



Summary of Conclusions

Securities and Markets Stakeholder Group

Date: 30-31 January 2013
Time: 14:00 – 17:00, 9:30 -13:00
Location: ESMA, 103 rue de Grenelle, 75007 Paris
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Excused from the SMSG were: Sophia Argirova, Zita Ceponyte, Carmine Di Noia, Sari Lourismeri, Dorthea Mohn and Tjalling Wiersma.

1. Adoption of agenda

The agenda was adopted.

2. Approval of the summary of conclusions of the November meeting

– SMSG/2012/72

The Summary of conclusions of the November meeting was approved.

3. Recent Market Developments

The SMSG held a de-briefing discussion from the morning's discussion with ESMA BoS on the three recent topics.

There was a wide agreement in the Group of the useful nature of the discussions held in the morning.

4. Steering Committee's report

The SMSG Chair informed the group about the work of the Steering Committee and in particular the proposal to have an internal discussion on the activities of the Group. The Chair explained that the



ESAs will be reviewed after three years of existence and that the SMSG would also be subject to the review. It would therefore be useful to have a session to exchange views regarding the Group's activities and functioning in view of this upcoming review of the ESAs by the EC.

Conclusion: The SMSG will discuss its activities and functioning during the next meeting.

5. EMIR

ESMA staff gave a comprehensive presentation of its planned work in 2013 and in the year ahead.

Conclusion: The SMSG revisits this topic in the course of the year in line with the adoption by ESMA of draft technical standards.

6. MiFID /MiFIR

ESMA Staff gave a presentation of its planned work in the year ahead in the area of MiFID.

Conclusion: It was concluded that the SMSG should have opportunities to discuss a number of MiFID topics throughout the year in advance of the formal consultations which will start later in the context of ESMA's responsibilities in drafting technical standards.

7. SMSG working groups – Reports on recent developments and the adoption of advice

A. AIFMD

Peter De Proft presented the views from the SMSG working group to ESMA in its response to ESMA's Consultation Papers on draft regulatory technical standards (RTS) on types of AIF and on guidelines on key concepts of the AIFMD.

Conclusion: The SMSG delivered its informal advice to ESMA on both consultations.

B. Benchmarks/Indices

The Group decided that given the short deadlines, it would be preferable to concentrate on giving high-level advice rather than responding to the ESMA/EBA consultation. The questions from ESMA focus on the following issues: scope, which should be captured, what activities should be subject to regulation and/or oversight, how would this impact the users and the continuity of indices.

ESMA Executive Director Verena Ross emphasised that ESMA would be very interested in receiving the SMSG's views on the current consultation.

Conclusion: The SMSG confirmed the decision to form a working group which will be led by Roland Bellegarde. The advice will be based on the internal discussion and Judith Hardt volunteered to send a summary after the meeting. The final advice paper will be approved by email due to the very short deadline.



C. Investor protection

ESMA staff presented the work with regard to ETFs and re-iterated the view presented by ESMA at the latest meeting that the ETF topic was pursued as a follow-up in general terms with some to the regulators who had been previously contacted. ESMA remarked that there did not seem to be a rule in place that prevents providers of ETFs from limiting their product range.

The SMSG Chair stated that the issue that concerns the SMSG is a problem related not principally to suitability but more to misleading information and to conflicts of interests (inducements).

Conclusion: The SMSG will come back to the topic at its next meeting.

D. Shadow Banking (non-bank lending)

Peter De Proft gave a presentation updating the members of the Group of the latest developments in international discussions regarding shadow banking (non-bank-lending).

Conclusion: The ESMA Chair noted that the input from the SMSG would be equally helpful on individual technical issues and that it would not be strictly necessary to have a written contribution in the form of a report.

E. SME financing

The ESMA Chair accounted for the discussion from the morning session with the Board of Supervisors.

The working group rapporteur Judith Hardt stated that issues connected to growth in the SME markets was a topic that is much discussed currently, together with issues of accounting, Solvency II and debt funding. Members commented that together with issues on long-term investments the SME topic would remain a relevant topic for the SMSG.

The ESMA Chair commented that he agreed to the separation of liquidity, long-term investments and risk in the discussion on SMEs, and stated that to allow companies outside the regulated markets to use IFRS for SME would be a first step that ESMA would support.

Conclusion: The SMSG Chair concluded that the working group should stay in place and continue its work.

F. Proxy advisors

Following the advice given by the SMSG to ESMA on the topic of proxy advisors in April 2012 ESMA staff provided feedback to the Group on the topic:



ESMA had received numerous responses to its consultation and hosted a round-table with stakeholders. The ESMA Board of Supervisors has approved the Final Report on the proxy advisors in December 2012. The report will soon be published.

The report includes the conclusion that ESMA will actively encourage and facilitate the industry to draft a Code of Conduct, which will include a two year review clause. The Final Report includes a set of high-level principles and governance expectations that offer guidance for the development of the code.

ESMA is expecting that this way of operation will fit with the EC Action Plan on European Company Law and Corporate Governance.

ESMA staff further detailed to proposal following comments from the Group.

The Group expressed general satisfaction with the outcome as it seemed to be broadly in line with the SMSG advice to ESMA on the issue.

Conclusion: The SMSG may follow-up on the matter of proxy advisors in due time once experience has been gained on the code of conduct.

8. AOB

There were no AOB issues noted.