

## SUMMARY OF CONCLUSIONS

### Management Board

---

**Date:** Tuesday 14 December 2021  
**Time:** 9h00 – 12h00  
**Location:** MS Teams  
**Contact:** [Frederiek.Vermeulen@esma.europa.eu](mailto: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** Oral Discussion

The ESMA Chair reported on the upcoming election of Members of the Management Board, following the resignation of Erik Thedéen (SE) and in view of the upcoming end of Robert Ophèle and Magdalena Łapsa-Parczewska's mandates.

The Executive Director reported on the:

- Continued impact of COVID-19 on ESMA's activities, in particular that from 7 December 2021 the obligation for staff to work from the office at least one day per week is suspended until 21 January 2022 included to further safeguard ESMA staff's health and safety; and
- Status of the European Court of Auditors' (ECA) ongoing performance audit on the EU Single Market for investment funds.

**Conclusion:** The Board discussed the oral report on the preliminary findings from the audit conducted by the ECA, in particular how to further promote supervisory convergence. It was agreed to invite ECA representatives to an upcoming Management Board meeting to present their findings.

**4. Peer review on the supervision of cross-border provision of**

## services

- |                    |            |
|--------------------|------------|
| 1) Presentation    | Discussion |
| 2) Cover note      | Discussion |
| 3) Report          | Discussion |
| 4) Country Reports |            |
| o Czech Republic   | Discussion |
| o Germany          | Discussion |
| o Cyprus           | Discussion |
| o Luxemburg        | Discussion |
| o Malta            | Discussion |
| o Netherlands      | Discussion |

The Chair of the Peer Review Committee presented the reports on the peer review on the supervision of cross-border provision of services.

The Board discussed the peer review on the supervision of cross-border provision of services, in particular the:

- Issues and divergences observed in the supervision of entities providing investment services to retail investors through the EU passport, and potential measures to promote supervisory convergence;
- Need for a holistic supervisory approach on the basis of business model-appropriate risk assessment in order to ensure that cross-border activities too are appropriately looked into, including at the authorisation stage; and
- Importance of data sharing between home and host Member State to ensure that supervisors have the information required for effective cross-border supervision.

**Conclusion:** The Board discussed the peer review on the supervision of cross-border provision of services. The Peer Review Committee will assess including legal references in the report. The reports will be brought to the January 2022 Board of Supervisors for discussion, which will allow to begin a discussion on how to strengthen the supervision of the cross-border activities of investment firms.

## 5. 2023-2025 Programming Document

- |   |            |
|---|------------|
| 1) Presentation                         | Discussion |
| 2) Cover note                           | Discussion |
| 3) Draft Programming Document 2023-2025 | Discussion |

The Executive Director presented the 2023-2025 Programming Document.

The Board discussed the 2023-2025 Programming Document, in particular the:

- Distribution of funding sources for ESMA mandates foreseen in ongoing legislative proposals for a Digital Operational Resilience Act (DORA), a regulation on Markets in Crypto Assets (MiCA) and the European Single Access Point (ESAP); and
- Importance of adequate resourcing of both national competent authorities and ESMA within the European System of Financial Supervision (ESFS).

**Conclusion:** The Board discussed the draft 2023-2025 Programming Document. Board Members were invited to provide further comments in writing, after which the Programming Document will be presented ultimately to the Board of Supervisors for approval at the January Board meeting.

## 6. 2022-2025 IT Work Programme

- |                                |            |
|--------------------------------|------------|
| 1) Presentation                | Discussion |
| 2) Cover note                  | Discussion |
| 3) IT Work Programme 2022-2025 | Decision   |

The Head of the Information and Communication Technologies Unit presented the 2022-2025 IT Work Programme.

The Board discussed the work programme, in particular the:

- Source of the planned increases in maintenance costs; and
- Viability and cost of the data quality delegation depending on the number of participating national competent authorities.

**Decision:** The Board adopted the 2022-2025 IT Work Programme.

## 7. 2022 planning Management Board

- |         |          |
|---------|----------|
| 1) Note | Decision |
|---------|----------|

The ESMA Chair presented the 2022 planning for the Management Board.

The Board discussed the 2022 Management Board planning, in particular the importance of ensuring that the Management Board has regular and effective strategic discussions.

**Decision:** The Board endorsed the suggested 2022 planning.

## 8. Appointment of a SMSG member

- |         |            |
|---------|------------|
| 1) Note | Discussion |
|---------|------------|

The ESMA Chair presented the note on the appointment of a Member of the Securities and Markets Stakeholders Group (SMSG).

The Board discussed the proposed appointment, in particular the:

- Proposed candidate's experience in energy markets; and

— Geographical distribution of the SMSG's membership.

**Conclusion:** The Board discussed the appointment and agreed to present the proposal to appoint Pieter Schuurs (NL) to the SMSG to the Board of Supervisors.

#### **9. Update on 2021 fee collection and 2022 opening budget**

1) Note	Information
2) 2021 budget amendment No. 1 – Revenue	Decision
3) 2021 budget amendment No. 1 – Expenditure	Decision
4) 2022 budget – Revenue	Decision
5) 2022 budget – Expenditure	Decision
6) 2022 NCAs' contributions	Decision

The Board discussed the update on 2021 fee collection and 2022 opening budget, and in particular the:

- Ongoing discussion with the European Commission Services regarding the appropriate level of direct supervisory fees to be raised from supervised Data Reporting Service Providers (DRSPs); and
- Urgent need to agree on an opening budget.

**Decision:** The Board approved the update on 2021 fee collection. The Board also agreed with the 2022 budget but agreed the need to finalise the budget line on DRSP supervision and therefore adopt the 2022 budget via written procedure.

#### **10. Implementing rule on types of posts and post titles**

1) Cover note	Information
2) Decision on types of posts and post titles	Decision

**Decision:** The Board adopted the decision on types of posts and post titles.

#### **11. A.O.B.**

/

## Participants list

	<b>Members</b>
ESMA	Verena Ross
CZ	Vojtech Belling
IE	Derville Rowland
EL	Vassiliki Lazarakou
FR	Robert Ophèle
PL	Magdalena Łapsa-Parczewska
/	

## Non-voting Members

Executive Director	Natasha Cazenave
European Commission	Ugo Bassi

## Observer

Vice-Chair	/
------------	---

## ESMA

Summary of Conclusions	Frederiek Vermeulen Laura Weil
------------------------	-----------------------------------



Chair of the Peer Review Committee	Salvatore Gnoni
Head of Unit Information and Communication Technologies	Alexandru Dincov

For the Management Board,

Done at Paris on 7 February 2022

Verena Ross

Chair



## **ANNEX:**

### **OUTCOME OF WRITTEN PROCEDURES**

**Written Procedures (outcomes from 17 November to 14 December 2021)**

1. /