

SUMMARY OF CONCLUSIONS

Securities and Markets Stakeholder Group

Date: 9 February 2021
Time: 10.00 – 15.45
Location: Phone conference system
Contact: louise.waller@esma.europa.eu T: +33 1 58 36 42 74

1. Report from the Steering Committee

The Steering Committee reported that since the last meeting, the Advice on market data had been approved.

2. Adoption of summary of conclusions from 17 December 2020

The summary of conclusions was adopted.

3. SMSG working methods and 2021 forward plan

The SMSG Chair proposed some working methods for producing SMSG advice. The Group discussed the proposals and agreed that consideration should be given to (i) balanced representation in working groups where proposals have an impact on consumers, (ii) the use of plain language, and (iii) the importance for ESMA of the Group finding common positions in its advice..

For ESMA, Louise Waller introduced an overview of ESMA's planned consultations in 2021. It was decided to update the overview on a periodic basis, adding also where CWGs would be consulted.

4. Annual Statistical Report on MiFID II

For ESMA, Christian Winkler introduced the report. He explained that, in general, the Annual Statistical Reports (ASR) give the opportunity for taking a deep look at the data available. He

summarised the key results in terms of venues, volumes, equity markets and bond markets, noting that the data was from 2019 and therefore neither Covid nor Brexit had affected it. The members of the SMSG discussed the findings of the report, in particular with regards to implications for the MiFID review on topics such as fragmentation versus competition in terms of structure and also transparency.

5. Recent market developments

SMSG member, Barbara Alemanni, presented a paper on investors' trust on robo-advice she had written together with CONSOB staff. She highlighted certain findings from the research that could have implications for future policy in the area. In particular the research indicated the existence of confirmation bias irrelevant of whether the advice came from a human or robo adviser. The research also confirmed that the investors' level of digital education is relevant in their attitude to algorithms. The SMSG discussed various aspects of the study and the findings including their implications for investor protection and the development of retail investment in capital markets.

For ESMA, Roxana De Carvalho presented an overview of ESMA's work to prepare for the end of the transition period in the context of the UK withdrawal from the EU, particularly in terms of supervisory convergence, EU-UK relations, equivalence, and market monitoring. SMSG members then shared their own experience of the transition, commenting in particular on issues of cross-border trading and investor protection, and EU competitiveness.

6. Wirecard Advice

The rapporteur of the working group, Henning Bergmann, presented the draft advice on Wirecard. He outlined the topics covered in the advice including supervision and enforcement, market abuse, short selling and auditing. SMSG members discussed these points in the context of the available legal tools, including peer reviews, guidelines and breach of union law. They also pointed to the importance of data quality and information exchange. The ESMA Chair also provided some input on the technical details of breach of union law and ESMA's powers in relation to short selling.

The Group adopted the advice subject to some small amendments and to the executive summary being completed.

7. Sustainable Finance Disclosure Regulation update

For ESMA, Patrik Karlsson presented an update on the draft technical standards under the Sustainable Finance Disclosure Regulation further to the SMSG's advice on the topic. He described the list of indicators that had been included in the ESAs submission and the changes compared to those proposed in the consultation paper. He also noted that the ESAs will publish a supervisory statement to clarify expectations in the interim period between Level 1 and the RTS entering into force.

SMSG members commented on the number of indicators, on the need for quality data and therefore the link with credit rating agencies, and the need for clarity about the reporting reference periods.

8. MiFID II / MiFIR Review Report on Algorithmic Trading

For ESMA, Benjamin Burlat presented a consultation paper on algorithmic trading that forms part of the review into MiFID II and MiFIR. SMSG members commented on the proposals with regards to liquidity, market makers, and financing, as well as on communication with exchanges, and the need for a level-playing field between EU and third countries.

9. Consultation on Guidelines on Appropriateness and Execution-only

For ESMA, Casper Rutting presented a consultation paper on ESMA's draft Guidelines on appropriateness and execution-only. SMSG members commented on the proposals noting the need for standards for the appropriateness test. The Group decided to set up a working group to provide advice on the consultation.

10. AOB

The Group discussed a letter received in response to their advice to ESMA on market data and agreed on a response.

SMSG member, Barbara Alemanni brought up the recent topic of the short squeeze in the United States. The ESMA Chair expressed the view that the phenomenon could also happen in the EU and noted that the European Parliament would hold a hearing on the topic. For ESMA, Stefano Sirtori outlined some of the related discussions that had been held at ESMA in the relevant standing committees.

SMSG member, Adina Gurau Audibert mentioned ESMA's Guidelines on performance fees and Money Market Funds as two potential future topics. The ESMA Chair confirmed that these would be important items to discuss at the appropriate time.

The SMSG Chair ended the meeting by summarising the agreed decisions and thanking all participants. The ESMA Chair thanked the Group and congratulated them on the good progress they had made with their work so far.

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 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	Present

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