

## SUMMARY OF CONCLUSIONS

### Board of Supervisors

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**Date:** 5 November 2020  
**Time:** 09h00 – 18h00  
**Location:** Conference call  
**Contact:** [ESMABoard@esma.europa.eu](mailto:ESMABoard@esma.europa.eu)

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**1. Adoption of agenda** Decision

**Decision:** The agenda was adopted.

**2. Confirmation of absence of conflict of interests** Decision

**Decision:** The Board took note of the conflict of interest declared by the ESMA Chair and Executive Director on item 13 – *Revised conflict of interest policy for ESMA staff*. They will abstain from participating in the relevant discussion and decision.

**3. Oral Report by Chair and Executive Director** Information

The ESMA Chair reported on:

- The appointment of Mairead McGuinness as European Commissioner for financial stability, financial services and capital markets union;
- His recent interactions with the European Parliament, including the annual hearing of European Supervisory Authorities (ESAs)’ Chairs by the European Parliament Committee for Economic and Monetary Affairs (ECON), interactions to ensure an appropriate process for the selection of the ESAs’ next respective Chairs, and to discuss the progress on delegated acts under the Sustainable Finance Disclosure Regulation (SFDR);
- The upcoming finalisation of the setting-up of ESMA’s CCP Supervisory Committee with the planned arrival of its Chair and Independent Members;
- The plan to send out a call for candidates for the Management Board and the holding of an election, following the expiration of half of the terms of the Management Board members;
- The activities of the ESAs’ Joint Committee, in particular its agreement on the need for further cooperation between ESAs and the European Commission in order to provide clarity on how to bridge the time between application of the legislation and the delayed application of delegated acts, and the observed difficulties stemming from the new process on Q&As;
- The activities of the Securities and Markets Stakeholder Group, in particular the upcoming joint meeting with the Board of Supervisors;
- ESMA’s international activities, in particular the ESMA Chair’s chairing of the IOSCO Financial Stability Engagement Group (FSEG) sub-group on credit ratings, co-chairing the Financial Stability Board (FSB) Standing Committee on Assessment of Vulnerabilities (SCAV) Credit Rating

Workstream, and contributions to the FSB SCAV and FSB Steering Committee on non-banking financial intermediation (NBFI), and the Executive Director's engagement as co-lead of Workstream 3 of IOSCO Sustainable Finance Task Force;

- The status of ESMA's application for membership of the Network for Greening the Financial System (NGFS); and
- The activities of the European Systemic Risk Board (ESRB), in particular the ESRB recommendation on liquidity risk in investment funds and the report to be provided by ESMA to the ESRB upon the Board of Supervisors' approval, as well as the ESRB's ongoing discussions on whether to extend until mid-2021 its recommendation on restriction of dividend distribution by financial institutions (including CCPs).

The Executive Director reported on the:

- Impact of COVID-19 on ESMA's activities;
- October 2020 Financial Services Committee meetings, namely her presentation of ESMA's final report on the MAR Review, along with the final report on the ESMA's inquiry on Cum/ex, Cum/Cum and WHT schemes; and
- Outcome of the Joint ESAs' Board of Appeal case ESMA/2020/BUL/286.

#### 4. Update on financial market developments

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| 1) Presentation | Discussion |
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**Conclusion:** The Board discussed the update on financial market developments.

#### 5. European Commission Action Plan on Capital Markets Union

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| 1) Presentation CMU action plan | Discussion |
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**Conclusion:** The Board discussed the European Commission's Action Plan on the Capital Markets Union (CMU), in particular the proposed actions and prioritisation for relevant ESMA work.

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| 2) Presentation on ESMA's financial education activities | Discussion |
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**Conclusion:** The Board discussed the presentation on ESMA's financial education activities, in particular the extent to which financial education is part of ESMA's and national competent authorities' role in their investor protection-related work, and potential initiatives for them in the area of financial education.

#### 6. Supervisory Convergence

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| 1) Risk identification / heatmap exercise | Decision |
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**Decision:** The Board discussed the risks identified in the different sectors and approved the heatmap.

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| 2) Union Strategic Supervisory Priorities | Decision |
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**Decision:** The Board agreed to select the topics of (1) costs and performance and (2) data quality as Union Strategic Supervisory Priorities for 2021 and to undertake the underlying concerted supervisory actions during the year.

#### 7. EU Money Market Funds: Covid-19 impact and implications

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| 1) Presentation | Discussion |
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**Conclusion:** The Board discussed the presentation on the impact and implications of COVID-19 on EU Money Market Funds (MMFs), in particular the risks identified in March 2020, the reforms to be contemplated and the priorities for ESMA in coordinating with other institutional stakeholders.

## 8. UK withdrawal from the European Union

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| 1) Update note | Discussion |
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**Conclusion:** The Board discussed the update note on the United Kingdom's withdrawal from the European Union, and in particular took note of the summary of the results of ESMA's recent survey on the readiness of EU markets, an update on the Central Securities Depositories Regulation (CSDR) equivalence decision and an update on all ongoing Brexit workstreams in ESMA.

## 9. European Commission Digital Finance

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| 1) Presentation | Discussion |
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**Conclusion:** The Board discussed the European Commission's Digital Finance Package and how ESMA's work should be prioritised in response to the package.

## 10. 2022-2024 Planning

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| 1) Initial discussion on 2022-2024 planning | Discussion |
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**Conclusion:** The Board discussed ESMA's planning for the years 2022-2024.

## 11. EU securities markets – annual statistical report

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| 1) Cover Note   | Discussion |
| 2) Presentation | Discussion |
| 3) Report       | Decision   |

**Decision:** The Board adopted the annual statistical report on EU securities markets.

## 12. Follow-up Away Day

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| 1) Report | Information |
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**Conclusion:** The Board took note of the report on the follow-up actions stemming from its Away Day.

## 13. Revised conflict of interest policy for ESMA staff

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| 1) Cover Note   | Information |
| 2) Revised conflict of interest policy for ESMA Staff | Information |

The ESMA Chair and Executive Director left the room. The ESMA Vice-Chair chaired the item.

The Board discussed the revised conflict of interest policy for ESMA, in particular:

- The scope of the policy; and
- Whether ESMA Heads of Department should be covered by the conflict-of-interest policy applicable to senior management.

**Conclusion:** The Board took note of the proposed revised conflict of interest policy for ESMA staff. It will be presented to the Management Board for approval by written procedure.

#### 14. UK withdrawal from the Union

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| 1) Cover Note  | Information |
| 2) Revised Statement on ESMA's Data Operational Plan (FIRDs, FITRS, DVCAP, transaction reporting systems, ESMA registers and data) | Decision    |

**Decision:** The Board adopted the revised Statement on ESMA's Data Operational Plan.

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| 3) Instructions for national competent authorities on ESMA's data operational plan | Information |
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**Conclusion:** The Board took note of the instructions for national competent authorities on ESMA's data operational plan.

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| 4) Revised Statement on the use of UK data in ESMA databases and performance of MiFID II calculations | Decision |
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**Decision:** The Board adopted the revised Statement on the use of UK data in ESMA databases and performance of MiFID II calculations.

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| 5) Revised Statement on data issues affecting reporting, recordkeeping, reconciliation (Article 9 EMIR and Article 4 SFTR) | Decision |
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**Decision:** The Board adopted the revised Statement on data issues affecting reporting, recordkeeping, reconciliation.

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| 6) Revised Memorandum of Understanding between ESMA and the UK FCA on consultation, cooperation and exchange of information (ESMA's direct supervision) | Decision |
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**Decision:** The Board adopted the revised Memorandum of Understanding between ESMA and the UK Financial Conduct Authority (FCA) on consultation, cooperation and exchange of information.

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| 7) Revised Memorandum of Understanding between EU national competent authorities and the UK FCA covering supervisory cooperation, enforcement and information exchange | Decision |
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**Decision:** The Board adopted the revised Memorandum of Understanding between EU national competent authorities and the UK FCA covering supervisory cooperation, enforcement and information exchange.

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| 8) Supervisory briefing on the letter of invitation to extend the participation in CCP colleges to UK authorities as observers | Information |
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**Decision:** The Board adopted the supervisory briefing on the letter of invitation to extend the participation in CCP colleges to UK authorities as observers.

#### 15. Benchmarks Network

1) Cover Note Information

2) Q&A on the transitional provisions for critical benchmarks Decision

**Decision:** The Board adopted the Q&A on the transitional provisions for critical benchmarks.

#### **16. Committee on Economics and Markets Analysis (CEMA)**

1) CEMA Report Information

**Conclusion:** The Board took note of the CEMA Report.

2) Presentation on EU derivatives market Information

**Conclusion:** The Board took note of the presentation on the EU derivatives market.

3) EU derivatives markets – annual statistical report Decision

**Decision:** The Board adopted the annual statistical report on EU derivatives markets.

#### **17. Corporate Finance Standing Committee (CFSC)**

1) CFSC Report Information

**Conclusion:** The Board took note of the CFSC Report.

2) Brexit Q&As Decision

**Decision:** The Board adopted the Brexit Q&As.

3) Prospectus Q&As Decision

**Decision:** The Board adopted the Prospectus Q&As.

#### **18. Corporate Reporting Standing Committee (CRSC)**

1) CRSC Report Information

**Conclusion:** The Board took note of the CRSC Report.

2) Consultation Paper on advice relating to information on environmentally sustainable activities disclosed under the Taxonomy Regulation Decision

**Decision:** The Board adopted the consultation paper on advice relating to information on environmentally sustainable activities disclosed under the Taxonomy Regulation.

#### **19. Data Standing Committee (DSC)**

1) DSC Report Information

**Conclusion:** The Board took note of the DSC Report.

2) Framework for provision of data under EMIR Decision

**Decision:** The Board adopted the framework for provision of data under EMIR.

- 3) SFTR Q&As Decision

**Decision:** The Board adopted the SFTR Q&As.

## 20. Investment Management Standing Committee (IMSC)

- 1) IMSC Report Information

**Conclusion:** The Board took note of the IMSC Report.

- 2) Annual report on UCITS sanctions Decision

**Decision:** The Board adopted the annual report on UCITS sanctions.

- 3) Annual report on AIFMD sanctions Decision

**Decision:** The Board adopted the annual report on AIFMD sanctions.

- 4) Guidelines on marketing communications Decision

**Decision:** The Board adopted the Guidelines on marketing communications.

- 5) Terms of Reference IMSC Operational Working Group Decision

**Decision:** The Board adopted the Terms of Reference for the Operational Working Group.

## 21. Investor Protection and Intermediaries Standing Committee

- 1) IPISC Report Information

**Conclusion:** The Board took note of the IPISC Report.

- 2) MIFID Q&As Decision

**Decision:** The Board adopted the MIFID Q&As.

## 22. Post Trading Standing Committee (PTSC)

- 1) PTSC Report Information

**Conclusion:** The Board took note of the PTSC Report.

- 2) CSDR Report on cross border services Decision

**Decision:** The Board adopted the CSDR Report on cross border services.

- 3) CSDR Report on internalised settlement Decision

**Decision:** The Board adopted the CSDR Report on internalised settlement.

- 4) EMIR report on post trade risk reduction services Decision

**Decision:** The Board adopted the EMIR report on post trade risk reduction services.

## 23. Secondary Markets Standing Committee

- 1) SMSC Report Information

**Conclusion:** The Board took note of the SMSC Report.

2) Consultation paper for Guidelines for market data Decision

**Decision:** The Board adopted the consultation paper for Guidelines on market data.

3) Delegation agreement on assessment of third-country trading venues Decision

**Decision:** The Board adopted the delegation agreement on the assessment of third-country venues.

24. A.O.B.

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## Participants list

### Voting members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	
Bulgaria	/	
Czech Republic	Vojtech Belling	
Denmark	Karen Dorte Abelskov	
Germany	Elisabeth Roegele	
Estonia	Andre Nõmm	
Ireland	Colm Kincaid (alternate)	
Greece	Vassiliki Lazarakou	
Spain	Sebastian Albella	
France	Robert Ophèle	
Croatia	Ante Žigman	
Italy	Carmine Di Noia (alternate)	
Cyprus	Demetra Kalogerou	
Latvia	Santa Purgaile	
Lithuania	Vaidas Cibas (alternate)	



Luxembourg	Françoise Kauthen (alternate)	
Hungary	Gábor Laki (alternate)	
Malta	Lorraine Vella (alternate)	
Netherlands	Jos Heuvelman (alternate)	
Austria	Eduard Müller	
Poland	Magdalena Łapsa-Parczewska	
Portugal	Gabriela Figueiredo Dias	
Romania	Gabriel Gradinescu	
Slovenia	Sabina Bešter (alternate)	
Slovakia	Peter Tkáč	
Finland	Anneli Tuominen	
Sweden	Erik Thedeén	
ESMA Chair	Steven Maijor (except item 13)	

#### Non-voting members

European Commission	Ugo Bassi	
EBA	Francois-Louis Michaud	
EIOPA	Kai Kosik (alternate)	

ESRB	Olaf Weeken	
Iceland	Páll Fríðriksson	
Liechtenstein	Marcel Lötscher	
Norway	Anne Merethe Bellamy	
EFTA Surveillance Authority	Frank Buechel	

#### ESMA

Executive Director	Verena Ross (except item 13)
Summary of Conclusions	Roxana de Carvalho Frederiek Vermeulen

Done at Paris on 18 August 2023

[signed]

Verena Ross

For the Board of Supervisors