

SUMMARY OF CONCLUSIONS

Board of Supervisors

Date: 12 July 2016
Time: 09h00 – 17h00
Location: ESMA, rue de Grenelle 103, 75007 Paris, France
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1. Adoption of agenda BS/165 Decision

Decision: The agenda was adopted.

2. Summary of Conclusions

— 25 May 2016 meeting BS/151re Decision
v1

Decision: The Board approved the summary of conclusions of the 25 May 2016 meeting.

3. Report by Chair and Executive Director Oral Information

The Chair reported on

- ESMA's activities related to the referendum organised by the government of the United Kingdom (UK) on the UK's membership of the European Union and on the resignation of Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union;
- The activities of the European Systemic Risk Board (ESRB);
- The activities of the Joint Committee and in particular on the process to adopt Q&As stemming from the Regulation on Packaged retail and insurance-based investment products (PRIIPS) and the letter to the European Commission on bilateral margins; and
- The scrutiny slot organised by the European Parliament in relation to the draft MiFID II regulatory technical standards developed by ESMA.

The Executive Director reported on

- The planned launch of the European Rating Platform (ERP) in September 2016; and
- The June 2016 meeting of the Financial Services Committee (FSC) and in particular the discussion on CCP recovery and resolution.

4. Committee for Economics and Markets Analysis

— Report by Misu Negritou BS/172 Information

Conclusion: The Head of Risk Analysis and Economics Department presented the report and the accompanying documents.

- Trends, Risks and Vulnerabilities Report Annex 2-4 Discussion
- Risk Dashboard Annex 1-3 Discussion

The Board discussed the trends, risks and vulnerabilities report and the risk dashboard (including an amendment following the outcome of the UK referendum), in particular the

- Liquidity position of real estate funds; and
- Ongoing macro-prudential activities.

Decision: The Board endorsed the trends, risks and vulnerabilities report and the risk dashboard which will be presented for adopted by written procedure. The Board adopted the amendment to the risk dashboard following the UK referendum.

5. Financial Innovation Standing Committee

- Report by Jean-Paul Servais BS/173 Information

Conclusion: Jean-Paul Servais presented the report and accompanying documents.

- Presentation on Fintech Annex 1 Discussion

The Board discussed the presentation on fintech, in particular

- The benefits of new technologies and how retail investors might be impacted including the potential changing role of financial advice;
- The cross-sectoral nature and impact of technical developments such as cybersecurity and privacy; and
- How Fintech could affect the role of and data-collection by securities regulators.

Conclusion: The Board welcomed the discussion and agreed that the Board will be updated regularly on developments in the area. The Board instructed the Financial Innovation Standing Committee (FISC) and the Investor Protection and Intermediaries Standing Committee (IPISC) to assess how such new technologies fit within the existing legal framework.

- Crowdfunding supervisory forum terms of reference Annex 2 Decision

Decision: The Board adopted the terms of reference of the crowdfunding supervisory forum.

6. Market Integrity Standing Committee

- Report by Giuseppe Vegas BS/174 Information

Conclusion: Giuseppe Vegas presented the report and accompanying documents.

- Final report on MAR guidelines on (i) persons receiving market soundings and (ii) legitimate interests for delaying disclosure of inside information and situation where delay is likely to mislead the public Annex 1 Decision

Decision: The Board adopted the final report on the MAR guidelines.

- MAR ITS on exchange of information on investigation, sanctions and measures Annex 2 Decision

The Board discussed the MAR ITS on exchange of information on investigation, sanctions and measures, and in particular the reporting on the criminal investigations and sanctions that have been opened and that are ongoing.

Decision: The Board adopted the MAR ITS on exchange of information on investigation, sanctions and measures. Pavel Hollman (CZ) voted against.

- Q&A on the application of MAR Annex 3-4 Decision

Decision: The Board adopted the Q&A on the application of MAR.

- Template for written arrangement of colleges for benchmarks Annex 5 Decision

The Board discussed the template for written arrangement of colleges for benchmarks and in particular the proposed decision making.

Decision: The Board endorsed the template for written arrangement of colleges for benchmarks agreeing that a failure to vote (which are in written including by electronic means) within the specified time shall be considered a vote in favour of the proposal made by the chairing authority. ESMA staff will further assess the appropriate legal format for the template before final adoption by the Board.

7. ESMA organisation

- Orientation debate on the 2017 supervisory convergence work programme BS/175 Discussion

The Head of the Legal, Convergence and Enforcement Department presented the supporting note on the orientation debate on the 2017 supervisory convergence work programme.

The Board discussed the draft work programme, in particular:

- The European Commission's initiative to establish a capital markets union as key factor promoting supervisory convergence;
- How further progress could be made in relation to data quality and the use of peer reviews;
- The potential for regulatory arbitrage following the outcome of the UK referendum; and
- The importance of achieving supervisory convergence prior to decisions taken by national competent authorities.

Conclusion: The Board provided a strategic steer on the 2017 supervisory convergence work programme which will be presented to the Board later for approval.

- ESMA financial stability activities in EU and international fora BS/176 Discussion

The Head of the Risk Analysis and Economics Department presented ESMA's financial stability activities in EU and international fora.

The Board discussed the update, in particular:

- The importance of involvement of securities regulators within the wider debate on financial stability; and
- The potential coordination role ESMA could play.

Conclusion: The Board took note of the update and endorsed the ongoing activities.

- Incorporation of recent financial services law into the European Economic Area Agreement BS/177 Information

The Board discussed the note on the incorporation of the ESAs Regulations and recent financial services law into the European Economic Area (EEA) Agreement.

The Chair clarified that the 3 EFTA-EEA Member States, like the EFTA Surveillance Authority, will become non-voting members.

Conclusion: The Board took note of the upcoming incorporation of the ESAs Regulations and recent financial services law into the EEA Agreement and related proceedings.

- Opinions on transparency waivers and position limits BS/178 Discussion

The Head of the Markets Department presented the note on the opinions on transparency waivers and position limits by highlighting the need for Board Members to appoint representatives to participate in the Commodity Derivatives Task Force (CDTF).

Conclusion: The Board endorsed the suggested way forward.

- Rules of Procedure on Professional Secrecy of Board Members BS/179 & Discussion
Annex 1

The Head of the Legal, Convergence and Enforcement Department presented the rules of procedure on professional secrecy of Board Members.

The Board discussed the draft rules of procedure, in particular:

- The benefits of the naming-and-shaming-policy as set out by the Board during its January 2016 meeting;
- The potential remedial measures to be taken by national competent authorities on the proposal of the Management Board; and
- Whether there is a need for further legal analysis;

Conclusion: The rules of procedures will be further developed together with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) after which they will be presented to the Board for adoption. Tomas Ambra (SK) noted his objection to the proposed rules of procedure.

8. Supervisory Convergence Standing Committee

- Report by Lourdes Centeno BS/180 Information

Conclusion: Lourdes Centeno presented the report and accompanying documents.

- Common Framework for the use of convergence tools Annex 1 Information

Conclusion: The Board took note of the common framework for the use of convergence tools.

- Mandate for a peer review on Enforcement of Financial Information Guidelines Annex 2 Decision

Decision: The Board adopted the mandate for a peer review on the guidelines on enforcement of financial information.

9. Investment Management Standing Committee

- Report by Gareth Murphy BS/181 Information

Conclusion: Gareth Murphy presented the report and accompanying documents.

Decision: The Board adopted the consultation paper on guidelines on validation and review of CRA’s methodologies.

12. Post-Trading Standing Committee

- Report by Giuseppe Vegas BS/184 Information

Conclusion: Giuseppe Vegas presented the report and the accompanying documents.

- Consultation paper on the clearing obligation for counterparties with a limited volume of activity Annex 1 Decision

Decision: The Board adopted the consultation paper on the clearing obligation for counterparties with a limited volume of activity.

- Note and Consultation paper on access to TR data under SFTR and EMIR Annex 2 Decision

The Board discussed the consultation paper on access to trade repository data under the Securities Financing Transaction Regulation (SFTR) and EMIR, in particular the potential approaches on access.

Decision: The Board agreed that the consultation paper should be drafted applying a territorial approach for SFTR and keep a functional approach for EMIR.

- Consultation paper on registration requirements for TRs under SFTR Annex 3 Decision

Decision: The Board endorsed the policy lines of the consultation paper on registration requirements for trade repositories under the SFTR.

- Framework for 2016 CCP stress-test exercise Annex 4 Discussion

The Board discussed the framework for the 2016 CCP stress-test exercise, in particular the need for appropriate resourcing.

Decision: It was decided that the framework will be developed along the lines presented (including liquidity risk) and ESMA staff will further detail the resources needed to conduct the 2016 CCP stress-testing exercise.

- Terms of Reference for the CCP Stress Test Task Force Annex 5 Decision

Decision: The Board adopted the terms of reference for the CCP stress-test task force.

13. Market Data Standing Committee

- Report by David Lawton BS/185 Information

Conclusion: David Lawton presented the report and the accompanying documents by highlighting the short delay on the work related to the Securities Financing Transaction Reporting (SFTR) work.

- EMIR Q&A Annex 1 Decision

Decision: The Board adopted the EMIR Q&A.

14. Corporate Reporting Standing Committee

- Report by Hannelore Lausch BS/186 Information

Conclusion: Hannelore Lausch presented the report and the accompanying documents.

- Public statement on application of IFRS 9 – Financial Instruments Annex 1 Decision

Decision: The Board adopted the public statement on the application of IFRS 9 – Financial Instruments.

- Public statement on application of IFRS 15 – Revenue from Contracts with Customers Annex 2 Decision

Decision: The Board adopted the public statement on the application of IFRS 15 – Revenue from Contracts with Customers.

15. Corporate Finance Standing Committee

- Report by Gerard Rameix BS/187 Information

Conclusion: Gerard Ramaix presented the report and the accompanying documents.

- Q&As on Prospectus Directive Annex 1 Decision

Decision: The Board adopted the Q&A on Prospectus Directive

- Terms of Reference Task Force on the new Prospectus Regulation Annex 2 Decision

Decision: The Board adopted the terms of reference of the task force on the new prospectus Regulation.

16. A.O.B.

- Referring to the ongoing supervisory activities by the Single Supervisory Mechanism (SSM) Anneli Tuominen (SU) highlighted the importance of good co-operation with the European Central Bank and the consistent application of MAR disclosure requirements by national securities regulators. It was agreed that further information will be shared with the Board of Supervisors in relation to the issues raised by the SSM in relation to disclosure of pillar 2 guidance. The Market Integrity Standing Committee was instructed to consider how further supervisory convergence could be achieved in this area; and
- Anneli Tuominen (SU) informed the Board about potential unclarity in one of the definitions of the Market Abuse Regulation when comparing different language versions. It was agreed that ESMA staff and the European Commission Services should further look into this.

Participants list

Voting members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	Antoine van Cauwenberge
Bulgaria	Todor Vylchev (alternate)	
Czech Republic	Pavel Hollmann	
Denmark	Birgitte Sogaard Holm	
Germany	Elisabeth Roegele	Miriam Geßler
Estonia	Kilvar Kessler (alternate)	
Ireland	Cyril Roux	Gareth Murphy Cian Murphy
Greece	Charlampos Gotsis	Anastasia Maltoudi
Spain	Lourdes Centeno	Antonio Mas
France	Gerard Rameix	Francoise Buisson Antonio Ocana Alvarez
Croatia	Petar-Pierre Matek	
Italy	Giuseppe Vegas	Nicoletta Giusto
Cyprus	Demetra Kalogerou	Liana Ioannidou
Latvia	Sandis Andersmits (alternate)	

Lithuania	Vytautas Valvonis	
Luxembourg	Claude Marx	Francoise Kauthen
Hungary	Gergo Szeniczey (alternate)	
Malta	Marianne Scicluna	
Netherlands	Merel van Vroonhoven	Johan de Groot Ellen Boelema
Austria	Klaus Kumpfmuller	Andrea Kuras-Goldmann
Poland	Ilona Pieczynska-Czerny(alternate)	Joanna Kott
Portugal	Gabriela Figueiredo Dias (alternate)	Cristina Dias
Romania	Mircea Ursache (alternate)	Raluca Tariuc
Slovenia	Sabina Bešter (alternate)	
Slovakia	Tomas Ambra (alternate)	Adam Nadasky
Finland	Anneli Tuominen	Jarmo Parkkonen Ville Kajala
Sweden	Sophie Degenne (alternate)	Oskar Ode
United Kingdom	Andrew Bailey	David Lawton Eleftheria Apostolidou

Non-voting members

ESMA Chair	Steven Maijoor	
European Commission	Ugo Bassi	Uwe Eiteljoerge
ESRB	Francesco Mazzaferro	
EBA	Fausto Parente	

Observers

Iceland	Sigurveig Guðmundsdóttir	
Liechtenstein	Marcel Loetscher	
Norway	Anne Merethe Bellamy	Marianne Elind Skaanne

ESMA

Executive Director	Verena Ross
Summary of Conclusions	Frederiek Vermeulen
Head of Markets Department	Rodrigo Buenaventura
Head of Risk Analysis and Economics	Steffen Kern
Head of Legal, Convergence and Enforcement	Sophie Vuarlot-Dignac
Head of Corporate Affairs Department	Mette Sicard Filtenborg

Team Leader Post-Trading	Fabrizio Planta
Team Leader Investor Protection	Salvatore Gnoni
Team Leader Asset Management	Richard Stobo

Done at Bratislava on 28 September 2016

Steven Maijor

For the Board of Supervisors