

SUMMARY OF CONCLUSIONS

Management Board

Date: 13 December 2016
Time: 14h00 – 18h00
Location: ESMA, rue de Grenelle 103, 75007 Paris, France
Contact: Frederiek.Vermeulen@esma.europa.eu Tel: +33 1 58 36 43 37

1. Adoption of agenda MB/91 Decision

Decision: The agenda was adopted.

2. Summary of Conclusions

— 8 November 2016 meeting MB/90 Decision

Decision: The summary of conclusions of the 8 November 2016 meeting were adopted.

3. Report by Chair and Executive Director Oral Discussion

The Chair reported

- On the fact that no Board Member had indicated interest for the position of Member of the Panel in charge of the assessment of the completeness of the file submitted by the independent investigation officer; and
- That no Board Member came forward further to the call for interest to chair the Supervisory Convergence Standing Committee and on his intention to propose to the December 2016 Board of Supervisors meeting to have a discussion on the governance framework around ESMA's supervisory convergence activities.

The Executive Director reported on the

- Upcoming audit by the European Commission's Internal Audit Service on ESMA's peer review activity; and
- Preliminary results stemming from the first part of the audit conducted by the European Court of Auditors and the fact that the financial audit will be carried out by E&Y.

The Board discussed the report, in particular the

- Importance of promoting supervisory convergence and the crucial role of the Supervisory Convergence Standing Committee in that context; and
- Need to discuss the governance framework around supervisory convergence activities and whether the Committee needs to be changed or should for example be chaired by the ESMA Chair, the Executive Director or a senior ESMA Staff member with a steering role for the Management Board.

Elisabeth Roegele (DE) indicated her candidature for the position of Member of the Panel in charge of the assessment of the completeness of the file submitted by the independent investigation officer if no other Board Member comes forward.

Conclusion: The Board took note of the report.

4. Activity Report

— Cover Note	MB/92	Discussion
— Activity Report Q3 2016	MB/93	Discussion

The Executive Director, the Head of Resources Department and Head of Corporate Affairs Department presented the Q3 2016 activity report.

The Board discussed the activity report, in particular the:

- Importance of providing market participants with clarity on the practical implementation of MIFID as soon as possible, including questions related to third country issues;
- Need for strong co-operation between national authorities and decisive supervisory convergence, in particular in the area of contracts for differences and other speculative products;
- EU Ombudsman's decision not to launch a formal inquiry further to a complaint made against ESMA in relation to the absence of translation in all EU languages of all communications to financial market participants and NCAs published by ESMA; and
- Continuous efforts needed by ESMA and national competent authorities to improve trade repository data quality.

Conclusion: The Board took note of the report. The Executive Director will circulate an overview of national product intervention measures in place in relation to contracts for differences and other speculative products.

5. ESMA programming: Organisational Risk Assessment

— Cover Note	MB/94	Discussion
— 2016 Assessment	MB/95	Decision

The Head of Corporate Affairs presented the 2016 organisational risk assessment.

The Board discussed the organisational risk assessment, in particular:

- The risk mitigating measures proposed by ESMA;
- Whether all organisational risks have been captured; and
- How concretely the risks should be identified.

Decision: The Board adopted the 2016 organisational risk assessment.

6. 2017 Budget

—	Cover Note	MB/96	Information
—	2017 Budget – Revenue	MB/97	Decision
—	2017 Budget – Expenditure	MB/98	Decision
—	2017 Budget – NCAs' contributions to ESMA's core budget	MB/99	Decision

The Executive Director presented the 2017 budget by highlighting that in the course of the year the European Free Trade Area (EFTA) Surveillance Authority will contribute to ESMA's budget in consequence of the Decision by the Joint Committee of the European Economic Area. She also mentioned that the treatment of the contributions from the national authorities from Iceland, Liechtenstein and Norway might need to be revisited as well.

Decision: The Board adopted the 2017 Budget (revenue, expenditure and the contributions by national competent authorities).

7. 2017 Supervisory Convergence Work Programme

—	Cover Note	MB/100	Discussion
—	Draft 2017 Supervisory Convergence Work Programme	MB/101	Discussion

The Head of Legal, Convergence and Enforcement Department presented the draft 2017 Supervisory Convergence Work Programme.

The Board discussed the draft 2017 Supervisory Convergence Work Programme, in particular:

- The welcomed effort to improve data quality in addition to the existing data quality action plan developed by the Market Data Standing Committee (MDSC) and how to ensure the responsibility of all involved parties;
- Potential work in relation to authorisation of investment firms and delegation issues in particular;
- The proposed activities relating to investor protection in the context of cross-border provision of services; and
- ESMA's supervisory convergence activity in relation to CCPs and portfolio margining in particular.

Conclusion: ESMA staff will prepare a revised version of the 2017 Supervisory Convergence Work Programme which will include portfolio margining and which will be presented to the Management Board and Board of Supervisors in January 2017.

8. 2017 Regulatory Work Programme

—	Cover Note	MB/102	Discussion
—	Draft 2017 Regulatory Work Programme	MB/103	Discussion

Conclusion: The Board endorsed the draft 2017 Regulatory Work Programme. Going forward, the Board agreed with the suggestion, contrary to the Board of Supervisors “Decision on the Procedure for Developing and Adopting Draft Technical Standards and Guidelines and Recommendations” (ESMA/2011/BS/4b), to include the guidelines in the Supervisory Convergence Work Programme and not in the Regulatory Work Programme. The Regulatory Work Programme will be presented to the Management Board and Board of Supervisors for final approval in January 2017.

9. 2018 Planning

—	Cover Note	MB/104	Discussion
—	Draft 2018-2020 Single Programming Document	MB/105	Discussion

The Executive Director presented the 2018-2020 Single Programming Document with a focus on the 2018 activities and the potential impact of ongoing discussions on legislative proposals and how to minimise the overall budget impact of the additional new tasks on NCAs’ contributions.

The Board discussed the 2018-2020 Single Programming Document, in particular

- ESMA’s overall staffing and focus on supervisory convergence; and
- The potential future supervisory convergence work in the area of asset management and market integrity.

The European Commission representative informed the Board that according to the Financial Framework Regulation the Commission will in the future need to publish a non-binding opinion on the budget of all agencies, including the European Supervisory Authorities.

Conclusion: The Board endorsed the 2018 planning for which a revised version will be prepared for adoption by the Board in January 2017.

10. 2019-2020 Planning Orientation Discussion

—	Cover Note	MB/106	Discussion
—	Presentation	MB/107	Discussion

The Executive Director presented the 2019-2020 planning orientation discussion.

The Board discussed the 2019-2020 planning orientation, in particular the:

- Impact of the United Kingdom leaving the European Union on ESMA’s activities and budget and what kind of contingency planning should be done, if any;
- European Commission’s ongoing work in relation to the funding structure of the European Supervisory Authorities (ESAs); and
- Cost of current and future ESMA IT-projects.

Conclusion: The 2019-2020 planning will be revised by ESMA staff who will reconsider the prioritisation of IT-projects and how the projects stemming from the revised Prospectus Regulation and the Money Market Funds Regulation could be integrated (from 2018 onwards). The revised version will be presented

to the Management Board (and subsequently the Board of Supervisors) for discussion and approval in January 2017.

11. Stakeholder Strategy

—	Cover Note	MB/108	Discussion
—	ESMA Stakeholder Strategy 2017-2020	MB/87rev1	Decision

The Head of Corporate Affairs Department presented the revised Stakeholder Strategy.

The Board discussed the revised Strategy and in particular:

- The role national competent authorities can play in facilitating stakeholder communication; and
- Whether it should be published on ESMA's website.

Decision: The Board adopted the Stakeholder Strategy 2017-2020. It was agreed that a high-level summary of the strategy will be published on ESMA's website.

12. Finance

—	Cover Note	MB/109	Information
—	Policy on reimbursement of travel and subsistence expenses for external persons	MB/110	Decision

Decision: The Board adopted the policy on reimbursement of travel and subsistence expenses for external persons.

13. HR Implementing Rules

—	Cover Note	MB/111	Information
—	Decision on setting up a Staff Committee	MB/112	Decision

Decision: The Board adopted the Decision on setting up a Staff Committee.

14. Activity Based Management and Fees Management Guidance

—	Cover Note	MB/113	Information
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Conclusion: The Board took note of the note on activity based management and fees management guidance.

15. 2016 Annual Budget Amendment No 1	MB/118	Decision
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Decision: The Board approved the amendment to the 2016 annual budget.

16. A.O.B.

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17. Future meetings

- 11 January 2017 (conference call – to be confirmed)
- 25 January 2017 (Paris)
- 28 March 2017 (Paris)
- 22 May 2017 (Malta)
- 4 July 2017 (to be confirmed – Paris)
- 26 September 2017 (Paris)
- 6 November 2017 (Paris)
- 13 December 2017 (Paris)

Participants list

	Members	Advisors
ESMA	Steven Maijoor (Chair)	
IE	Cyril Roux	Martin Moloney
DE	Elisabeth Roegele	Marcus Hein
FR	Gerard Rameix	Françoise Buisson
AT	Klaus Kumpfmüller	Andrea Kuras-Goldmann
PL	Marek Szuszkiewicz	Joanna Kot

	Non-Voting Members and Observers	Advisors
Executive Director	Verena Ross	
European Commission	Ugo Bassi	Vera Alexandrova

Summary of Conclusions	Frederiek Vermeulen
Head of Resources Department	Nicolas Vasse
Head of Supervision Department	Felix Flinterman
Head of Legal, Convergence and Enforcement Department	Sophie Vuarlot-Dignac
Head of Corporate Affairs Department	Mette Sicard Filtenborg
Senior Supervision Officer	Sotiris Papiotis



Done at Paris on 25 January 2017

Steven Maijoor

Chair

For the Management Board