



LSEG

**LSEG RESPONSE TO ESMA'S CONSULTATION PAPER
ON SUPERVISORY EXPECTATIONS FOR THE
MANAGEMENT BODY**

October 2024

Introduction

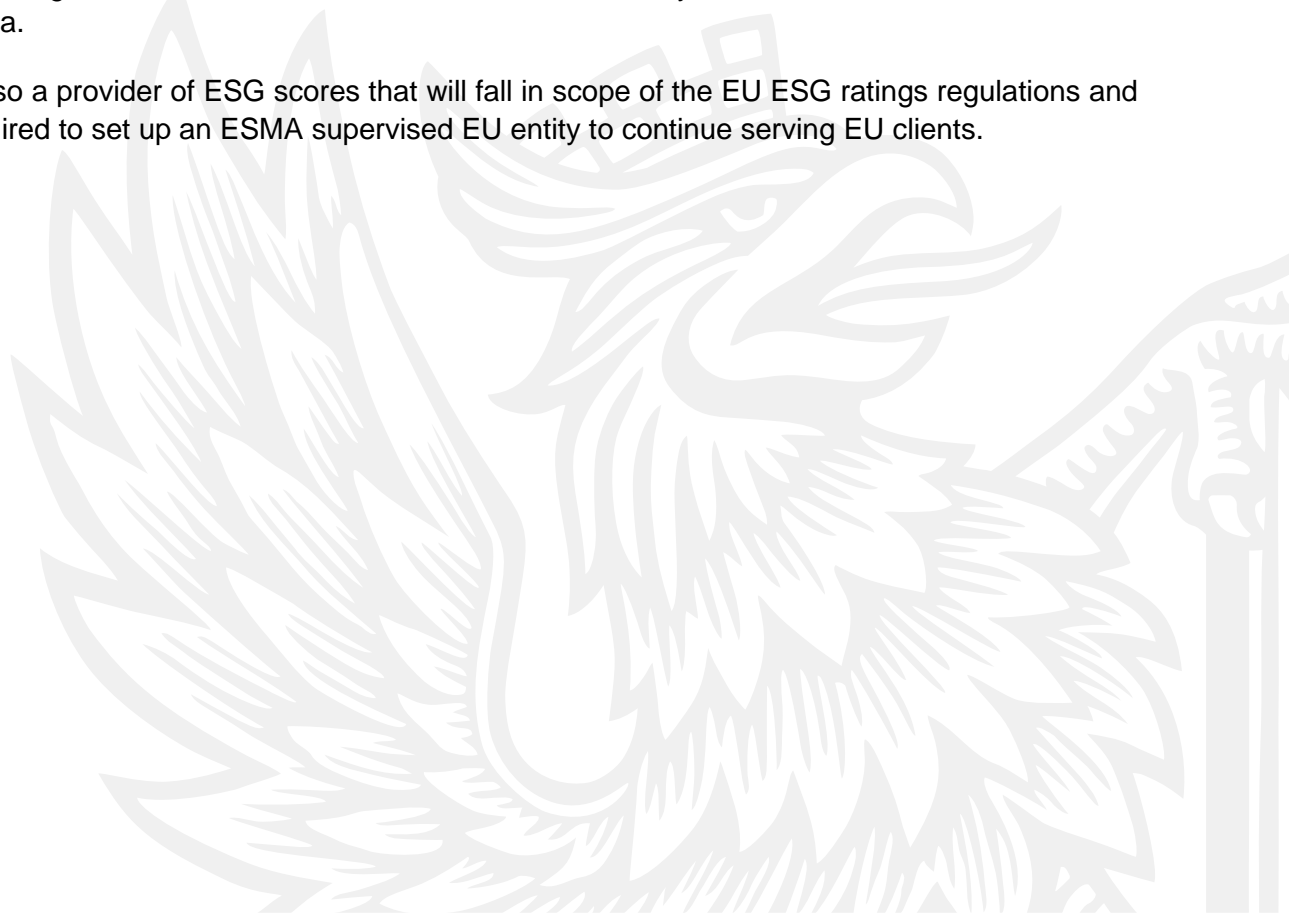
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In addition, LSEG offers regulatory reporting, reference data and analytics solutions via LSEG Post Trade Regulatory Reporting Limited in the UK and LSEG Post Trade Regulatory Reporting B.V. in the EU. They operate as a Trade Repository under EMIR and DSRPs under MiFID II/MiFIR.

LSEG also offers benchmark and index solutions through FTSE Russell, a global index provider of benchmarks, analytics and data with capabilities across asset classes. FTSE Russell operates two authorised Benchmark Administrators, FTSE International Limited and Refinitiv Benchmark Services (UK) Limited (RBSL), both authorised by the UK Financial Conduct Authority (FCA) under the UK Benchmark Regulation. Our benchmarks and indices are widely used in the EU, in addition to the US and Asia.

LSEG is also a provider of ESG scores that will fall in scope of the EU ESG ratings regulations and will be required to set up an ESMA supervised EU entity to continue serving EU clients.



Executive summary

LSEG welcomes the opportunity to respond to ESMA's consultation on supervisory expectations for the management body. At LSEG we ensure that an appropriate and proportionate approach is taken with regards to the governance of our regulated entities. We would like to make the following key observations:

- We broadly agree with ESMA's supervisory expectations regarding the management bodies of the firms it directly supervises. We would like to stress however that the current scope encompasses a wide range of firms, some of which already follow prescribed governance and management requirements under existing Regulations e.g., EMIR. As such we believe that Tier 2 CCPs should be removed from scope.
- We believe that from a governance point of view, additional consideration should be given to the responsibilities between the board and management function. We believe that responsibilities and roles of these two distinct functions should not be grouped together under one "management body" and that flexibility related to the responsibilities should be given depending on existing practices or regulatory requirements.
- When it comes to Groups consisting of different regulated entities, some of which are already subject to strict regulatory requirements, adhering to a one-size-fits all model would be burdensome. Different governance structures and practices might be more appropriate than others based on size and business operations.
- With regards to training, having a standardised induction training is often not appropriate for board members given their experience and expertise related to the business in question. Finally, and to avoid duplications from having to abide to different supervisory frameworks, it should not be forbidden for Group entities to appoint the same individual to more than one board.



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Questions

Q1: Do you agree with the proposed scope of application of these supervisory expectation? If not, please explain.

We broadly agree with ESMA's supervisory expectations regarding the management bodies of the firms it directly supervises. However, Tier 2 CCPs, DRSPs and other entities as set out in the consultation shouldn't be treated on equal footing when it comes to this guidance.

There are two differently sized types of entities at play, which have different approaches to governance arrangements. On the one hand, there are smaller entities, where there can be some overlap between board and management teams. This seems to fit the definition of the management body as set out in ESMA's consultation. On the other hand, there are Tier 2 CCPs, which are much larger entities that follow strict governance and management requirements as set out in EMIR. This does not seem to be considered in this consultation and, as such, we believe Tier 2 CCPs should be removed from the scope. Various LSEG entities have contributed to this consultation response, but the above comment around Tier 2 CCPs is common across all the questions in ESMA's consultation.

To reiterate our points:

- Tier 2 CCPs already comply with strict governance and management requirements, including a specific committee structure, as outlined in EMIR e.g. Articles 26-28.
- It is hard to have a 'one-size-fits-all' approach for all entities in scope – DRSP and CCP governance is entirely different due to (a) regulation, and (b) entity size.

Q2: Do you agree with the proposed approach to proportional application? If not, please explain.

With regards to the proposed approach to proportionality, we agree with ESMA's overall approach.

Q3: Do you agree with the expectations regarding the role and responsibility of the management body? If not, please explain.

We find that the structures proposed in the consultation are not entirely clear and responsibilities between the board and management function are also blurry. From a governance point of view, we find it concerning that the responsibilities and roles of these two distinct functions are grouped together under one "management body". The management function reports to the board, and the board oversees the management function and for this they should have relevant clear and distinct roles and responsibilities throughout the guidance. Therefore, we would urge ESMA to clarify "supervisory function" and the "management function" reference to remove any ambiguity.

Flexibility of the responsibilities should also be given depending on existing practices or regulatory requirements. For example, p31 of ESMA's consultation states "*the management body should approve and regularly review the entity's risk appetite and risk tolerance levels in relation to the key risks and define measures that enable it to monitor their status and development*". Whereas, in fact, the board (supervisory function as laid out in the consultation) is responsible for setting the firm's risk appetite. The Management Team (management function as laid out in the consultation) is responsible for the day-to-day management of the company, and this should remain separate.

With regards to the proposed approach to overseeing risk, we would like to note that the LCH board is regularly consulted and informed of the risk oversight. At LCH for example, the Risk Committee reports to the board, and changes to risk tolerances would also be reported to the board.

When defining the management body concept, it is also unclear if the proposal is for the supervisory function to be held exclusively by non-executive directors or if this is at a firm's choice. Having non-executive directors on the boards of LSEG entities is assessed based on the entities' structure in a proportionate manner.

Q4: Do you expect that adherence to the expectations set out in this section would be overly burdensome or otherwise difficult for your entity? If so, please explain.

We believe a one-size-fits-all model is not the right approach to determine the appropriate management body structure. LSEG has different regulated entities that are already subject to strict regulatory requirements related to governance. In this context, we welcome ESMA's intention to calibrate their expectations per firm and understanding that compliance is framed as an aim, as opposed to a hard objective that all firms will be measured against. Different governance structures and practices might be more appropriate than others based on the entities' size and business operations, namely through the separation of the board from the management function (carried out by the management team) and its interaction with control functions. We recommend that the principles of proportionality and flexibility on governance arrangements, depending on the specificities of a company, be more prominently stated for each key matter.

Furthermore, and in line with our response to question 1, we believe that Tier 2 CCPs should continue to follow prescribed governance and management requirements as set out in EMIR and should be removed from scope of ESMA's guidelines.

Q5: Do you agree with the expectations regarding operation of the management body? If not, please explain.

We broadly agree with the expectations regarding operation of the management body for the majority of firms supervised by ESMA. With regards to the proposed approach to committees and pre-board meetings, we find that responsibilities of the management team and board should be distinct. Furthermore, and in relation to minutes from board meetings, we would note that at LSEG minutes from meetings are only made available to certain management team members as and when they're asked to attend the board. Finally, we believe that we should maintain the possibility to appoint an Executive Director as Chair, subject to appropriate measures being put in place to ensure effective oversight and challenge from the supervisory function of the management body (e.g. appropriate representation of the supervisory functions independent from management on the board, incl. iNEDs).

Q6: Do you agree with the expectations regarding the role of the chair? If not, please explain.

We agree with the expectations regarding the role of the chair.

Q7: Do you expect that adherence to the expectations set out in this section would be overly burdensome or otherwise difficult for your entity? If so, please explain.

We do not expect that adherence to the expectations would be overly burdensome. Please note our comments to Q3 on the separation of the management function and the board.

Q8: Do you agree with the expectations regarding the effectiveness and composition of the management body? If not, please explain.

We broadly agree with the expectations regarding the effectiveness and composition of the management body. For the effectiveness of the Management Body in particular, LSEG checks this

through yearly appraisals with members. Board effectiveness reviews are undertaken on a proportional basis depending on the size and composition of the board. Methods include self-evaluations facilitated by the Company Secretariat or externally facilitated board Effectiveness Reviews.

Regarding the proposed approach to training and recruitment, we would note that board members are defined based on their experience and expertise of the business in question, hence a standardised induction programme which is appropriately tailored according to the Director based on their experience and expertise would be more appropriate. In addition, we would note that at LSEG there can be instances where the same individual is appointed for more than one entity board. We believe that to avoid redundancies created by requirements to adhere to different supervisory frameworks this should not be forbidden. Instead, we agree with ESMA that documenting their effectiveness is more important.

Q9: Do you expect that adherence to the expectations set out in this section would be overly burdensome or otherwise difficult for your entity? If so, please explain

We do not expect that adherence to the expectations would be overly burdensome. However, please note our comments to Q3 on the separation of the management function and the board.

Q10: Are there any topics or areas that you would have expected to be covered or covered in more detail? If so, please explain

N/A

