

## Summary of Conclusions

### Securities and Markets Stakeholder Group

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**Date:** 27 April 2017  
**Time:** 9.00 – 17.00  
**Location:** ESMA, 103 rue de Grenelle, 75007 Paris  
**Contact:** [jacob.lonnqvist@esma.europa.eu](mailto:jacob.lonnqvist@esma.europa.eu) T: +33 1 58 36 43 39

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#### 1. Report from the Steering Committee

The SMSG Chair welcomed all to the meeting. He informed of a planned meeting with the Chair and Vice-Chair of the Stakeholder group of EBA.

#### 2. Recent Market Developments

Rainer Riess gave a presentation on ETF trading and possible risks, where he highlighted in particular two areas of attention. The first being concerns about liquidity of the products, in that ETFs offer daily liquidity but that the underlying bond markets are not as liquid as equity markets. The second main aspect of the presentation related to smart beta and the competition with actively managed funds and potential risks related to smart beta.

Verena Ross informed the SMSG of the work that ESMA is undertaking because of the UK decision to leave the EU. ESMA believes that this development could lead to issues as regards supervisory convergence and third country equivalence. ESMA will in the coming weeks issue a number of opinions with the aim to mitigate concerns in relation to supervisory convergence in areas of importance to EU securities markets. ESMA will also conduct work in relation to third country frameworks and financial stability impact of a disorderly exit.

One SMSG member commented that the fast moving financial innovation in the UK might lead to a risk of a disconnect with the landscape across the EU which is very varied. The pace of the build-up of resources in some jurisdiction will be a big challenge. After the separation, there will be interest for as much technical cooperation as possible. Members also voiced the importance of EU firms' conditions in the UK and a wish to provide for a continued UK voice in ESMA.

### **3. ESAs Review Working Group**

The SMSG working group rapporteurs Jennifer Payne, Jarkko Syyrilä and Ignacio Santillan presented the draft reply of the SMSG to the ESAs Review consultation paper issued by the European Commission.

The Group discussed various parts of the draft reply extensively.

The SMSG Chair concluded that the SMSG would finalise and agree its consultation reply text in written procedure in advance of the deadline.

He also stated that he and the Vice-Chairs would meet with the Chair and Vice-Chairs of the stakeholder group of EBA with the aim of agreeing a high-level joint response on a select number of questions to the ESA consultation, ideally together with the stakeholder groups of EIOPA.

### **4. Securities lending**

The SMSG rapporteur Jean Berthon reported that the group would need more time to conclude its work and would come back to the SMSG at the next meeting or in written form.

### **5. Product Intervention Working group**

The rapporteur Veerle Colaert accounted for the work done in the working group and presented the status of the draft report.

The SMSG Chair explained that the report should be concluded in written procedure so it could be shared with and discussed with the Board of Supervisors in the July meeting.

## 6. MiFID

Kerstin Hermansson presented a number of topics that the SMSG members had identified as potential issues related to the MiFID implementation, stating that stakeholders were seeking ESMA's help to answer these issues.

She mentioned as examples of issues where facilitation of the implementation would be welcome: i) transparency, ii) data and systems, iii) investor protection and iv) terminology. Urgent examples are the uniform post-trade deferral status for the EU and topics in relation to product governance, target market, costs and charges, position reporting and telephone conversation recordings.

SMSG members further mentioned that uncertainty remains as regards systemic internalisers. They were sceptical whether the industry will be able to be ready on time. In particular the testing of systems need to start at the end of the third quarter at the latest, while other issues related to systemic internalisers could possibly be solved a bit later. IT-related issues were identified as the biggest ones by some, who also indicated a willingness from industry to assist in work related to systemic internalisers, product governance and target market identification. A list of the very high number of systemic internalises expected would be needed. It was acknowledged that several questions had their origin in the Level 1.

One member indicated that there is no ex-post information available as regards cost and charges. Another aspect related to portfolio management in relation to the target market determination.

ESMA members responded to the different comments made, saying that ESMA will finalise its work on product governance at the end of May after which there should be greater clarity on the issue. On other issues, clarification work is continuing - wherever possible under Level 1. ESMA is prioritising those issues that are either particularly urgent or raise the most frequent questions.

ESMA will also launch the FIRDS system in the next few months.

Verena Ross concluded that ESMA will come back to the questions posed by the SMSG, discussing in various fora in the coming weeks and months.

## 7. Big Data

Antonio Mele high-lighted the main elements of the SMSG reply to the JC consultation paper on Big Data, as earlier approved and published.

ESMA staff members welcomed the reply outlining the process ahead saying that the Joint Committee might issue a consultation paper at a later stage, once the replies to the JC Discussion paper have been assessed.

## **8. Closet indexing**

Jean Berthon presented a report on Closet Indexing, explaining that the organisation behind the report - Better Finance – had performed the study based on the report earlier produced by ESMA, because among others ESMA had not disclosed the names of the fund managers where shortcomings had been noted.

The study presented a number of findings related to e.g. the lack of information on benchmarks performance, and the jurisdictions mostly concerned.

ESMA commented that a lot of work had been undertaken regarding disclosure requirements for ETFs' liquidity management tools. ESMA also mentioned a recent article in the ESMA Trends, Risks and Vulnerabilities report on smart beta.

The SMSG Chair thanked the presenters.

## **9. SME Working Group**

Giovanni Petrella informed the Group of the work undertaken in the working group.

The SMSG chair concluded that the SME working group would come back at a future SMSG meeting.

## **10. Guidelines on the application of the endorsement regime for CRAs**

ESMA staff briefly presented its consultation paper on changes to the guidelines regarding the application of the endorsement regime for CRAs.

The SMSG Chair encouraged all those interested to join a working group if they wanted to work on a reply to the consultation.

## 11. AOB

There was no other business.

<b>SMSG ATTENDANCE 27 APRIL 2017</b>		
ALEXAKIS	Christos	Present
BAUR	Georg	Present
BENINK	Harald	Present
BERTHON	Jean	Present
CHRISTOV	Lubomir	Present
COLAERT	Veerle	Present
CORLEY	Elizabeth	Present
DZIEMASZKIEWICZ	Bartosz	Present
ECHARRI	Javier	Excused
HEMSLEY	Mark	Present
HERMANSSON	Kerstin	Present
HÖLZ	Christiane	Present
KARSENTI	René	Present
KOSTER	Paul	Present
KRISPER	Bostjan	Present
LITVACK	Eric	Present
MELE	Antonio	Present
PAYNE	Jennifer	Present
PETRELLA	Giovanni	Present
RIESS	Rainer	Present
ROGERSON	Lindsey	Present

ROMANO	Anna Maria	Present
SANTILLAN	Ignacio	Present
SERVAT	Jean-Marc	Present
SYRILÄ	Jarkko	Present
VAN ELSEN	Greg	Excused
VEIL	Rüdiger	Present
VERVLIET	Chris	Excused
WARD	Tim	Present