

SUMMARY OF CONCLUSIONS

Securities and Markets Stakeholder Group

Date: 9 July 2020
Time: 9.30 – 17.00
Location: Phone conference system
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1. Introductory remarks from the ESMA Chair

The ESMA Chair, Steven Maijoor, welcomed all new and re-selected members to the fifth edition of the SMSG. The Chair explained that the establishment of this new group was in response to ESMA's new regulation coming into force on 1 January 2020. He highlighted the importance of the SMSG's advice for ESMA.

2. Adoption of the agenda

The agenda was adopted.

3. Introduction from each member of the SMSG

All SMSG members presented themselves to the rest of the group, highlighting their professional experience and their motivation for joining the group.

4. Approval of the Rules of Procedure

For ESMA Louise Waller provided an overall explanation of the draft Rules of Procedure and the changes proposed in line with the revised ESMA Regulation and opened the floor for suggestions.

The Group agreed to reflect the following considerations in the Rules of Procedure:

- the Group will hold a preparatory meeting before their joint meeting with the ESMA Board of Supervisors (article 3(1)).
- SMSG Advice will be signed by both the Chair and the Rapporteur of the working group who had produced the advice (new paragraph in article 6).
- the rules of procedure should not specify the length of the SMSG section in ESMA's Annual Report (article 16(1)).
- When chairing the meetings of the group, the Chair endeavours to achieve a balanced participation by the various stakeholder categories in the discussions (article 3(a)).

The ESMA Chair concluded that the rules of procedure were approved with the agreed amendments.

5. Election of SMSG Chair and Vice Chair(s)

The ESMA Chair explained the election procedure, including the use of an online tool to ensure a secret ballot for the election of the SMSG Chair.

The two candidates for the Chair position addressed the Group with the reasons for their respective candidacies, their views on the SMSG role and functioning as well as their professional background. The election was conducted by secret ballot. Veerle Colaert received the highest number of votes and was thus elected SMSG Chair.

Subsequently, the ESMA Chair opened the floor for the candidates interested in the Vice-Chair positions. The Group clarified that it wishes to continue the practice of having two Vice-Chairs as provided for in the Rules of Procedures. The two candidates explained the reasons for their candidacy, their professional background, and the roles and tasks they have had in previous SMSG groups. There were no further candidates. The SMSG unanimously elected Christiane Hölz and Rainer Riess as Vice-Chairs by acclamation.

6. End of term report

Veerle Colaert and Giovanni Petrella introduced the end of term report of the previous SMSG.

The report provides an overview of the advice produced by the previous SMSG and Veerle Colaert highlighted the three own-initiative reports: two on the COVID-19 emergency situation and one raising concerns about the new composition of the SMSG following the changes to the ESMA regulation.

She also highlighted the report's conclusions on the group's functioning, including the need for the SMSG to receive adequate time to produce its advice and its preference for producing SMSG advice instead of SMSG members being asked for individual responses as this could lead to unbalanced input. Other issues included a preference for physical meetings and the low level of

compensation for members from non-profit organisations, although this has since been increased.

SMSG member, Giovanni Petrella, then introduced the self-assessment part of the end of term Report. He highlighted the overall satisfaction of the group with the SMSG's activities and performance and that this satisfaction level had improved compared to previous exercises, while noting some key messages.

The Group discussed how and where the Group might wish to provide messages on high-level discussions and how cooperation with other stakeholder groups might work.

The ESMA Executive Director, Verena Ross, thanked the previous Group for their productivity and agreed to follow up on making connections with other stakeholder and consultative groups, as well as to endeavour to give the SMSG sufficient time to respond to consultations and to continue providing feedback on their work orally and in statements.

7. ESG Disclosures

For ESMA, Patrik Karlsson introduced the joint ESAs' consultation paper on ESG disclosures that was launched on 23 April 2020 and will close on 1 September 2020. He explained that the consultation period has been extended to account for difficulties in responding during the pandemic. He explained the entities, products and services covered by the regulation and described the empowerments for the regulatory technical standards based around adverse impact reporting at entity level and pre-contractual, website and periodic disclosure.

The members of the Group discussed the report including:

- On the mandatory principal adverse impact indicators, noting that a more flexible approach with optional indicators would be better. In addition, they would not be useful at entity level but only at product level, and that there would be high compliance costs;
- On the difference between “light” and “dark” green products, several members asked for clarification;
- In the context of the threshold of the number of employees, one member noted that some asset managers will be representing investors outside of the EU financial markets, who would not be the main target of the regulation;
- The need for consistency between this work and that of the Non-Financial Reporting Directive (NFRD).

ESMA, Patrik Karlsson, when responding to the points raised, noted that the mandatory nature of the indicators and the employee threshold were in the Level 1 text and therefore questions on those would need to be addressed to the European Commission.

The ESMA Executive Director thanked the SMSG members for their useful input and noted that ESMA was particularly keen to ensure consistency with the NFRD.



The SMSG Chair concluded by establishing a working group to draft the SMSG's advice; Chris Vervliet agreed to be the rapporteur of the working group.

8. Recent market developments – COVID-19 update

SMSG Vice-Chair, Rainer Reiss, presented the previous SMSG's second piece of own-initiative advice on COVID-19. The lessons drawn from the crisis include the positive aspects of remote working, the need for regulatory coordination with regard to short selling, the difficulties experienced because of restricted market liquidity, the risks to ESG due to risk management resources being used in the COVID-19 crisis context, the need for clarity in respect of margins for non-cleared derivatives, and the potential for the COVID-19 crisis to disrupt the implementation of Central Securities Depositories Regulation (CSDR). He also noted the need to support increasing participation in capital markets, the need for timely disclosure by issuers of the impact on COVID-19, and the importance of re-equitising the European economy.

The ESMA Executive Director thanked the SMSG members for their high quality advice and noted that ESMA will continue to look at market liquidity, as well as corporate disclosure as part of its work on annual statements, whereas the Commission is looking at certain implementation questions on CSDR. She agreed that equity markets need to play a role in recovery while noting investor protection considerations.

For ESMA, Christian Winkler gave a presentation on recent market developments in the context of the COVID-19 crisis. He noted that market infrastructures had remained resilient, that certain known risks, such as market liquidity, fallen angels and CLOs, had materialised, and that there were also new risks, such as high levels of settlement fails, fund pricing uncertainty, and liquidity challenges for some money market funds.

SMSG members discussed various points in the presentation including on secondary bond market liquidity, settlement fails, money market funds stress tests scenarios, and ESMA's own supervision of credit rating agencies. One member noted the need for ESMA to look at short selling restrictions in the context of liquidity. The ESMA Executive Director described ESMA's supervision of credit rating agencies during the crisis. Finally, she also provided a short summary of ESMA's initial actions in the context of the Wirecard case, while explaining that more would be made public around mid-July.

9. ESMA work programmes

The ESMA Executive Director presented ESMA's draft 2021 work programme, including its key priorities and main planned outputs. She also drew the SMSG's attention to the revision of ESMA's 2020 work programme following the COVID-19 crisis work, in particular the extended deadlines for certain policy outputs to ensure additional time for consultation.

Some members recommended also delaying some exercises/workstreams that put particular burdens on risk departments.



One member asked when the SMSG could give feedback on peer reviews and the ESMA Executive Director confirmed that the SMSG would be informed as usual about completed peer reviews once they had been agreed, and encouraged SMSG members to contribute ideas to planned supervisory convergence work, including peer reviews.

10. AOB

The SMSG Chair requested ESMA to look into a document sharing system for receiving meeting documents. She also requested that SMSG members use an ESMA template for SMSG presentations.

Responding to a question about the next planned meeting, the Executive Director explained that it had not yet been decided whether this could take place physically.

PARTICIPANT LIST

Barbara Alemanni	Full professor University of Genoa and SDA Bocconi affiliate professor	Present
Emilios Avgouleas	Professor Law and Finance, University of Edinburgh	Present
Henning Bergmann	CEO and member of the Board of Deutscher Derivate Verband (German Derivatives Association)	Present
Geoffrey Bezzina	Chairman (in executive role), Board of Management and Administration, Office of the Arbiter for Financial Services, Malta	Present
Piotr Biernacki	Vice President of the Polish Association of Listed Companies and President of the Foundation for Reporting Standards	Present
Florence Bindelle	Secretary General at European Issuers AISBL	Present
Lubomir Christov	Advisor to the Bulgarian National Association “Active Consumers”	Present
Veerle Colaert	Professor of Financial Law, KU Leuven University	Present
Jasper De Meyer	Financial Services Officer, European Consumer Organisation (BEUC)	Present
Urban Fenered	CEO, Swedish Securities Dealers Association	Present
Adina Gurau Audibert	Head of Asset Management, Association Française de la Gestion financière (AFG)	Present
Christiane Hölz	Lawyer, DSW	Present
Dermott Jewell	Policy and Council Advisor Consumers' Association of Ireland	Present
Eric Litvack	Managing Director at Société Générale	Present
Sari Lounasmeri	CEO at Finnish Foundation for Share Promotion	Present
Stjepan Mandic	Founder and Managing Director of Concepto Ltd	Present
Martha Oberndorfer	Member of the Advisory Council, Austrian Shareholder Association	Present

Morten Bruun Pedersen	Senior economic advisor at the Danish Consumer Council	Excused
Giovanni Petrella	Full Professor of Banking, Università Cattolica	Present
Guillaume Prache	Managing Director, Better Finance	Present
Rainer Riess	Director General, Federation of European Securities Exchanges (FESE)	Present
Virginie Saade	Head of Government and Regulatory Policy for Europe at Citadel	Present
Ignacio Santillán	CEO, Spanish Investors Compensation Scheme for investment firms (FOGAIN)	Present
Martin Scheck	CEO and Member of the Board of the International Capital Market Association (ICMA)	Present
Alexander Schindler	Member of the Executive Board, Union Asset Management Holding AG	Present
Jean-Marc Servat	Chair, European Association of Corporate Treasurers (EACT)	Present
Christian Martin Steifmueller	Senior Adviser, Research & Advocacy at Finance Watch AISBL	Present
Tanguy van de Werve de Schilde	Director General EFAMA	Present
Chris Vervliet	Deputy Secretary & Member of Select Committee European Works Council at KBC Group, KBC Asset Management, Brussels (Belgium)	Present