"Shaping the future of Europe's financial markets"

Verena Ross,
Executive Director of ESMA,

Centre Forum, London,
11 May 2012

Ladies and Gentlemen,

I am very pleased to be with you today and I would like to thank you for inviting me to deliver the keynote speech this morning. I am keen to share with you my views on the future of Europe's financial markets, and in particular on the role of ESMA in meeting the challenges of regulating these markets.

I would like to begin by addressing some of the background behind the current system of regulation in the EU before moving on to speak about ESMA and our Work Programme.

What kind of financial oversight system is now developing in Europe? In June 2009, the Heads of EU Member States and governments called for a move towards more harmonised regulation and integrated European supervision in order to ensure a true level playing field for all actors at the EU level. This call reflected not only the repercussions of the financial crisis, which has deeply affected, and continues to affect, Europe, but it also responded to failings in the areas of cooperation, coordination, consistent application of Union law and trust between national supervisors.

The response of the EU was the establishment of the European System of Financial Supervision and the creation of the European Supervisory Authorities for securities, banking and insurance in 2011, as well as the European Systemic Risk Board. This was a crucial political decisions on the part of the European Union to improve financial services regulation in Europe.

The new system's objective is not only to secure a more robust legal framework for financial markets and all its players, but also to provide benefits to investors and the wider economy. Moreover, the benefits of a single financial market are even more obvious when looking at the alternative: 27 separated and isolated financial systems functioning with their own rules.

The 16 months, since our establishment on 1 January 2011, have been a busy time for ESMA, on the organisational, regulatory and supervisory fronts. We have set about building the new organisation at a time of ongoing turmoil in the EU financial markets and of significant legislative activity in the area of securities regulation.

In terms of operational set-up, ESMA began life with about 35 staff from its predecessor body, the Committee of European Securities Regulators, at the beginning of 2011 but by year's end had nearly doubled to about 70. This included the reorganisation to align the structure and the subsequent recruitment of the management tier to ensure that we had the required basis in place to support delivery of our responsibilities. We have succeeded in recruiting highly qualified candidates from varied backgrounds including government, regulatory bodies and the private sector. And we are not finished yet. By the end of this year we intend to have 100 staff on board and I would like to take this opportunity to say that we are still keen on attracting experienced candidates from as broad a range of backgrounds as possible.

I/ ESMA's Role in the new EU framework

What is our role in the new EU regulation framework? ESMA has two key aspects to its mission as an organisation, which are: the building of a "single rulebook" for the regulation of the EU's financial markets and ensuring its consistent application at national level. While this is an ambitious mission, presenting significant challenges, I feel that ESMA has already made some substantial progress in meeting the challenges in both these areas over its first 16 months of existence.

Development of a Single Rulebook

In terms of the development of a single rulebook for Europe, ESMA took on its new role as EU securities markets standard setter with clear responsibilities for the development of technical standards and advice for new, or soon to be revised, pieces of legislation. Over the last year, we not only produced the first technical standards (for credit rating agencies (CRAs) and short-selling), but also conducted significant preparatory work for the enormous task of devising the standards for the OTC derivatives markets (under EMIR) this year. We provided advice to the Commission for secondary legislation in the areas of prospectuses and alternative investment funds under AIFMD. Furthermore, we used our powers to issue guidelines and recommendations to enhance the regulatory regime on "Systems and controls in an automated trading environment" as well as on "regulatory framework for ETFs and other UCITS" that will be published by ESMA in June.

Supervisory Convergence

While the single rulebook will be the basis achieving supervisory convergence, purely having a single legal text does not actually achieve convergence in implementation and actual regulation on the ground. Supervisory convergence is still very much work in progress, but I want to point to a number of work streams through which ESMA has actively worked on achieving this common approach to regulation. ESMA has issued opinions on the treatment of sovereign debt under IFRS and on a number of pre-trade transparency waivers - basically agreeing on what the national regulatory treatment should be in these two important areas. During the difficult market period last August, ESMA co-ordinated - without formal legal powers - simultaneous bans on net short positions in Belgium, France, Italy and Spain, playing a role in aligning wherever possible the interpretation and implementation of the measures. Similarly, we coordinated monitoring of market developments and market infrastructure resilience through this difficult period.

ESMA also conducts peer reviews of national authorities' activities, which we publish. These reviews look at such elements as the degree of convergence reached in the application of EU law and in its enforcement. One area which ESMA has recently conducted a peer review on is market abuse and the use of sanctions in this area.

Direct supervision

Going beyond supervisory convergence, ESMA has been given responsibility to directly supervise a number of cross-border market players. In July 2011 we took on the responsibility for the registration and supervision of CRAs wishing to conduct business in the EU. Bringing CRAs under the umbrella of EU supervision is a milestone achievement which will contribute to a sounder rating process and thus more resilient markets and improved investor protection. In this context, we have undertaken our first on-site inspections before the end of the year, and will conduct further individual and thematic supervisory reviews, on-site inspections and off-site monitoring and risk analysis, this year. From 2013, ESMA will also take on direct supervisory responsibility for Trade Repositories (TRs) under the EMIR regulation - expanding the cross EU supervisory role.

Key priorities for 2012

The introduction of new and the overhaul of existing legislation will be a key challenge for ESMA this year. ESMA will work on establishing harmonised binding implementing measures in different areas such as: OTC derivatives (EMIR), investment funds (UCITS), alternative fund managers (AIFMD) and issuers (Prospectus directive). EMIR in particular will dominate our agenda for the next 6 months, with a consultation paper in June and final standards due to be delivered by end September.

In addition, ESMA will provide advice and support on legislation being introduced and debated by Council and Parliament, including MiFID/MiFIR, MAD/MAR, CSD, Venture capital etc. We will need to start conducting some preparatory work in many of these areas, as the issues ESMA is likely to have to work on (once the Level 1 legislative process is completed) are not only numerous but often technically complex and difficult. ESMA will want to collect information and data, for example to support its future work in areas such as non-equity transparency under MiFID/MiFIR.

On the supervision side, 2012 will be the first year in which ESMA will fully exercise its duties on CRAs and - as I already mentioned - needs to prepare itself to also take up supervisory responsibilities for Trade Repositories. ESMA will also need to prepare for the work on supervisory colleges which will be established in 2013 for the regulation of cross-border central counter parties under the OTC derivatives legislation. The reach and impact of these institutions operating in one country could dramatically affect investors and intermediaries of other countries. ESMA will play, in this framework, a co-ordination and a mediation role if needed.

II/ ESMA's stakeholders - national regulators, market players and investors

While ESMA has many new tasks and powers, the new framework is based on effective and extensive cooperation with and between national supervisory authorities. In this context I would like to mention the very active participation by the UK FSA in ESMA's activities, at technical level and in ESMA's Board of Supervisors. It is important for us to have this strong input especially into ESMA's rule making process. In addition, we continue to rely on the UK - as on any other national competent authority - to conduct the day to day supervision of their authorised firms and market infrastructure players, many of which are active across the whole of the Union.

ESMA's mandate is clear: building "one set of rules" for an "effective EU single market" – and I know that UK investors and financial institutions support this motto. It is in the interest of issuers, investors and intermediaries to have the same rules across Europe. It makes it easier for issuers to raise cheaper funding and for financial institutions to develop their business across the EU single market. It is also in the retail investor's interest to have a larger choice of financial products and the same level of protection wherever a product is sold in Europe.

To create this single set of rules and achieve an 'effective EU single market', ESMA needs input not only from national competent authorities, but also from the wider stakeholder community. This includes the key market players - buy side/sell-side, infrastructure, issuers, etc - but also retail investors, small and medium size companies as well as the European institutions. We are dependent on receiving thoughtful and informed views, but also data and information that allows us to evaluate different policy options impartially, in order to develop the high quality standards and advice that you expect from us on the wide range of topics that are under ESMA's remit.

In this context, I would remind this audience that while it may be the national tendency to see rules and regulations emanating from Brussels as an attempt to stifle the UK's financial services sector, they should view this consultative process as an opportunity for them to contribute to the development of a regulatory system which takes into account the best attributes of Europe's largest capital market while ensuring that these markets are allowed to flourish to the benefit of all.

III/ ESMA's role in international cooperation

On international cooperation ESMA will play a central role with the objective of fostering consistent application of European rules toward third country entities. In coordination with the European Commission, ESMA will also ensure that Europe speaks with one single voice when it has to deal with third county regulators and will strengthen Europe's position.

Global leaders have established common objectives at G20 levels and regulators have set up a number of international groups aiming at international consistency of the different regimes. At the end of the process we will need to rely on equivalence and co-operation among authorities. We will never be effective if a single regulator seeks to regulate global financial markets from one single location. ESMA is already and will continue to play its full role in the global dialogue, whether that is in relation to the OTC derivative agenda, the regulation of CRAs or alternative investment fund managers.

Concluding remarks

I would like to conclude by saying that ESMA has a big contribution to make to the new European system and financial supervision. I have explained this morning what we have already done and what we are planning to do, to contribute to the objective of a stable financial market for Europe. In this endeavour we will be working closely with national supervisors, the European institutions and our wider stakeholders, while also keeping an eye on the international dimension of financial markets.