



SUMMARY OF CONCLUSIONS

Board of Supervisors

Date: 11 September 2012
Time: 09:00 – 17:30h
Location: Paris
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No Items

1. – **Management Board election** *BS/102 decision*
- **Mediation Panel election** *BS/103 decision*

VOTING MEMBERS ONLY

Decision: Following a vote by secret ballot, Julie Galbo (DK) was elected as member of the Management Board. The term will last until October 2014.

Due to the absence of candidates for the Mediation Panel and after discussing the issue with the Management Board, the Chair proposed to the Board of Supervisors that the Mediation panel (2 members, 4 alternates) will be composed of Management Board members.

The Board discussed the proposal, in particular;

- how to deal with the different lengths of terms of the Management Board members; and
- the proposed solution would not set a precedent for the future composition of the Mediation Panel.

Conclusion: The Board in principle agreed on the proposal. ESMA staff will send a formal proposal to the Board of Supervisors for approval by written procedure.

2. **Adoption of agenda** *BS/101 decision*

Decision: The agenda was adopted.



3. Summary of conclusions of June meeting

BS/96 decision

Decision: The summary of conclusions was approved.

4. Report by Chair and Executive Director

Oral information

The Chair reported on;

- the previous day’s regular Management Board meeting and Management Board Away Day;
- the recent activities of the SMSG and the upcoming joint meeting with the Board of Supervisors;
- the visit to ESMA in July from the International Monetary Fund (IMF) for its first EU-wide Financial Sector Assessment Program (FSAP);
- the upcoming meetings of the Steering Committee and General Board of the ESRB;
- the recent activities of the Joint Committee;
- the upcoming hearing by the European Parliament;
- the upcoming EFC and informal ECOFIN meetings;
- the meeting with Commissioner Barnier, focusing on Banking Union, reference rates and EMIR;
- the current discussions with national competent authorities on the status of two non-compliant MiFID waivers; and
- the Commission proposal on auditing and its possible impact on ESMA.

The Executive Director reported on:

- the activities of the CRA Unit, in particular the first thematic reviews and internal control functions inspections, a registration procedure to be approved by the Board of Supervisors by written procedure and work on the regulatory perimeter;
- the on-going recruitments, reaching up to 100 staff members at the end of 2012;
- the financial position of ESMA, with an expected spending rate to be 85-90% in 2012. The Executive Director indicated that the under spending this year is due to late recruitments and IT delays. A request for remaining payments of NCAs contributions (to achieve 90% revenue collection) will be launched later this month;
- the work on the premises, noting a meeting with the MEP Ms Hohlmeier, the negotiations with the landlord and the alterations works preparation;
- the agreement of the Management Board to sign the Internal Audit Services Charter, which will be sent to the Board of Supervisors for information; and



- the continuing work from ESMA staff on development of crisis management scenarios, for example preparing for the application of the SSR as of 1 November by preparing procedures and templates for emergency powers to have in place before entry into force of the new powers.

5. Current market developments

- Developments regarding the setting of EURIBOR and other reference interest rates *BS/104 discussion*

The Chair presented the discussion note, asking the Board's agreement on the three proposals to undertake activities by the ESAs. He indicated that EBA will submit a similar proposal to their Board of Supervisors shortly.

Martin Wheatley (UK) updated the Board on the review on the regulation of Libor in the UK. The European Commission updated the Board on the amendments to the proposals for a Regulation and a Directive on insider dealing and market manipulation, prohibiting the manipulation of benchmarks. Also, the European Commission launched a consultation paper early September on the possible regulation of benchmarks.

The Board discussed the discussion note, in particular;

- the detrimental impact of the manipulation of reference rates on the confidence in the financial sector;
- the need to broaden the scope of principles / guidelines to other benchmarks beyond only reference rates and to have a clear legal basis for the principles / guidelines;
- noting that the proposed principles / guidelines are an interim solution until legislative initiatives have been implemented; and
- the need for strong international coordination considering the activities in this area by various international bodies and the proposed timeline of the activities.

Decision: The Board agreed on the proposals in the discussion note.

6. IT – exchange of views on coordination by ESMA

*BS/78 discussion
Annex 1
Annex 2*

The Chair and Executive Director presented the item, noting the importance of having a strategic discussion in the Board on the role of ESMA vis-à-vis national competent authorities in the field of IT.

The Board discussed the note, in particular;

- the significant increase of the number of IT projects, demanding more resources from ESMA and national competent authorities;
- whether ESMA should coordinate the set-up of common standards for local reporting and possibly go further by collecting data directly from authorised entities; and



- the need to conduct a mapping of data reporting systems.

Decision: The Board agreed that ESMA should also coordinate the set-up of common standards for local reporting in order to harmonise local reporting. Pavel Hollmann (CZ) objected. The ITMG will be asked to conduct a mapping of data reporting systems.

7. ESMA-Pol

- Report by Konstantinos Botopoulos *BS/105 information*

Konstantinos Botopoulos (GR) presented his report.

The Chair indicated that the Board will discuss a proposal on the development of procedures for emergency measures of national competent authorities under the short selling regulation from 1st November 2012 at the next Board of Supervisors meeting on 24 September.

- Q&A on the short selling Regulation *Annex 1 decision*

Decision: The Board approved the Q & A.

- Consultation Paper on draft Guidelines on market making *Annex 2 decision*

The Board discussed the Consultation Paper, in particular;

- the definition and scope of the exemption for market making activities; in particular the interpretation of the Short Selling Regulation with regard to the level of information to be provided when notifying the intent to use the exemption under Article 17 of the Short Selling Regulation;
- whether notification on an instrument per instrument basis would be too burdensome for market participants and if such detailed data could be useful for competent authorities; and
- the need for a strong public statement on the commitment to use the principles in the Consultation Paper.

The European Commission indicated they will ask their Legal Services to advice on the interpretation of article 17 of the Short Selling Regulation.

Decision: The Board approved the consultation paper, subject to possible amendments following the legal advice from the European Commission on article 17. The press release will mention that the consultation paper should be used as the interim benchmark for the notification and application of the exemption.

- Way forward on the adjustment by duration of sovereign debt short positions and notification thresholds *Annex 3 decision*

Decision: The Board agreed to start with the development of ESMA Guidelines and, as a transitory solution, produce and publish a Q&A document to illustrate how to conduct the duration adjustment from 1 November 2012 until the final guidelines are published (Option 1.2 in the paper).



8. Banking Union and securities markets regulators

BS/97 discussion

The Board of Supervisors discussed the proposals on the Banking Union, based on a draft text that was published in the press, in particular:

- the need to have clear cooperation arrangements between ESMA and the ECB;
- the time schedule to establish a single supervisory mechanism for the Eurozone;
- the accountability and governance arrangements within the ECB relating to the single supervisory mechanism;
- the scope of the single supervisory mechanism and the exclusive responsibilities of the ECB;
- the degree of direct European supervision by the ECB on a daily basis and the role played by national supervisors;
- the possibility of the ECB to delegate certain tasks and to give instructions to national competent authorities;
- the amendments to the EBA regulation, in particular to the voting mechanism and the role of the ECB to coordinate a common position of the Eurozone national competent authorities in the Board of Supervisors of the EBA;
- the balance of rights and obligations for opt in countries, including their participation in decision making; and
- preserving the integrity of the Single Market, also by maintaining a level playing field between opt in and opt out countries.

Conclusion: The Chair reiterated the importance of having clear cooperation arrangements between ESMA and the ECB. A further discussion on the Banking Union proposals will take place at a future Board of Supervisors meeting.

9. Investment Management Standing Committee

- Report by Giuseppe Vegas (incl. update on AIFMD MoU negotiations) *BS/106 discussion*

Giuseppe Vegas (IT) presented his report, in particular updating the Board on the revision of the CESR Guidelines on a common definition of European Money Market Funds and the AIFMD MoU negotiations with 3rd countries, asking the Board to agree on the compromise proposals in the document.

Decision: The Board agreed with the compromise proposals regarding the MoU negotiations with 3rd countries. On the update on the revision of the CESR Guidelines on a common definition of European Money Market Funds, the Board requested an overview of the regulatory initiatives in the area of money market funds and possible work to be carried out by ESMA to be discussed at the meeting of the Board of Supervisors in November.

- Q&A on UCITS Key Investor Information Document *Annex 1 decision*



Decision: The Board approved the Q&A.

10. Investor Protection and Intermediaries Standing Committee

- Report by Jean-Paul Servais *BS/107 information*
- Consultation Paper on remuneration Guidelines *Annex 1 decision*

Jean-Paul Servais (BE) presented his report.

Decision: The Board approved the Consultation Paper.

11. Corporate Reporting Standing Committee

- Report by Julie Galbo *BS/108 information*
- Mandate for Working Group on Forbearance *Annex 1 decision*

Decision: The mandate was approved.

12. Standing Committees structure and election of Chairs *BS/75 decision rev*

The Chair and the Head of the Markets Division presented the discussion note and further clarified the proposals.

Konstantinos Botopoulos (GR) indicated that the members of ESMA-Pol were consulted and in general agreed to the proposal to amend the structure of ESMA-Pol. He noted that the members of ESMA-Pol that were involved in the revision of the CESR MMoU could be involved in the activities of the new Task Force. Also, close cooperation between the Task Force and relevant Standing Committees should be ensured.

Decision: The Board agreed with the proposals to amend the structure of ESMA-Pol and to have the IT Management Group chaired by the ESMA Head of Operations.

13. Progress reports

- Report by Martin Wheatley (SMSC) *BS/109 information*

The Board of Supervisors took note of the report.

- Report by Martin Wheatley (Commodity Derivatives Task Force) *BS/110 information*

The Board of Supervisors took note of the report.

- Report by Jean Guill (Review Panel) *BS/111 information*

The Board of Supervisors took note of the report.

14. A.O.B.



15. Future meetings

information

- 12 September 2012 (Paris) – Joint meeting with SMSG, 09:30h – 13:00h
- 24 September 2012 (Paris)
- 6 November 2012 (Cyprus)
- 18 December 2012 (Paris)
- 29 January 2013
- 14 March 2013
- 22 May 2013
- 4 July 2013
- 24 September 2013
- 7 November 2013
- 17 December 2013

Conclusion: The Board took note of the dates of the future meetings.

Steven Maijoor
Chair



Participants list

Voting Members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	Antoine van Cauwenberge
Bulgaria	Antoniya Gineva (alternate)	
Czech Republic	Pavel Hollmann	
Denmark	Julie Galbo	Hanne R�e Larsen
Germany	Hannelore Lausch	Philipp Sudeck
Estonia	Raul Malmstein	
Ireland	Matthew Elderfield	Gareth Murphy
Greece	Konstantinos Botopoulos	Eleftheria Apostolidou
Spain	Ana-Isabel Fernandez (alternate)	Antonio Mas
France	G�rard Rameix	Thierry Francq Fran�oise Buisson
Italy	Giuseppe Vegas	Nicoletta Giusto
Cyprus	Demetra Kalogerou	
Latvia	Sandis Andersmits	
Lithuania	Vilius Sapoka (alternate)	
Luxembourg	Jean Guill	
Hungary	L�szl� Balogh (alternate)	



Malta	Mike Duignan (alternate)	
Netherlands	Ronald Gerritse	Pim De Wild
Austria	Kurt Pribil	Andrea Kuras-Goldmann
Poland	Ilona Pieczynska-Czerny (alternate)	Anna Skrzypek
Portugal	Carlos Alves	Manuel Ribeiro da Costa
Romania	Gabriela-Victoria Anghelache	Cristina Dumitrescu
Slovenia	Damjan Zugelj	
Slovakia	Ivan Barri	Slavomir Stastny
Finland	Jarmo Parkkonen	Ville Kajala
Sweden	Martin Andersson	Oskar Ode
United Kingdom	Martin Wheatley	Cristina Frazer

Non-voting members

ESMA Chair	Steven Maijoor	
European Commission	Emil Paulis	Valérie Ledure
ESRB	Francesco Mazzaferro	Fabio Recine
EIOPA	Patrick Hoedjes	
EBA	Corinne Kaufman	



Observers

Croatia	Petar-Pierre Matek	
Iceland		
Liechtenstein	Marcel Lötscher	
Norway	Anne Merethe Bellamy	Kristin Lund

ESMA

Chair	Steven Maijoor
Executive Director	Verena Ross
Summary of Conclusions	Max Simonis
Head of Markets Division	Rodrigo Buenaventura
Head of Operations Division	Nicolas Vasse
Head of Investment and Reporting Division	Laurent Degabriel
Head of Credit Rating Agencies Unit	Felix Flinterman
Head of Legal, Cooperation and Convergence Unit	Stephan Karas
Head of Economic Research and Financial Stability Unit	Steffen Kern