



**Michel Barnier**  
**Commissioner for Internal  
Market and Services,  
European Commission**

**Sharon Bowles**  
**Chair of ECON  
European Parliament**

**Klaus-Heiner Lehne**  
**Chair of JURI  
European Parliament**

**Council Presidency  
Economic and Financial  
Affairs**  
**Bjarne Fog Corydon**  
**Minister for Finance of Den-  
mark**

## **Ref: Deadlines for the submission of ESMA's technical standards**

Dear Mr Barnier, Ms Bowles, Mr Lehne and Mr Fog Corydon

The ESMA Securities and Markets Stakeholder Group (SMSG) would like to address the European Commission and European Parliament on a significant issue of operation.

The SMSG was first convened in July 2011. Since that date, it has held 2 plenary meetings and numerous working groups meetings and conference calls. We have discussed the ESMA work plan for 2012, and on the basis thereof, we have prepared our own work plan for the coming year. The SMSG wishes to offer the best possible advice to ESMA on all relevant issues. However, this goal is being obstructed by restrictive timelines.

In the course of our work, we have indeed observed that ESMA has an extremely wide remit and numerous topics which all require attention at the same time. We are aware that this task is made even more difficult by the fact that ESMA has a limited and stretched workforce. As you know, these urgent issues are taking place against the backdrop of the ongoing financial crisis in Europe, meaning action is required for the benefit of the economy and everyone involved therein i.e. investors and taxpayers. In light of this, adhering to due process in the legislative process is of paramount importance.



The stakeholder group notes that ESMA issues public consultation papers on a wide variety of subjects. Relevant stakeholders must be given adequate time in which to respond as constructive reactions are highly beneficial to ESMA, and result in better rules and regulations for the particular industry. We acknowledge that the timelines which ESMA is forced to put on certain consultations is extremely short due to fixed deadlines that have been set since the original proposal while final EC proposals and/or ensuing negotiations between Council and EP take longer than expected. As a consequence of this, it is difficult for ESMA to request pro-active advice from the stakeholder group before submission of the consultation document and in light of the limited response time allowed for reactions of market participants. Sufficient time for market reactions is necessary in order to ensure the quality of the final subject matter and to have a basis for acceptance and implementation of the specific project.

Furthermore, if ESMA were granted observer status in the early phase of discussions between the European institutions, the intricacies and important points of the legislation would be properly understood and appreciated from an earlier stage, allowing the level of the final advice to be improved.

In the interests of having a transparent and equitable process, we kindly request that:

- (1) ESMA is given a fixed time for their procedures where the deadline is altered due to ongoing discussions between the European Council and European Parliament going beyond schedule.
- (2) ESMA is given observer status in all procedures aimed at legislation that would require the subsequent involvement of ESMA for level 2 regulation/rules.

We also believe it would be beneficial that options to depart from the set timetable be made available under exceptional circumstances. The preceding adjustments would, in our view, make the work of the stakeholder group more effective, rewarding and productive. This will have the final effect of higher quality rules and regulations for the benefit of all concerned.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Prache', written over a horizontal line.

Guillaume Prache  
Chair