



ADVICE TO ESMA

SMSG advice to ESMA on its CP on the Regulatory Technical Standards on the European Single Electronic Format (ESEF)

Background

ESMA has been mandated to draft RTS regarding format of annual financial reports based on a new article 4.7 inserted into Directive 2004/109/EC (the Transparency Directive) as a result of the amending Directive 2013/50/EC adopted on October 13, 2013 (Legislative Mandate enclosed). Article 4.7 states:

“With effect from 1 January 2020 all annual financial reports shall be prepared in a single electronic reporting format provided that a cost benefit analysis has been undertaken by the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council.”

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1. The SMSG shares ESMA's view that better transparency, availability and comparability of issuers' financial statements should, over time, lead to better efficiencies in capital allocations and hence also to issuers' ability to attract capital across the EU, and not only from professional investors but also from retail investors. However, lacking a full cost benefit analysis (“CBA”), the SMSG members are divided in their views of whether the ultimate benefits to users, including the issuers, will outweigh the costs of this additional layer of reporting. While an analysis of the different technological options available has been undertaken by ESMA in preparation of the CP, ESMA is also including some questions in relation to the scope in the current CP. ESMA further notes that there is a possibility that the CBA may reach conclusions which are not in favour of establishment of the ESEF, but simultaneously also notes that it has no powers to amend the legislative policy decision.
 2. The SMSG notes the relatively low response rate to the CBA regarding the preferred technical option and related cost, with e.g. only one issuer each from Germany and the UK responding (the two markets account for 35% of all issuers).
 3. The SMSG's conclusion against this background is that it currently can only offer very general advice on the subject and the reasoning followed by ESMA in leading up to the CP.
 4. The SMSG fully agrees with ESMA that all companies' entire Annual Financial Reports should be made available in PDF format and ideally also be accessible via one single access point. The SMSG also appreciates the general reasoning of ESMA to distinguish between structured (i.e.

numbers like e.g P&L, Balance Sheet and cash-flow statements and non-structured data (e.g narrative of Directors' and Auditors' reports) when concluding that initially only the structured information (including the local language notes in PDF) be made available in a standardised electronic format (filed at the NCAs but accessible also via a central point at ESMA).

5. At the same time the SMSG notes that the non-structured data, i.e. the narratives, are crucial in order to arrive at a more comprehensible understanding of a company's historic, current and future performance, its markets, its competitive situation as well as risks, and further notes that there is a huge risk that without this data the information to be submitted in a structured format will be of less use to the users. The SMSG further notes the dangers of critical nuances being lost when, in a next step, one would look at trying to standardize also this unstructured data according to set formats.
6. In the same spirit the SMSG acknowledges the merits of starting with IFRS companies only and to use XBRL or iXBRL for the reporting of the structured data, as these seem to be the more generally preferred options according to the CBA – also when, over time, looking at international comparability. The SMSG is also supportive to undertaking this exercise in a phased approach so that e.g. SMEs (as per the State Aid definition) are only included at a later stage and, when there is sufficient evidence of active use by investors of the standardized structured data.
7. The SMSG further notes that the EC's recently launched proposal for a Prospectus Regulation envisages the introduction of a standardised Universal Registration Document ("URD"). While this URD in the current proposal is optional, it introduces yet another element of standardised reporting describing the issuer's organisation, business, financial position, earnings and prospects.
8. The SMSG would thus like to advise ESMA to consider all of these initiatives to standardize reporting and see how these could best be addressed as a whole rather than cumulatively so that the costs of subjecting all issuers to any extra layer of reporting, in addition to the statutory, stock market and regulatory reporting already undertaken are minimized. In addition the SMSG advises that there may be other (simpler) alternatives to moving towards reporting in single electronic format, like ensuring that all annual financial reports be available also in an English PDF version (and sorted by eg sector) via a single access point, which could provide the same benefits as those currently envisaged by the ESEF, but without losing the unstructured data and its nuances.