

SUMMARY OF CONCLUSIONS

Board of Supervisors

Date: Wednesday 17 November 2021
Time: 9h00 – 17h00
Location: MS Teams
Contact: frederiek.vermeulen@esma.europa.eu Tel: +33 1 58 36 43 37

1. Adoption of agenda Decision

Decision: The agenda was adopted.

2. Confirmation of absence of conflict of interests Decision

Decision: The Board endorsed the ESMA Chair's statement not to have received any indication by a Board Member of any interest which might be considered prejudicial to her/his independence in relation to any items on the agenda.

3. Report by ESMA Chair, Executive Director and CCP Supervisory Committee Chair Discussion

The ESMA Chair reported on:

- ESMA's recent interactions with the European Parliament, in particular ESMA Vice-Chair Anneli Tuominen's participation in the Committee on Economic and Monetary Affairs' (ECON Committee) annual public hearing of the European Supervisory Authorities' (ESAs) Chairs;
- The November 2021 Management Board meeting, in particular a discussion on national competent authorities (NCAs)' professional secrecy rules and on the trading rules applicable to their staff, updates on budgetary matters and the preparation of the supervision of data reporting service providers;
- The activities of the Securities and Markets Stakeholder Group (MSG), in particular the finalisation of its advice on the consultation paper on guidelines on aspects of the MIFID II remuneration requirements;
- The activities of the European Systemic Risk Board (ESRB), in particular the ongoing work on the ESRB's draft recommendation on money market funds and the annual update of the money market funds stress testing scenarios;
- ESMA's international activities, in particular the International Organization for Securities Commission (IOSCO)'s Board meeting, during which exchanges with the Chair of the IFRS Foundation Trustees Erkki Liikanen on the development of an international sustainability standard took place;
- The potential timing gap between the entry into force of the Central Securities Depositories Regulation (CSDR) settlement discipline regime planned for 1 February 2022 and the publication of

- the CSDR Refit legislative proposal by the European Commission (EC), and ESMA's intention to publish a supervisory statement deprioritising the supervision of compliance with the requirements on buy-in following the identification of a political agreement on the amendment to CSDR; and
- The organisation of the December 2021 Board, including the end of Anneli Tuominen's term as ESMA vice-chair and the upcoming election for her replacement.

The Executive Director reported on the:

- October and November 2021 Financial Services Committee (FSC) meetings, in particular the presentation of the ESAs' Joint Committee work on sustainable finance;
- Activities of the Joint Committee, in particular the upcoming receipt of the ESRB recommendation on cybersecurity, ongoing work on the European Commission's call for advice on PRIIPs, and the recent ESAs' Joint Consumer Protection Day; and
- Continued impact of COVID-19 on ESMA's activities, in particular that from 20 October 2021 missions and meetings with external participants are allowed, with restrictions remaining in place to ensure the safety of ESMA staff and visitors.

4. Sustainable Finance

1) Presentation	Discussion
2) Cover note	Discussion
3) Sustainable finance roadmap	Discussion
4) Stock-taking report on national competent authorities' sustainable finance activities	Information
5) European Commission's strategy on sustainable finance	Information

The Chair of the Coordination Network on Sustainability presented the update on sustainable finance, and in particular the sustainable finance roadmap.

The Board discussed the roadmap, in particular the:

- Concerns regarding the interactions between, and timeline for, the implementation of the various pieces of legislation on sustainable finance;
- Need for harmonisation of definitions and practices through intensified cooperation between public authorities across sectors and geographic scopes, and need to build supervisory capacities through training and sharing of experiences among authorities;
- Need for ESMA to continue promoting supervisory convergence in light of increasing "green and social washing" risks; and
- Importance of promoting transparency and identifying data gaps in that respect.

Conclusion: The Board discussed the sustainable finance roadmap and highlighted the need to continue ESMA's work in this area, especially promoting supervisory convergence. The Board agreed to publish relevant part of the roadmap.

5. Exchange of views on EU Green Bonds

1) Presentation	Discussion
2) Note	Discussion

The Head of the Credit Rating Agencies Unit presented the note on EU Green Bonds.

The Board discussed the note on EU Green Bonds, in particular the key challenges identified by ESMA staff to be highlighted to the co-legislators, including suggestions for the:

- Prioritisation of policy deliverables; and
- Functioning of the proposed third country regimes, including the recognition regime.

Conclusion: The Board discussed the note on EU Green Bonds. The Board decided to share its position with the EU Institutions for which a draft letter will be presented to the Board for approval by written procedure.

6. Trading in EU carbon markets

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| 1) Presentation | Discussion |
| 2) Cover note | Discussion |
| 3) Preliminary assessment | Decision |

The Chair of the Commodity Derivatives Task Force presented the preliminary assessment.

The Board discussed the preliminary assessment, in particular:

- Whether further initiatives are needed to ensure stable and orderly functioning EU carbon markets, in particular in relation to data availability and quality; and
- The timing and scope of the two reports to be submitted by ESMA to the European Commission.

Decision: The Board adopted the preliminary assessment, subject to a drafting amendment.

7. Proportionality

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| 1) Presentation | Discussion |
| 2) Cover note | Discussion |
| 3) Draft methodology | Discussion |

The Chair of the Advisory Committee on Proportionality (ACP) presented the draft methodology on proportionality.

The Board discussed the draft methodology, in particular the:

- Contribution of the ACP in identifying proportionality concerns to be taken into account as part of the preparation or review of ESMA acts; and
- Frequency with which to review the methodology.

Decision: The Board endorsed the methodology, whilst agreeing that the methodology should be reviewed after two years. The methodology will be presented for adoption by written procedure.

8. Data Reporting Service Providers (project update)

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| 1) Presentation | Discussion |
| 2) Report | Decision |

The Head of the Data Reporting Unit presented the Data Reporting Service Providers project update.

The Board discussed the update, in particular the fact that for data reporting service providers expected to meet the derogation criteria supervision will continue at national level until the publication of the delegated act identifying the criteria for derogation from supervision by ESMA in the Official Journal, including the underlying legal analysis and corresponding risks.

Decision: The Board approved the Data Reporting Service Providers (project update) report.

9. Update on 2021 and 2022 budgets and high-level discussion on 2023 planning

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| 1) Presentation | Discussion |
| 2) Note | Discussion |

The Executive Director presented the update on the 2021 and 2022 budgets and high-level discussion on 2023 planning.

Conclusion: The Board took note of the update on the 2021 and 2022 budgets and high-level discussion on 2023 planning and provided positive feedback on the general direction of travel.

10. Final report on the technical standards for commodity derivatives under COVID-19 MiFID Recovery Package

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| 1) Presentation | Discussion |
| 2) Cover note | Discussion |
| 3) Final report | Decision |

The Chair of the Commodity Derivatives Task Force presented the final report on the technical standards for commodity derivatives under COVID-19 MiFID Recovery Package.

The Board discussed the final report, and in particular the level of position management controls (PMCs).

The European Commission representative indicated his disagreement with regard to the general requirement for physically settled contracts in the proposed technical standards on position management controls.

Decision: The Board adopted the final report on the technical standards for commodity derivatives under COVID-19 MiFID Recovery Package, including the technical standards on position management controls.

11. Publication of information on trading venues with the highest turnover for bonds to facilitate the calculation of penalties under CSDR

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| 1) Presentation | Discussion |
| 2) Note | Decision |

The Chair of the Post-Trading Standing Committee presented the note on the publication of information on trading venues with the highest turnover for bonds to facilitate the calculation of penalties under CSDR.

Decision: The Board approved the publication of information on trading venues with the highest turnover for bonds to facilitate the calculation of penalties under CSDR.

12. Benchmarks Network

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| 1) Benchmarks Network Report | Information |
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Conclusion: The Board took note of the Benchmark Network report.

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| 2) BMR Q&A | Decision |
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Decision: The Board adopted the BMR Q&A.

13. CCP Policy Committee

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| 1) CCP Policy Committee Report | Information |
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Conclusion: The Board took note of the CCP Policy Committee report.

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| 2) Consultation paper on the potential extension of financial instruments for investments by CCPs including EU MMFs | Decision |
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Decision: The Board adopted the consultation paper on the potential extension of financial instruments for investments by CCPs including EU MMFs.

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| 3) Consultation paper on regulatory technical standards on resolution colleges | Decision |
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Decision: The Board adopted the consultation paper on regulatory technical standards on resolution colleges.

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| 4) Consultation paper on regulatory technical standards on resolution plans | Decision |
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Decision: The Board adopted the consultation paper on regulatory technical standards on resolution plans.

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| 5) Consultation paper on regulatory technical standards on valuation of CCPs' assets and liabilities in resolution | Decision |
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Decision: The Board adopted the consultation paper on regulatory technical standards on valuation of CCPs' assets and liabilities in resolution.

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| 6) Consultation paper on regulatory technical standards on safeguards for clients and indirect clients | Decision |
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Decision: The Board adopted the consultation paper on regulatory technical standards on safeguards for clients and indirect clients.

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| 7) Consultation paper on guidelines on the methodology for the valuation of contracts prior to termination | Decision |
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Decision: The Board adopted the consultation paper on guidelines on the methodology for the valuation of contracts prior to termination.

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| 8) Consultation paper on guidelines on the application of the circumstances under which a CCP is deemed to be failing or likely to fail | Decision |
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Decision: The Board adopted the consultation paper on guidelines on the application of the circumstances under which a CCP is deemed to be failing or likely to fail.

14. Committee on Economic and Markets Analysis

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| 1) CEMA Report | Information |
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Conclusion: The Board took note of the CEMA report.

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| 2) Template for the reporting to ESMA of national competent authorities' risk assessment on leverage-related systemic risks | Decision |
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Decision: The Board adopted the template for the reporting to ESMA of national competent authorities' risk assessment on leverage-related systemic risks.

15. Commodity Derivatives Task Force

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| 1) CDTF Report | Information |
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Conclusion: The Board took note of the CDTF report.

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| 2) Procedure for the determination of significant commodity derivatives | Decision |
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Decision: The Board adopted the procedure for the determination of significant commodity derivatives.

16. Data Standing Committee

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| 1) DSC Report | Information |
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Conclusion: The Board took note of the DSC report.

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| 2) Amendments to the guidelines on calculation of positions in securities financing transactions by trade repositories | Decision |
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Decision: The Board adopted the amendments to the guidelines on calculation of positions in securities financing transactions by trade repositories.

17. Investor Protection and Intermediaries Standing Committee

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| 1) IPISC Report | Information |
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Conclusion: The Board took note of the IPISC report.

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| 2) Q&A on product governance | Decision |
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Decision: The Board adopted the Q&A on product governance.

18. Market Integrity Standing Committee

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| 1) MISC Report | Information |
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Conclusion: The Board took note of the MISC report.

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| 2) Annual report on administrative and criminal sanctions under MAR | Decision |
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Decision: The Board adopted the annual report on administrative and criminal sanctions under MAR.

19. Network on securitisation

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| 1) Securitisation Network Report | Information |
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Conclusion: The Board took note of the Securitisation Network report.

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| 2) Securitisation Q&A | Decision |
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Decision: The Board adopted the securitisation Q&A.

20. Post Trading Standing Committee

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| 1) PTSC Report | Information |
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Conclusion: The Board took note of the PTSC report.

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| 2) Discussion paper on EMIR clearing thresholds | Decision |
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Decision: The Board adopted the discussion paper on EMIR clearing thresholds.

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| 3) CSDR Q&As | Decision |
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Decision: The Board adopted the CSDR Q&As.

21. Secondary Markets Standing Committee

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| 1) SMSC Report | Information |
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Conclusion: The Board took note of the SMSC report.

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| 2) Updated procedure on waivers from pre-trade transparency | Decision |
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Decision: The Board adopted the updated procedure on waivers from pre-trade transparency.

22. Clearing and trading obligations regarding risk-free rates

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| 1) Cover note | Information |
| 2) Final report on regulatory technical standards on the clearing and trading obligations in view of the benchmark transition | Decision |

Decision: The Board adopted the final report on regulatory technical standards on the clearing and trading obligations in view of the benchmark transition.

23. A.O.B.

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Participants list

Voting members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	
Bulgaria	Mariya Filipova	
Czech Republic	Vojtěch Belling	
Denmark	Karen Dorte Abelskov	
Germany	Thorsten Pötzsch	
Estonia	Andre Nõmm	
Ireland	Derville Rowland	
Greece	Vassiliki Lazarakou	
Spain	Rodrigo Buenaventura	
France	Robert Ophèle	
Croatia	Ante Žigman	
Italy	Paolo Savona	Carmin di Noia (alternate)
Cyprus	George Theocharides	
Latvia	Girts Ruda (alternate)	

Lithuania	Vaidas Cibas (alternate)	
Luxembourg	Claude Marx	
Hungary	Gergő Szeniczey	
Malta	Lorraine Vella (alternate)	
Netherlands	Jos Heuvelman (alternate)	
Austria	Eduard Müller	
Poland	Magdalena Łapsa-Parczewska	
Portugal	Tiago Matias (alternate)	
Romania	Oana Ștefănoiu (alternate)	
Slovenia	Anka Čadež	
Slovakia	Peter Tkáč	
Finland	Anneli Tuominen	
Sweden	Erik Thedéen	
ESMA Chair	Verena Ross	

Non-voting members

European Commission	Ugo Bassi	
EBA	Anne Tiedemann (alternate)	

EIOPA	Benedetta di Lupidio (alternate)	
ESRB	Francesco Mazzaferro	
Iceland	Páll Friðriksson (alternate)	
Liechtenstein	Marcel Lötscher	
Norway	Anne Merethe Bellamy	
EFTA Surveillance Authority	Marta Margret Runarsdottir (alternate)	

ESMA

Executive Director	Natasha Cazenave
Summary of Conclusions	Frederiek Vermeulen Laura Weil
Chair of the CCP Supervisory Committee	Klaus Löber
Chair of the Advisory Committee on Proportionality	Magda Lapsa-Parczewska
Chair of the Commodity Derivatives Task Force	Robert Ophèle
Chair of the Coordination Network on Sustainability	Montserrat Martinez Parera
Chair of the Post Trading Standing Committee	Carmine di Noia
Head of the Credit Rating Agencies Unit	Elisabeth van Laere
Head of Data Reporting Unit	Olga Petrenko



Done at Paris on 12 January 2022

Verena Ross

Chair

For the Board of Supervisors

ANNEX:

OUTCOME OF WRITTEN PROCEDURES

Written Procedures (outcomes from 23 September to 16 November 2021)

1. Joint Committee Work Programme

24 September 2021

1) Work Programme

Decision

Decision: The Board adopted the Joint Committee Work Programme.

2. Final Report on draft technical standards on the content and format of the STS notification for on-balance sheet securitisations under the Securitisation Regulation

7 October 2021

1) Final report

Decision

Decision: The Board adopted the final report on draft technical standards on the content and format of the simple, transparent and standardised (STS) securitisation notification for on-balance sheet securitisations under the Securitisation Regulation.

	Approval	Objection	Abstain
Jean-Paul Servais (BE)	x		
Maria Filipova (BG)	x		
Vojtech Belling (CZ)	x		
Karen Dorte Abelskov (DK)	x		
Thorsten Poetsch (DE)	x		
Derville Rowland (IE)	x		
Andre Nõmm (EE)			x
Vasiliki Lazarakou (EL)	x		
Rodrigo Buenaventura (ES)			x
Robert Ophèle (FR)	x		
Ante Žigman (HR)	x		
Paolo Savona (IT)			x
George Theocharides (CY)	x		
Santa Purgaile (LV)	x		
Ruta Merkevičiute (LT)	x		
Claude Marx (LU)	x		
Gergő Szeniczey (HU)	x		
Christopher P. Buttigieg (MT)	x		
Jos Heuvelman (NL)	x		
Eduard Müller (AT)	x		

Magdalena Łapsa-Parczewska (PL)	x		
Gabriela Figueiredo Dias (PT)	x		
Gabriel Gradinescu (RO)	x		
Peter Tkáč (SK)	x		
Anka Čadež (SI)	x		
Armi Taipale (FI)	x		
Malin Omberg (SE)	x		

3. Public Statement on the 2021 European Common Enforcement Priorities (ECEP)

25 October 2021

1) Public Statement

Decision

Decision: The Board adopted the public statement on the 2021 European Common Enforcement Priorities (ECEP).

4. Amendments to final report with taxonomy-related product disclosure RTS

20 October 2021

1) Final report

Decision

Decision: The Board adopted the amendments to the final report with Taxonomy-related Product Disclosure RTS.

	Approval	Objection	Abstain
Jean-Paul Servais (BE)	x		
Maria Filipova (BG)	x		
Karel Juráš (CZ)	x		
Karen Dorte Abelskov (DK)	x		
Thorsten Poetsch (DE)	x		
Derville Rowland (IE)	x		
Andre Nömm (EE)	x		
Vasiliki Lazarakou (EL)	x		
Rodrigo Buenaventura (ES)	x		
Robert Ophèle (FR)	x		
Ante Žigman (HR)			x
Paolo Savona (IT)			
Demetra Kalogerou (CY)			x
Santa Purgaile (LV)	x		
Jekaterina Govina (LT)	x		
Claude Marx (LU)	x		
Gergő Szeniczey (HU)	x		
Christopher P. Buttigieg (MT)	x		

Jos Heuvelman (NL)	x		
Eduard Müller (AT)	x		
Magdalena Łapsa-Parczewska (PL)	x		
Gabriela Figueiredo Dias (PT)	x		
Gabriel Gradinescu (RO)	x		
Tomáš Ambra (SK)	x		
Anka Čadež (SI)	x		
Armi Taipale (FI)	x		
Malin Omberg (SE)	x		

5. Summary of conclusions – 21 – 22 September 2021 Board of Supervisors

3 November 2021

1) Summary of conclusions

Decision

Decision: The Board adopted the summary of conclusions of the September 2021 Board of Supervisors.

6. Final Report on draft technical standards on Regulation (EU) 2020/1503 on European Crowdfunding Service Providers for Business (ECSPR)

8 November
2021

1) Final report

Decision

Decision: The Board adopted the final report on draft technical standards on Regulation (EU) 2020/1503 on European Crowdfunding Service Providers for Business (ECSPR).

	Approval	Objection	Abstain
Jean-Paul Servais (BE)	X		
Maria Filipova (BG)	X		
Vojtěch Belling (CZ)	X		
Karen Dorte Abelskov (DK)	X		
Thorsten Poetsch (DE)	X		
Derville Rowland (IE)	X		
Andre Nõmm (EE)	X		
Vasiliki Lazarakou (EL)	X		
Rodrigo Buenaventura (ES)	X		
Robert Ophèle (FR)	X		
Ante Žigman (HR)	X		
Paolo Savona (IT)	X		
George Theocharides (CY)	X		
Santa Purgaile (LV)	X		
Ruta Merkevicute (LT)	X		
Claude Marx (LU)	X		

Gergő Szeniczey (HU)	X		
Christopher P. Buttigieg (MT)	X		
Jos Heuvelman (NL)	X		
Eduard Müller (AT)	X		
Magdalena Łapsa-Parczewska (PL)	X		
Gabriela Figueiredo Dias (PT)	X		
Gabriel Gradinescu (RO)	X		
Peter Tkáč (SK)	X		
Anka Cadez (SI)	X		
Armi Taipale (FI)	X		
Malin Omberg (SE)			X

7. ESMA Risk Dashboard No. 2, 2021

12 November 2021

1) Report

Decision

Decision: The Board adopted the ESMA Risk Dashboard No.2, 2021.

8. Consultation paper on the joint EBA and ESMA guidelines on common procedures and methodologies for the Supervisory Review and Evaluation Process ("SREP")

15 November 2021

1) Consultation paper

Decision

Decision: The Board adopted the consultation paper on the joint EBA and ESMA guidelines on common procedures and methodologies for the Supervisory Review and Evaluation Process ("SREP").

Ante Žigman (HR), Paolo Savona (IT) and Magdalena Łapsa-Parczewska (PL) and abstained from voting.