

## TERMS OF REFERENCE

### Investment Management Standing Committee (IMSC)

1. ESMA achieves its mission to enhance investor protection and promoting stable and orderly financial markets through four activities: (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) directly supervising specific financial entities.
2. The ESMA Regulation<sup>1</sup> states that ESMA shall act within the powers conferred by this Regulation and within the scope of a number of acts and any further legally binding Union act which confers tasks on ESMA. These acts include among others Directive 2009/65/EC on Undertakings for Collective Investment in Transferable Securities (UCITS), Directive 2011/61/EU on Alternative Investment Fund Managers (AIFMD), Regulation No 345/2013 on European venture capital funds (EuVECA), Regulation No 346/2013 on European social entrepreneurship funds (EuSEF), Regulation 2015/760 on European long-term investment funds (ELTIF), Regulation (EU) 2017/1131 on money market funds (MMF), Regulation (EU) 2019/1156 on facilitating cross-border distribution of collective investment undertakings (CBDR).
3. In order to fulfil its mission, the Board of Supervisors has established the Investment Management Standing Committee (IMSC). The Terms of Reference cover the responsibilities and tasks of this group while the Procedures for ESMA groups (ESMA/2011/BS/236rev2) set out the rules concerning its structure, governance and working methods.
4. In line with the ESMA 2020-2022 Strategic Orientation (ESMA22-106-1942), the IMSC will consider in all its activities how to (i) contribute to a larger retail investor base to develop the Capital Markets Union, (ii) promote sustainable finance and long-term oriented capital markets, (iii) develop digital finance as an opportunity for market participants and regulators, (iv) achieve a proportionate approach.

### Responsibilities

5. The IMSC contributes to ESMA's mission by addressing issues related to:
  - *Assessing the Risks to Investors, Markets and Financial Stability*: Facilitating the early identification and analysis of financial stability and investor protection risks in the collective investment management sector through the exchange of information and the sharing of experiences, inter alia, in the area of authorisation, conduct of business rules, systems and controls, organisational requirements and cross-border activities and

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<sup>1</sup> Regulation (EU) 2019/2175 of the European Parliament and the Council amending Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)

enhancing the quality and availability of information at EU level for investors, market participants and regulators.

- *Promoting Supervisory Convergence*: Contributing actively to ESMA's tasks in promoting the supervisory convergence among national competent authorities in the area of collective investment management, including: assessing operational issues arising from the implementation of the relevant legislation; developing supervisory practices and guidance on a range of issues, such as marketing and distribution, product disclosures and transparency, asset safekeeping, remuneration and risk management. Where appropriate, the analysis of individual cases should be used as an important tool for the IMSC work on supervisory convergence.<sup>2</sup>
- *Completing a Single Rulebook for EU financial markets*: Developing technical advice to the European Commission, draft technical standards and opinions on the provisions of the legislation that are relevant to its area of competence (i.e. collective investment management), with the view to ensuring a harmonised implementation of that legislation.

### **Product intervention powers**

6. In line with ESMA's product monitoring obligation under Article 39 MiFIR and its product intervention powers under Article 4 and 43 MiFIR, the IMSC shall refer any potential threats that are relevant to ESMA's objectives of ensuring investor protection, orderly functioning and integrity of financial/commodity markets and to stability, to the relevant Standing Committee.
7. The IMSC shall liaise and coordinate with other relevant groups reporting to the Board of Supervisors where its activities relate or are complementary to those of other groups.

### **Structure and governance**

8. The responsibilities of the Chair, rapporteur and members of the IMSC are as set out in the Procedures for ESMA groups.
9. Permanent or temporary groups reporting to the IMSC may be set-up when required in line with the Procedures for ESMA groups.
10. The IMSC has established the following permanent working group, with its own terms of reference: Operational Working Group (OWG).
11. The IMSC has established a Consultative Working Group. The Standing Committee can – where appropriate – and in liaison with the rapporteur of the relevant Standing Committee consult other Consultative Working Groups.
12. The IMSC will meet on a regular basis as required in order to deliver ESMA's (multi-) annual work programme. Meetings of substructures will be organised as necessary to enable the IMSC to fulfil its tasks.

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<sup>2</sup> References to supervised entities by NCAs can be made on an anonymous basis.

## **Review**

13. The Terms of Reference will be reviewed every two years by the Board of Supervisors.