

TERMS OF REFERENCE

Supervisory Convergence Standing Committee (SCSC)¹

1. ESMA achieves its mission to enhance investor protection and promoting stable and orderly financial markets through four activities: (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) supervising specific financial entities.
2. The ESMA Regulation² states that ESMA shall act within the powers conferred by this Regulation and among others within the scope of
 - (a) Article 8(1) (b), (e), Article 29 and recital 40 in relation to the consistent application of legally binding Union acts and supervisory practices, as well as its contribution to the prevention of regulatory arbitrage and building a common Union supervisory culture,
 - (b) Article 30 and recital 41 regarding peer reviews.
3. In order to fulfil its mission, the Board of Supervisors has established Supervisory Convergence Standing Committee (SCSC) with the objective of building a common supervisory culture and fostering supervisory convergence and consistency in application of Union Law; as well as by promoting consistent procedures and approaches throughout the Union with the aim of reaching similar outcomes, and in line with the ESMA 2016-2020 Strategic Orientation (ESMA/2015/935). The Terms of Reference cover the responsibilities and tasks of this group and the Procedures for ESMA groups (ESMA/2011/BS/236rev3) set out the rules concerning its structure, governance and working methods. The methodology documents agreed by the BoS shall govern peer reviews conducted under the auspices of this committee.

¹ This is an update to the document ESMA/2016/BS/36.

² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority) amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC

Responsibilities

4. In line with the ESMA 2016-2020 Strategic Orientation (ESMA/2015/935), the Supervisory Convergence Standing Committee contributes to ESMA's mission by fulfilling the following responsibilities:

A. General responsibilities and tasks

The Supervisory Convergence Standing Committee shall:

- promote a common and consistent supervisory approach, and develop a common framework, within ESMA, to the use of supervisory convergence tools, and in particular the methodology for peer reviews;
- develop the tools available to ESMA for promoting supervisory convergence, and in particular look at the potential for developing new instruments and tools;
- act as a forum for cooperation amongst national competent Authorities to facilitate exchanges on strategies regarding enforcement, remedial action, and complaints, with the aim of ensuring consistent supervisory outcomes across the Union;
- liaise and coordinate with other relevant groups reporting to the Board of Supervisors where its activities relate or are complementary to those of other groups. In particular, the Rapporteur of the Supervisory Convergence Standing Committee will report to each meeting of the Supervisory Convergence Standing Committee on work and initiatives undertaken by other ESMA standing committees, with a view to identifying and harmonising tools for use by ESMA in supervisory convergence and avoiding duplication of exercises.

B. Responsibilities and tasks regarding peer reviews

The Supervisory Convergence Standing Committee shall:

- review, through peer reviews, the application and implementation of the relevant Union law, regulatory and implementing technical standards adopted by the Commission, and of the guidelines and recommendations issued by ESMA, and will propose amendments where appropriate;
- propose periodically topics for peer reviews of some or all of the activities of competent authorities, to further strengthen consistency of supervisory outcomes, and giving opinion, following consultation, on the outcome of these reviews;
- propose draft mandates for peer reviews, to be conducted by assessment groups, and monitor the progresses made by the assessment groups. In

particular, the SCSC shall be consulted on the final peer review reports before they are submitted to the BoS for adoption;

- consider whether there are benefits in carrying out targeted peer reviews, or country-specific peer reviews, while avoiding redundant work with that performed by the International Organization of Securities Commissions, the Financial Stability Board or the International Monetary Fund and the World Bank through the Financial Sector Assessment programmes;
- ensure follow up action, including follow up peer reviews, if necessary, on how national competent authorities address the findings of peer reviews and deficiencies identified, as well as what actions are taken as a result;
- identify good practices developed by some competent authorities and potentially promote their application as best practices, following consultation with the relevant Standing Committees, via the tools available in the Regulation;
- ensure consistent methodologies and rules of procedure for the various mandatory peer reviews in legislation under the responsibility of ESMA.

C. Responsibilities and tasks regarding the supervisory convergence work programme

The Supervisory Convergence Standing Committee shall:

- contribute, as required, to the ESMA annual and multi-annual work programmes;
- contribute to the Supervisory Convergence Work Programme, in particular through the identification of common priorities for convergence among national competent authorities;
- track and monitor the implementation and delivery of the Supervisory Convergence Work Programme in accordance with the ESMA strategy, and prepare a report annually for the Board of Supervisors on the implementation of the Supervisory Convergence Work Programme including recommendations for the programme for the next year;
- identify supervisory, cooperation or enforcement issues on which guidance by ESMA, promoting common practices, may be needed;
- ensure coherence and consistency between peer review topics and the supervisory convergence work programme and the supervisory convergence strategy as set out in the Strategic Orientation 2016 – 2020 (ESMA/2015/935).

D. Responsibilities regarding horizontal issues

The Supervisory Convergence Standing Committee should, from time to time, accommodate discussions on issues of a 'cross-cutting' nature i.e. issues that are not appropriate to be dealt with by other ESMA standing committees, with a view to considering those issues and how they should be dealt with, and proposing recommendations to the Board of Supervisors for managing and dealing with such issues.

Structure and governance

5. The responsibilities of the Chair, rapporteur and members of the Supervisory Convergence Standing Committee are as set out in the Procedures for ESMA groups.
6. Permanent or temporary groups reporting to the SCSC may be set-up when required in line with the Procedures for ESMA groups.
7. The Supervisory Convergence Standing Committee has established the following permanent working groups, each with its own terms of reference:
 - Working Group on Work Programmes (terms of reference: ESMA/2016/BS/125 Annex 2)
8. The Supervisory Convergence Standing Committee may establish a Consultative Working Group. The Standing Committee can – where appropriate – and in liaison with the rapporteur of the relevant Standing Committee consult other Consultative Working Groups.
9. The Supervisory Convergence Standing Committee will meet on a regular basis as required in order to deliver ESMA's (multi-)annual work programme. Meetings of substructures will be organised as necessary to enable the Standing Committee to fulfil its tasks.

Review

10. The Terms of Reference will be reviewed every two years by the Board of Supervisors.