



SUMMARY OF CONCLUSIONS

Management Board

Date: 16 April 2012
Time: 15:00 – 18:00h
Location: ESMA, 103 rue de Grenelle, 75007 Paris
Contact: verena.ross@esma.europa.eu T: +33 1 58 36 51 13

No Items

1. Adoption of agenda *MB/16* *decision*

Decision: The agenda was adopted.

2. Summary of conclusions of February meeting *MB/15* *decision*

Decision: The summaries of conclusions were adopted.

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

The Chair reported on:

- the need for organising an additional meeting of the Board of Supervisors at the end of September in order to submit the draft technical standards on EMIR to the European Commission by the deadline of 30 September 2012.
The Management Board agreed that it was not necessary to organise a meeting of the Management Board prior to the additional Board of Supervisors meeting;
- his participation in the ESRB General Board meeting on 22 March, the informal ECOFIN meeting on 31 March, the EFC-FST meeting on 23 March and a hearing on CRA's before the French Senate on 27 March. The Chair noted the need for permanent representation of the ESA's at informal ECOFIN meetings;
- a meeting with Director General Internal Market Jonathan Faull where he discussed issues such as ESMA's advice on the AIFM Directive, the 2013 budget and the level of representatives from national competent authorities in the ESMA Board of Supervisors.

With regard to the level of representatives from national competent authorities in the ESMA Board of Supervisors, the Chair indicated that ESMA had received several notifications from national competent authorities of a change of their representation in the Board of Supervisors. The Chair, supported by the European Commission, stressed the importance of adequate representation. ESMA staff is looking into the notifications and will approach national competent authorities in case of doubt; national competent authorities should check if they are represented at the right level.

With regard to ESMA's advice on the AIFM Directive, the Chair noted that the differences between the advice from ESMA and the Commission's draft implementing acts were not as substantial as implied by some media. The Management Board and the Commission agreed that while in some cases ESMA and the Commission may have diverging views and the advice from ESMA will not be fully taken on board, it is important to be transparent and inform each other as early as possible.

- the procedure for the election of Chairs of the Standing Committees. The Chair will bring forward a proposal for the procedure of the election to the Board of Supervisors meeting in June, while the actual election will take place after the summer. The Management Board agreed with the proposed timetable;
- the first assessment of the received comments regarding the procedure for Breach of Union Law cases. The responses showed overall support for the proposed procedure, while diverging views were expressed regarding opening and closing a case. The note will be amended taking into account the comments and will be discussed within the Joint Committee. A final proposal will be submitted to the Board of Supervisors for approval.

The Executive Director reported on:

- the on-going discussions with the European Commission on the repayment of the 2011 budget surplus and the 2013 budget. DG Budget has indicated that they intend to cut the CRA part of the 2013 budget by 15 persons as a result of the new tasks resulting from the CRA III legislative proposal. The Commission indicated that Commissioner Barnier has sent a letter to DG Budget in order to solve both issues as soon as possible. Also, Director General Internal Market Jonathan Faull is currently discussing it with DG Budget;
- ESMA's activities in the field of CRA supervision and cooperation with 3rd country regulators, where ESMA will announce that it considers the regulatory frameworks for CRAs of Argentina and Mexico to be in line with European rules, while ESMA staff is finalising the assessment of Brazil; and
- the visits from the European Court of Auditors to ESMA and its overall positive initial feedback.

4. Progress report Q1

MB/17

Information

The Executive Director presented the document, reflecting the key achievements of ESMA in the first quarter of 2012. The Board discussed the document, in particular:

- the lessons learned from the first year with regard to the under spending of budget in the areas of recruitment and IT activities;
- the process for recruitments throughout the whole year; and
- the staffing, outsourcing and procurement in the area of information technology.



Conclusion: The Board will be kept updated regularly on the key activities.

5. Rules of Procedure Management Board

*MB/18 & Decision
2011/MB/1*

The Head of the Legal, Cooperation and Convergence Unit presented the document, noting that when the rules of procedure were adopted in 2011 it was agreed that they should be reviewed after a year.

The Management Board discussed the report, in particular;

- the preference to align the rules of procedures with the other ESAs;
- whether a failure to vote should be counted as consent or abstention; and
- the need for active participation by all members in case of a vote by written procedure.

Decision: It was decided that the Management Board members will always cast a vote in case of a written procedure and therefore the principle ‘silence means approval’ will not be applicable. The Rules of Procedure will be revised taking into account the discussion and tabled for approval at the next meeting of the Management Board.

6. Medium-term objectives for CRA supervision

MB/19 Discussion

The Head of the Credit Rating Agencies Unit presented the medium-term strategic objectives for CRA supervision in order to seek guidance from the Management Board.

The Management Board discussed the report, noting in particular:

- the respective roles of the Management Board and the Board of Supervisors in the approval and on-going monitoring of the CRA unit’s supervision plans and its involvement in enforcement procedures; and
- the need for more detailed reporting to the Boards of ESMA on the unit’s activities in order to be able to discuss the medium- and long-term strategy on CRA supervision.

The Chair and Executive Director further clarified the role of ESMA staff being responsible for the day-to-day supervision of CRA’s while the medium and long-term strategic direction of ESMA’s supervisory tasks and policy issues should be discussed by the Boards of ESMA. When deciding on the level of information to be provided, potential problems arising out of the disclosure of firm-specific information and the clear role of the Board of Supervisors in enforcement cases as laid down in the CRA Regulation should be taken into account.

Decision: It was agreed that ESMA staff will draft a more granular paper on the risks regarding CRAs which will facilitate the Boards to judge the proposed medium-term strategy.

7. Board of Appeal remuneration

MB/20 Decision

The Chair presented the report, explaining that in the written procedure two members did not approve the proposal for the level of remuneration of the members of the Board of Appeal while two other members



expressed concerns on the level of remuneration and requested further information on the impact on ESMA's budget to take an informed decision.

The Management Board discussed the report, noting in particular;

- the level of the remuneration in comparison with other agencies; and
- the cost of the increase of the remuneration and the impact on the budget.

Decision: The Management Board approved the proposal for the remuneration of the Board of Appeal. Karl-Burkhard Caspari (DE), Kurt Pribil (AT) and Raul Malmstein (EE) did not approve the proposal. The remuneration of the Board of Appeal will be further discussed within the Joint Committee.

8. ESMA regulatory work programme 2012

*MB/21 & Decision
annex*

The Executive Director and the Head of the Operations Division presented the report, explaining that according to the procedure for developing and adopting draft regulatory standards and guidelines and recommendations, ESMA should draft a regulatory programme. Due to uncertainties in the legislative programme the drafting of the work programme was delayed.

The Management Board discussed the work programme, noting in particular the amount of work to be delivered and the possible need for prioritisation.

Decision: The Management Board agreed to propose the regulatory work programme for 2012 to the Board of Supervisors. The technical standards on PRIPs will be deleted from the work programme since the Commission proposal is not yet finalised. Fernando Restoy (ES) will send minor comments by email to be included.

9. Revision of the IT Work Programme

MB/22 Decision

The Head of the Operations Division presented the report, explaining that the original work plan has been revised according to the progress of the existing projects.

The Management Board discussed the report, noting in particular:

- the possibility of outsourcing IT projects to a limited number of contractors in order to have a consistent approach throughout different projects;
- the prioritisation of the different work streams, in particular the video conferencing system and the project MiFID art. 41 – suspensions from trading;

Decision: The Management Board approved the revised 2012 IT work plan. If the outcome of the discussion of the work plan in the ITMG will result in revised figures outside the initial budget envelope, a new work programme will be presented to the Management Board. The Management Board agreed that ESMA staff should start working on a basic video conferencing system.

10. Update on extension of premises

MB/23 Discussion

The Executive Director and the Head of the Operations Division presented the report, explaining the

possibilities for extension of the premises and the preferred way forward.

Decision: The Management Board agreed with the proposal to start negotiating for the rental of the second part of the third floor and the second floor immediately in order to ensure stability in the long term.

11. Annual Report

MB/24

Discussion

The Executive Director updated the members on the process of ESMA's annual report 2011 and requested general views from the Management Board.

The Board discussed the report, in particular:

- the possibility to further evolve the macro-economic part on e.g. sovereign debt and the restructuring of the Greek sovereign debt;
- to further clarify the role of the Board of Supervisors; and
- the need for amendments to the items ESMA legislation and tasks (3.2) and International Financial Reporting Standards (3.6).

Conclusion: Detailed comments on the Annual Report should be sent by 20 April. A revised version will be sent to the Board of Supervisors for final comments by 4 May. The report has to be sent to the European Council, Parliament and Commission by 15 June.

12. Budget transfers

MB/25

Information

The Head of the Operations Division updated the Management Board on the budget transfers.

13. Board of Supervisors forward agenda

MB/26

Information

The Management Board took notice of the Board of Supervisors forward agenda.

14. Future meetings

Information

- 18 June 2012 (pm) (Copenhagen, Denmark)
- 10 September 2012 (pm) (Paris)
- 5 November 2012 (pm) (Nicosia, Cyprus)
- 17 December 2012 (pm) (Paris)



PARTICIPANT LIST

	Members	Advisers
ESMA	Steven Maijoor (Chair)	
DE	Karl-Burkhard Caspari	Philipp Sudeck
EE	Raul Malmstein	Gerle Reinumägi
ES	Fernando Restoy	Antonio Mas
LU	Jean Guill	
AT	Kurt Pribil	Andrea Kuras-Goldmann
UK	Martin Wheatley	Cristina Frazer

European Commission	Emil Paulis
Vice-Chair	Carlos Tavares Manuel Costa
Executive Director	Verena Ross
Head of Operations Division	Nicolas Vasse
Head of Credit Rating Agencies Unit	Felix Flinterman
Head of Legal, Cooperation and Convergence Unit	Stephan Karas
Senior Communications Officer	David Cliffe
Minutes	Max Simonis



Steven Maijoor
Chair