

SUMMARY OF CONCLUSIONS

Securities and Markets Stakeholder Group

Date: 17 December 2020
Time: 14.00 – 16.30
Location: Phone conference system
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1. Report from the Steering Committee

The Steering Committee reported that, since the last meeting, two reports had been adopted, one on article 8 of the Taxonomy Regulation and one on sustainability templates. In addition, two draft pieces of advice would be discussed later in the meeting.

The Steering Committee informed the SMSG that a member of the Banking Stakeholder Group had written to them about a potential issue concerning reporting in ESEF format.

The Steering Committee explained that they had received some late requests for advice from ESMA recently which meant there had not been sufficient time for the SMSG to respond. The Executive Director apologised for the late requests, some of which had been because of internal arrangements not having worked as envisaged. She underlined that ESMA was grateful for the work done by the SMSG and that the new Group had started producing advice very rapidly. She proposed to improve the timeliness of the requests for advice in two ways, firstly by ensuring that the internal organisation works correctly and secondly, by presenting the Group with an overview of the planned consultation papers for 2021 to allow for some forward planning.

Finally, the Steering Committee noted that the meeting dates for 2021 had been circulated to the Group. The Steering Committee emphasised that they preferred physical meetings as they allowed for more time but that, when obliged to have remote meetings, presentations should be



limited to five minutes in order to give sufficient time for discussion. The correct templates to use for presentations are available on the Extranet.

2. Adoption of summary of conclusions from 1 October 2020

The summary of conclusions was adopted.

3. Recent market developments

SMSG member, Guillaume Prache presented a report produced by Better Finance and DSW on the 2020 virtual shareholder meetings in Europe. The report finds that Covid-19 emergency laws had cut shareholder rights, that many companies had not provided the necessary technical infrastructure for granting all shareholder rights, and that the majority of shareholders prefer a hybrid onsite/virtual meeting with all shareholder rights rather than virtual only AGMs.

The SMSG Members discussed the report's findings, in particular the limitations of online presence at AGMs, disruptions to voting, and the implications of virtual or hybrid meetings for non-resident shareholders.

4. Advice on Market Data

The rapporteur of the working group, Rainer Riess, presented the draft advice on ESMA's Guidelines on the MiFID II and MiFIR obligations on market data.

The Group discussed several points that the working group had identified including the provision of market data on the basis of cost and on a non-discriminatory basis, per user fees, the obligation to keep data unbundled, transparency obligations and the provision of market data free of charge 15 minutes after the trade took place.

On the basis of the discussion the working group will finalise the advice and present it to the Group for adoption by written procedure.

5. Wirecard

The rapporteur of the working group, Henning Bergmann, presented the draft advice on Wirecard describing the topics that had been suggested for inclusion in the advice.

The Group discussed the suggested topics including supervision and enforcement at national and EU levels, market abuse, short selling, auditing, general banking supervision, corporate governance and collective redress for investors.

The ESMA Chair, Executive Director, and Head of the Investors and Issuers Department commented on the suggested topics and highlighted some of the conclusions of the Fast-Track Peer



Review (FTPR). They noted that the FTPR had confirmed that ESMA can deliver an independent, objective assessment but, also, that it may be difficult to draw wider conclusions from a specific case.

6. Digital Finance Package

For ESMA, Anne Chone gave an overview of the recent Digital Finance Package including the Markets in Crypto-Assets (MiCA) and DLT pilot regime, and the Digital Operational Resilience Act (DORA) proposals from the European Commission.

Emilios Avgouleas commented on the proposals highlighting in particular the impact on CSDs and CCPs, the speed of technological development and the related challenge for regulation, and the benefits of blockchain to the end investor. He concluded that, while not all issues had been resolved, the proposals were a major step forward and created the conditions for cheaper, more democratic infrastructures to emerge.

The SMSG Chair noted that the topic of digital finance would be rediscussed as and when ESMA received tasks from the proposals.

7. Purpose and scope of the peer review on the supervision of cross-border activities of investment firms

For ESMA, Salvatore Gnoni presented the expected purpose and scope of the peer review which will look at a sample of NCAs and focus on the entire cycle of supervision by the home NCA and the cooperation and exchange with the host authorities. Due to a lack of time for discussion, he encouraged any comments to be sent in writing.

8. AOB

Referring to the earlier request from the Banking Stakeholder Group on ESEF, the ESMA Executive Director proposed to send an email to the SMSG explaining the background to allow them to decide how they might react.

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	Absent
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 Funered	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	Absent

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