas	Nicoletta Giusto

Cyprus	Demetra Kalogerou	Andreas Andreou Liana Ioannidou
Latvia	Gunta Razane	
Lithuania	Vytautas Valvonas	
Luxembourg	Claude Marx	Françoise Kauthen
Hungary	Gergo Szeniczey	
Malta	Christopher Buttigieg (alternate)	
Netherlands	Merel van Vroonhoven	Ellen Boelema
Austria	Klaus Kumpfmüller	Christoph Kapfer
Poland	Marek Szuszkiewicz	Joanna Kott
Portugal	João Gião	
Romania	Misu Negritoiu	Raluca Tariuc
Slovenia	Sabina Bešter (alternate)	
Slovakia	Ivan Barri	Tomas Ambra
Finland	Anneli Tuominen	Jarmo Parkkonen
Sweden	Sophie Degenne (alternate)	Oskar Ode
United Kingdom	Edwin Schooling Latter (alternate)	Cristina Frazer

### Non-voting members

ESMA Chair	Steven Maijoor	
European Commission	Ugo Bassi	Peter Ohrlander
EBA	Jonathan Overett Somnier	Anne Tiedemann
EIOPA	Kai Kosik	
ESRB	Francesco Mazzaferro	
Iceland	Unnur Gunnarsdottir	
Liechtenstein	Reto Degen	
Norway	Anne Merethe Bellamy	Marianne Elind Skaane
EFTA Surveillance Authority	Frank Buchel	Per Christian Baerøe

### ESMA

Executive Director	Verena Ross
Summary of Conclusions	Frederiek Vermeulen
Head of Markets Department	Rodrigo Buenaventura
Head of Resources Department	Nicolas Vasse
Head of Corporate Affairs Department	Mette Sicard Filtenborg

Team Leader Asset Management	Richard Stobo
Senior Officer Post-Trading	Nikolay Arnaudov

Done at Valletta on 7 June 2017

Steven Maijor

For the Board of Supervisors