

## NOTE

### **Call for expressions of interest: Consultative Working Group for ESMA's Financial Innovation Standing Committee (renewal)**

#### **Background**

1. ESMA today launches a process to renew the composition of the Consultative Working Group ('CWG') for the Financial Innovation Standing Committee ('FISC'). ESMA is therefore calling for expressions of interest from stakeholders.
2. ESMA had established the CWG to benefit from the expertise of stakeholders who are involved in the topic of financial innovation. We will look to this group to provide us with advice regarding our work related to Financial Innovation (article 9 of Regulation 1095/2010 establishing ESMA).
3. ESMA has a "Procedures for ESMA groups" in place from end March 2012. These procedures include the selection of CWG members based on an open call for candidates, which is published on the ESMA website. The relevant extracts for CWGs are set out in the Appendix hereto. Upon completion of the selection process, ESMA will publish the composition of the new CWG on its website and call the first meeting of this group.

#### **Financial Innovation Standing Committee (FISC)**

4. The 2010 EU Regulations establishing the three European Supervisory Authorities (ESAs) oblige each ESA to create a 'Committee on financial innovation' (as set out in Article 9(4) of each Regulation respectively).<sup>1</sup>
5. The remit of the Financial Innovation Standing Committee (FISC) is multi-fold: first, its mandate is transversal across all of ESMA's areas of responsibilities and it deals with all financial innovation and related market and product developments that have an impact on both retail and institutional investors; second, it is non-policy related but instead consults and advises relevant Standing Committees within ESMA on drafting policies or conducting regulatory actions; and third, it is specifically preparing for possible product intervention powers (depending on the outcome of the negotiations on the revision of MiFID).

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<sup>1</sup> Article 9(4): "The Authority shall establish, as an integral part of the Authority, a Committee on financial innovation, which brings together all relevant competent national supervisory authorities with a view to achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice for the Authority to present to the European Parliament, the Council and the Commission."



6. FISC undertakes and coordinates ESMA's work relating to the process of financial innovation, both in terms of products and processes. It does so through an understanding of market and investor trends, both in terms of quantitative analytics and qualitative market intelligence. It works with other organizations with a shared interest in financial innovation, both with sister ESAs as well as regulatory bodies globally.
7. ESMA intends to have in place a pro-active system that will allow us to identify and respond with risk mitigating strategies when financial innovation may have the:
  - a. potential to give rise to systemic risk;
  - b. potential to threaten market integrity;
  - c. potential to harm investors.
8. Consistent with ESMA's mission to ' . . . enhance the protection of investors and reinforce stable and well-functioning financial markets in the European Union.', a fundamental aim of the FISC is to determine areas in which greater pan-European coordination in the understanding, introduction and oversight of new financial products and processes needs to take place.
9. FISC supports ESMA's role in building a common supervisory culture by promoting common supervisory approaches and practices.

### **Description of main CWG tasks**

10. We will especially rely upon CWG members to provide FISC with market intelligence on emerging financial innovations that will improve its ability to pro-actively identify potentially harmful trends within the financial services market.
11. We will look to the CWG to help define metrics to identify and in turn analyse products, services or processes that may pose a threat to investors and/or financial stability.
12. We will look to the CWG to provide insight to areas of concern relative to the introduction of newly created or evolving products, as well as to the development of financial product's distribution to a wider investor base.
13. We will look to the CWG to contribute to our annual Financial Innovation Day, in providing insight to topical matters and/or participating as speaker.

### **Terms of Appointment**

14. CWG members are selected for a renewable term of two years.

15. CWG members are appointed on a personal basis, and are bound by confidentiality requirements in relation to all non-public information they are provided with while performing their tasks.

### **Selection criteria**

16. This call for expressions of interest is open to relevant stakeholders from any part of the European Union (EU).
17. The CWG, which will not exceed 18 members in total, will be composed of individuals representing as balanced a proportion as possible of the relevant areas of expertise in the field of financial innovation, investor protection, financial markets organisation as well as asset managers and intermediaries (areas covered by FISC).
18. The selection of CWG members will aim to ensure, to the extent possible, an appropriate geographical and gender balance, and representation of all relevant stakeholders across the EU affected by the work of FISC. In particular, ESMA will be seeking to ensure a balanced representation of the following types of stakeholders:
  - a. financial market participants/financial services' intermediaries;
  - b. representatives of retail investors and users of financial services; and
  - c. academics.
19. Assessment of eligibility will be based on the following criteria:
  - a. a minimum of 7 years of relevant professional experience in the financial services sector related to financial innovation and financial market activities will be required for those representing financial institutions;
  - b. a minimum of 7 years of experience relevant to the financial services field will be required for representatives of retail investors and users of financial services, and academics.

### **Selection process**

20. Applications will be accepted from natural persons only. Only the natural person selected will be admitted to the CWG. No substitution (alternates) of natural persons will be permitted throughout the full duration of the appointment, or during possible renewals.
21. Applicants not selected may be included on a list of experts, with the possibility of being invited to become a CWG member at a later stage.
22. ESMA's Executive Director, in consultation with the Head of the Investment & Reporting Division and the Chair of FISC, will make the final selection of CWG members.



### **Place of provision of services**

23. The CWG will meet at least 2 times a year and meetings, organised by ESMA, will normally take place at the ESMA premises in Paris or, occasionally, at the premises of national competent authorities.

### **Compensation, travel expenses**

24. Compensation for services as a CWG member is not paid.

25. CWG members are expected to meet their own travel expenses. However, members representing, for example, retail investors, trade-unions, shareholder associations and academics may be eligible for reimbursement of travel expenses and a daily allowance in accordance with ESMA policy.

### **Application procedure, closing date**

26. Relevant stakeholders meeting the required selection criteria and wishing to apply for a position on the CWG are invited to submit, in English:

- a. a completed application form (see separate document), and
- b. a detailed curriculum vitae (CV), preferably in the EU CV format - the link to the template for this is:

<http://europass.cedefop.europa.eu/europass/home/hornav/Downloads/EuropassCV/CVTemplate.csp>

27. It is optional for applicants to attach a motivation letter (2 pages maximum).

28. Unclear or incomplete applications will not be considered.

29. Applications must be submitted by email by no later than 31 December 2014 to the following email addresses: [patrick.armstrong@esma.europa.eu](mailto:patrick.armstrong@esma.europa.eu) and [anne.chone@esma.europa.eu](mailto:anne.chone@esma.europa.eu).



## **Appendix: Relevant extracts for CWGs from ESMA's 'Procedures for ESMA groups'**

### **II. EXTERNAL CONSULTATIVE WORKING GROUPS**

10. ESMA groups reporting to the Board of Supervisors may establish Consultative Working Groups (CWGs) in order to benefit from the expertise of market participants who are specialised in the specific area for which the group is responsible. The purpose of CWGs is to provide advice to the ESMA group during the course of developing a policy line in relation to specific technical matters, or to give a view on specific aspects of the proposals. The role and responsibilities of CWGs are without prejudice to those of the Securities and Markets Stakeholder Group.
11. CWG members are selected following an open call for candidates published on the ESMA website, including advice from members of the Board of Supervisors and the Standing Committee, with a final selection being made by the Executive Director in consultation with the relevant Head of Division/Unit of ESMA and the Chair of the relevant group. CWG members are appointed on a personal basis. Members of the CWG may be removed upon decision of the Executive Director in consultation with the Chair of the relevant group.
12. Terms of reference of CWGs are given in Annex 1.

#### **Annex 1**

**These Terms of Reference are without prejudice to the role and responsibilities of the Securities and Markets Stakeholders Group**

#### **Terms of Reference of Consultative Working Groups**

1. The purpose of the Consultative Working Group (CWG) is to provide technical assistance to ESMA in relation to all aspects of a particular group's work, such as the preparation of draft regulatory and implementing technical standards, Article 16 guidelines and the delivery of advice to the European Commission on the delegated and implementing acts required under a Directive/Regulation. The group is formed under the terms of ESMA's Public Statement on Consultation Practices (ESMA/2011/11). The CWG should be composed of market participants, consumers and end-users. Members of the CWG are selected according to the procedure set out in Section II of the Procedures for ESMA groups. The composition of the CWG is made public.
2. In meeting the above purpose, the group may be called upon to provide input at all stages of the policy formulation process.
3. In meeting the above objectives, the ESMA group and the CWG will apply the following principles.
  - A) Members of the CWG will have:
    - i. Access to evolving thinking of the ESMA group, including of any specific issues causing difficulty.

- ii. The possibility to express their views to the ESMA group. Members of the ESMA group will be encouraged to attend meetings of the CWG.
- iii. A work plan, including the dates of the main meetings of the CWG for the year ahead. Additional meetings can be called either at the request of members of the Consultative Working Group or of ESMA. Meetings are called by the Chair of the ESMA group in consultation with the rapporteur.
- iv. The support of ESMA staff and the contact details of all members of the relevant ESMA group.

B) ESMA can expect the following from the members of the CWG:

- i. Members will provide their independent expertise and not lobby for specific national or institutional positions. Members of the CWG are appointed and participate in their personal capacity.
  - ii. Practical examples to illustrate the implications of policy proposals.
  - iii. A sounding board that is prepared to provide alternative solutions and not just identification of problems.
  - iv. That all information provided by ESMA will be handled with due confidentiality and not circulated to third parties.
  - v. That members will endeavour to make themselves available both to attend meetings and provide timely written submissions where required.
  - vi. The identification of specific issues that might require a subset of the CWG to consider. ESMA may call on additional experts where appropriate.
- 4. The final output of the work-stream is under ESMA's authority and is without prejudice to the opinion of the CWG.
  - 5. Members of the Consultative Working Group are selected for a renewable term of two years.
  - 6. Members of the CWG should make clear in their professional engagements that they are not representatives of ESMA.