

SUMMARY OF CONCLUSIONS

Board of Supervisors

Date: 7 – 8 July 2020
Time: 14h30 – 18h30 (7 July 2020) and 09h00 – 13h00 (8 July 2020)
Location: Conference call
Contact: frederiek.vermeulen@esma.europa.eu Tel: +33 1 58 36 43 37

1. Adoption of agenda Decision

Decision: The agenda was adopted.

2. Confirmation of absence of conflict of interests Decision

Decision: The Board endorsed the Chair's statement not to have received any indication by a Board Member of any interest which might be considered prejudicial to her/his independence in relation to any items on the agenda

3. Oral Report by Chair and Executive Director Information

The Chair reported on

- A letter received from the European Commission requesting ESMA to carry out a fact-finding analysis of the events leading to the collapse of Wirecard AG and of the supervisory response to these events;
- His upcoming meeting with Valdis Dombrovskis, European Commission Executive Vice-President, to discuss, amongst other things, the European Commission's work in relation to the Capital Markets Union initiative;
- His interactions with Members of the European Parliament, in particular in relation to the set-up of the CCP Supervisory Committee;
- The activities of the Joint Committee, in particular its 2021 work programme and the Final Report on the PRIIPs Regulatory Technical Standards presented to the Board of Supervisors for adoption by written procedure;
- The activities of the Market Integrity Standing Committee (MISC) on MAR transparency and interactions with the prudential supervisory framework;
- The activities of the European Systemic Risk Board (ESRB), in particular on (i) the General Board's discussion on the procyclical impact of downgrades of bonds on markets and entities across the financial system and (ii) the ESRB Recommendation and report on liquidity risks arising from margin calls;

- The activities of the International Organization for Securities Commissions (IOSCO), in particular the project analysing government support measures and their impact on credit rating methodologies; and
- The first meeting of the Securities and Markets Stakeholder Group (SMSG) in its new composition planned for 9 July 2020.

The Executive Director reported on

- The recent meeting of the Financial Services Committee, in particular (i) the discussions and updates regarding risk assessments and measures taken in relation to the COVID-19 crisis and (ii) the update on sustainable finance;
- The fact that ESMA is looking into the recommendations to the European Banking Authority (EBA) from the EU Ombudsman on post-employment restrictions and the letter received from a Member of the European Parliament in that respect;
- The impact of the COVID19-pandemic on ESMA's activities, in particular the gradual return to the office by ESMA staff; and
- The increased cyber-attacks targeting EU Institutions and bodies, including ESMA.

Elisabeth Roegele (DE) presented the priorities for the German presidency of the Council of the European Union.

The European Commission representative updated the Board on

- The outcome of the discussion between the EU Institutions on the CCP recovery and resolution proposal; and
- The ongoing work in relation to the review of MIFID II.

4. Capital Markets Union

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| 1) Presentation | Discussion |
| 2) European Commission CMU High Level Forum Report | Information |

Conclusion: The agenda item was postponed to a future meeting. Board Members were invited to provide comments in writing.

5. Trends, risks and vulnerabilities report

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| 1) Cover Note | Discussion |
| 2) Presentation | Discussion |
| 3) TRV | Discussion |
| 4) Statistical Annex | Discussion |

Carmine Di Noia and the Head of Risk Assessment and Economics presented the trends, risks and vulnerabilities report.

The Board discussed the report, in particular:

- The continued high-risk levels in financial markets and the interlinkages with the real economy;
- The publication of a chart showing net short positions grouped by Member-States with bans and the need for further analysis and evaluation of short selling bans;
- The articles on (i) the cost and performance of closet indexing funds and (ii) MIFID II research and unbundling, in particular the need to further enhance the data analysis on the latter;

- ESMA's ongoing work in relation to asset management, in particular following the Covid-19 related financial market developments and the European Systemic Risk Board (ESRB) recommendation on liquidity risks in investment funds; and
- The level of Initial Public Offerings (IPOs) across the EU.

Conclusion: The Board discussed the report. A revised version will be prepared and presented for adoption by written procedure. ESMA staff was specifically asked to look into the article on MIFID research and unbundling.

6. UK withdrawal from the European Union

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| 1) Update note | Discussion |
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The Head of Governance and External Affairs Department and the Head of Markets and Data Reporting Department presented the note.

The European Commission representative provided an update on the ongoing negotiations between the European Union (EU) and the United Kingdom (UK) and the co-operation with the UK authorities.

The Board discussed the note, in particular:

- The importance of ensuring transparency in the context of EMIR/SFTR in case of delegated reporting;
- The status and implementation of the EMIR 2.2. delegated acts in light of the UK's withdrawal and the establishment of the CCP Supervisory Committee;
- The status of the Memoranda of Understanding between the EU and the UK authorities; and
- Whether further communication to market participants, including retail investors, should be envisaged.

Conclusion: The Board took note of the update.

7. EMIR 2.2 delegated acts

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| 1) Issues Note | Discussion |
| 2) Letter | Discussion |

The Head of Markets and Data Reporting Department presented the note and the public letter to the European Commission.

The Board discussed the letter, in particular the feedback to the Commission for the finalisation of the Delegated Acts, including the importance of CCP requirements set out in Commission Delegated Regulation 153/2013 in the assessment for comparable compliance and the need to ensure a level playing field with EU-CCPs.

Conclusion: The Board endorsed sending the letter to the European Commission.

8. Update on May 2020 T2S incident

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| 1) Issues Note | Discussion |
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Carmine Di Noia presented the note on the May 2020 T2S incident.

The Board discussed the note, in particular the need for a timely exchange of information with national competent authorities.

Conclusion: The Board agreed with the suggested way forward.

9. MIFID review – Equity Transparency

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| 1) | Cover Note | Discussion |
| 2) | Final report equity transparency | Decision |

Decision: The Board adopted the Final Report on equity transparency. Following a vote, the Board opted in relation to

- Reference price waiver to suggest introducing a “minimum size threshold” for the use of this waiver;
- To maintain the waiver for negotiated transactions for liquid and illiquid instruments in its current form’;
- The scope of the share trading obligation, to adopt the ISIN + currency approach; and
- Whether systematic internalisers (SIs) should remain an eligible execution venue under the share trading obligation, to maintain the current approach.

Vote 1: reference price waiver

	Maintain current regime	Minimum size threshold	Abstain
Jean-Paul Servais (BE)		X	
Mariya Filipova (BG)		X	
Jurica Jednacak (HR)		X	
Vojtech Belling CZ)	X		
Karen Dortea Abelskov (DK)		X	
Elisabeth Roegele (DE)		X	
Andre Nõmm (EE)		X	
Colm Kincaid (IE)	X		
Vasiliki Lazarakou (EL)		X	
Sebastian Albella (ES)		X	
Robert Ophèle (FR)		X	
Carmine Di Noia (IT)			X

Demetra Kalogirou (CY)		X	
Ieva Ose (LV)		X	
Vaidas Cibas (LT)		X	
Claude Marx (LU)	X		
Krisztian Csaky (HU)		X	
Christopher Buttigieg (MT)		X	
Jos Heuvelman (NL)		X	
Eduard Mueller (AT)		X	
Magdalena Łapsa-Parczewska (PL)	X		
Gabriela Figueiredo Dias (PT)		X	
Florentina Boboc (RO)	X		
Sabina Bester (SL)	X		
Tomas Ambra (SK)		X	
Anneli Tuominen (SU)		X	
Malin Omberg (SE)		X	
Steven Maijoor (ESMA)		X	

Vote 2: negotiated transactions for liquid and illiquid instruments

	Maintain current approach	Limit to technical trade only	Abstain
Jean-Paul Servais (BE)		X	
Mariya Filipova (BG)	X		
Jurica Jednacak (HR)	X		
Vojtech Belling CZ)	X		

Karen Dortea Abelskov (DK)	X		
Elisabeth Roegele (DE)		X	
Andre Nõmm (EE)		X	
Colm Kincaid (IE)	X		
Vasiliki Lazarakou (EL)		X	
Sebastian Albella (ES)		X	
Robert Ophèle (FR)		X	
Carmine Di Noia (IT)	X		
Demetra Kalogirou (CY)		X	
Ieva Ose (LV)	X		
Vaidas Cibas (LT)		X	
Claude Marx (LU)	X		
Krisztian Csaky (HU)	X		
Christopher Buttigieg (MT)	X		
Jos Heuvelman (NL)	X		
Eduard Mueller (AT)		X	
Magdalena Łapsa-Parczewska (PL)	X		
Gabriela Figueiredo Dias (PT)		X	
Florentina Boboc (RO)		X	
Sabina Bester (SL)		X	
Tomas Ambra (SK)	X		
Anneli Tuominen (SU)		X	
Malin Omberg (SE)	X		
Steven Maijoor (ESMA)			X

Vote 3: Share Trading Obligation

	ISIN + currency approach	Admission to trading approach	Abstain
Jean-Paul Servais (BE)	X		
Mariya Filipova (BG)	X		
Jurica Jednacak (HR)	X		
Vojtech Belling CZ)	X		
Karen Dorteab Abelskov (DK)	X		
Elisabeth Roegele (DE)		X	
Andre Nõmm (EE)		X	
Colm Kincaid (IE)	X		
Vasiliki Lazarakou (EL)		X	
Sebastian Albella (ES)	X		
Robert Ophèle (FR)	X		
Carmine Di Noia (IT)	X		
Demetra Kalogirou (CY)		X	
Ieva Ose (LV)	X		
Vaidas Cibas (LT)		X	
Claude Marx (LU)	X		
Krisztian Csaky (HU)		X	
Christopher Buttigieg (MT)	X		
Jos Heuvelman (NL)	X		
Eduard Mueller (AT)	X		
Magdalena Łapsa-Parczewska (PL)	X		

Gabriela Figueiredo Dias (PT)		X	
Florentina Boboc (RO)		X	
Sabina Bester (SL)	X		
Tomas Ambra (SK)	X		
Anneli Tuominen (SU)	X		
Malin Omberg (SE)	X		
Steven Maijoor (ESMA)	X		

Vote 4: systematic internalisers

	Maintain current approach	limiting to transactions above the pre-trade large-in-scale	Abstain
Jean-Paul Servais (BE)	X		
Mariya Filipova (BG)	X		
Jurica Jednacak (HR)	X		
Vojtech Belling CZ)	X		
Karen Dorte Abelskov (DK)	X		
Elisabeth Roegele (DE)	X		
Andre Nõmm (EE)	X		
Colm Kincaid (IE)	X		
Vasiliki Lazarakou (EL)		X	
Sebastian Albella (ES)		X	
Robert Ophèle (FR)		X	
Carmine Di Noia (IT)	X		
Demetra Kalogirou (CY)		X	

Ieva Ose (LV)		X	
Vaidas Cibas (LT)	X		
Claude Marx (LU)		X	
Krisztian Csaky (HU)		X	
Christopher Buttigieg (MT)	X		
Jos Heuvelman (NL)		X	
Eduard Mueller (AT)	X		
Magdalena Łapsa-Parczewska (PL)	X		
Gabriela Figueiredo Dias (PT)		X	
Florentina Boboc (RO)	X		
Sabina Bester (SL)	X		
Tomas Ambra (SK)	X		
Anneli Tuominen (SU)	X		
Malin Omberg (SE)		X	
Steven Maijor (ESMA)	X		

10. Commodity derivatives

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| 1) Cover Note | Discussion |
| 2) Opinion on ancillary activity | Decision |

Decision: The Board adopted the opinion on ancillary activity. Regarding the recalculations of the figures in light of some errors detected, the Board decided, following a vote, to maintain the 2018 figures.

	Correct 2018 figures	Maintain 2018 figures	Abstain
Jean-Paul Servais (BE)		X	

Mariya Filipova (BG)	X		
Jurica Jednacak (HR)		X	
Vojtech Belling CZ)		X	
Karen Dorte Abelskov (DK)		X	
Elisabeth Roegele (DE)		X	
Andre Nõmm (EE)		X	
Colm Kincaid (IE)		X	
Vasiliki Lazarakou (EL)			X
Sebastian Albella (ES)			X
Robert Ophèle (FR)		X	
Carmine Di Noia (IT)			X
Demetra Kalogirou (CY)			X
Ieva Ose (LV)	X		
Vaidas Cibas (LT)		X	
Claude Marx (LU)			X
Krisztian Csaky (HU)		X	
Christopher Buttigieg (MT)		X	
Jos Heuvelman (NL)	X		
Eduard Mueller (AT)	X		
Magdalena Łapsa-Parczewska (PL)		X	
Gabriela Figueiredo Dias (PT)	X		
Florentina Boboc (RO)		X	
Sabina Bester (SL)		X	
Tomas Ambra (SK)		X	

Anneli Tuominen (SU)		X	
Malin Omberg (SE)		X	
Steven Maijor (ESMA)			X

11. Sustainable finance

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| 1) Cover Note | Discussion |
| 2) ESMA's response to the European Commission's consultation on a renewed sustainable finance strategy | Decision |

Ana Martínez-Pina Garcia presented the response to the European Commission's consultation on a renewed sustainable finance strategy.

The Board discussed the response, in particular:

- Whether EU-wide ESG labels should be promoted more intensively; and
- The important role of non-financial reporting standards.

Decision: The Board adopted the response to the European Commission's consultation.

12. ESA review

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| 1) Fostering and monitoring NCAs' supervisory independence | Discussion |
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The Team Leader Supervisory Convergence presented the note on fostering and monitoring national competent authorities' supervisory independence.

The Board discussed the report, in particular the:

- Need to consider both independence from political bodies and from the industry;
- Structural differences due to the set-up of national competent authorities, including specific independence requirements of national central banks; and
- Interaction with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) on the topic.

Conclusion: The Board agreed with the suggested way forward.

13. MMF statements

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| 1) Cover note | Discussion |
| 2) Statement on ESMA guidelines on stress test scenarios under the MMF Regulation | Decision |

Gabriela Figueredo Dias presented the Statement on ESMA guidelines on stress test scenarios under the MMF Regulation.

The Board discussed the Statement, in particular the stress test scenarios.

The ESRB representative suggested that the ESRB could develop updated stress test scenarios in the upcoming months.

Decision: The Board asked ESMA staff to further consider the stress test scenarios in close co-operation with ESRB staff.

3) Statement on external support under the MMF Regulation

Decision

Gabriela Figueredo Dias presented the Statement on external support under the MMF Regulation.

Decision: Following a vote, the Board adopted the Statement on external support under the MMF Regulation.

	Agreed	Disagreed	Abstain
Jean-Paul Servais (BE)		X	
Mariya Filipova (BG)	X		
Jurica Jednacak (HR)	X		
Vojtech Belling CZ)		X	
Karen Dorte Abelskov (DK)			X
Elisabeth Roegele (DE)			X
Andre Nõmm (EE)			X
Colm Kincaid (IE)	X		
Vasiliki Lazarakou (EL)			X
Sebastian Albella (ES)		X	
Robert Ophèle (FR)		X	
Carmine Di Noia (IT)	X		
Demetra Kalogirou (CY)	X		
Ieva Ose (LV)	X		
Vaidas Cibas (LT)			X
Claude Marx (LU)		X	
Krisztian Csaky (HU)			X
Christopher Buttigieg (MT)	X		

Jos Heuvelman (NL)	X		
Eduard Mueller (AT)			X
Magdalena Łapsa-Parczewska (PL)	X		
Gabriela Figueiredo Dias (PT)	X		
Florentina Boboc (RO)	X		
Sabina Bester (SL)	X		
Tomas Ambra (SK)	X		
Anneli Tuominen (SU)			X
Malin Omberg (SE)		X	
Steven Maijoor (ESMA)	X		

14. Recruitment Chair / Executive Director

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| 1) Cover Note | Discussion |
| 2) Vacancy Notice ESMA Executive Director | Discussion |

The ESMA Chair and Executive Director left the meeting for item 14, which was chaired by the ESMA vice-Chair.

The Senior Cooperation Officer presented the vacancy notice for the next ESMA Executive Director.

The Board discussed the vacancy notice, in particular the required budgeting experience.

Conclusion: The Board discussed the vacancy notice for the next ESMA Executive Director and was invited to provide further comments in writing.

15. ESMA governance

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| 1) Opinion on European Parliament 2018 Discharge Report | Decision |
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Decision: The opinion on the European Parliament 2019 Discharge Reported was adopted.

16. ESMA Groups

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| 1) Cover Note | |
| 2) Terms of Reference CRA network | Decision |

Decision: The Board adopted the terms of reference for the CRA Network.

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| 3) Terms of Reference Benchmarks Network | Decision |
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Decision: The Board adopted the terms of reference for the Benchmarks Network.

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| 4) Terms of Reference Market Structure Task Force | Decision |
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Decision: The Board adopted the terms of reference for the Market Structure Task Force.

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| 5) Terms of Reference Investment Management Standing Committee | Decision |
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Decision: The Board adopted the terms of reference for the Investment Management Standing Committee.

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| 6) Terms of Reference Pre-trade Transparency Waiver Task Force | Decision |
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Decision: The Board adopted the terms of reference for the Pre-Trade Transparency Waiver Task Force.

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| 7) Terms of Reference Securitisation network | Decision |
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Decision: The Board adopted the terms of reference for the Securitisation Network.

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| 8) Terms of Reference Transparency Task Force | Decision |
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Decision: The Board adopted the terms of reference for the Transparency Task Force.

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| 9) Terms of Reference TR/SFTR Network | Decision |
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Decision: The Board adopted the terms of reference for the TR/SFTR network.

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| 10) Overview of ESMA Groups | Information |
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Conclusion: The Board took note of the overview of ESMA Groups.

17. Update on ESMA international activities on financial stability issues

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| 1) Presentation | Information |
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Conclusion: The Board took note of the update on ESMA's international activities on financial stability issues.

18. Corporate Finance Standing Committee

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| 1) CFSC Report | Information |
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Conclusion: The Board took note of the CFSC Report.

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| 2) Final report on Guidelines on disclosure requirements under the Prospectus Regulation | Decision |
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Decision: The Board adopted the Final Report on Guidelines on disclosure requirements under the Prospectus Regulation.

19. Corporate Reporting Standing Committee

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| 1) CRSC Report | Information |
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Conclusion: The Board took note of the CRSC Report.

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| 2) Update of the ESEF Reporting Manual | Decision |
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Decision: The Board adopted the update of the ESEF Reporting Manual.

20. Data Standing Committee

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| 1) DSC Report | Information |
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Conclusion: The Board took note of the DSC Report.

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| 2) FIRDS Data Quality Report | Decision |
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Decision: The Board adopted the FIRDS data quality report.

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| 3) Consultation Paper SFTR position calculation | Decision |
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Decision: The Board adopted the consultation paper on SFTR position calculations.

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| 4) EMIR Q&A | Decision |
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Decision: The Board adopted the EMIR Q&A.

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| 5) MIFIR Q&A | Decision |
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Decision: The Board adopted the MIFIR Q&A.

21. Investment Management Standing Committee

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| 1) IMSC Report | Information |
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Conclusion: The Board took note of the IMSC Report.

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| 2) Presentation on the ESRB recommendation on liquidity risks in investment funds | Information |
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Conclusion: The Board took note of the presentation on the ESRB recommendation on liquidity risk in investment funds.

22. Investor Protection and Intermediaries Standing Committee

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| 1) IPISC Report | Information |
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Conclusion: The Board took note of the IPISC report.

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| 2) Report on MiFID II sanctions and measures | Decision |
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Decision: The Board adopted the report on MIFDI II sanctions and measures.

23. Post-Trading Standing Committee

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| 1) PTSC Report | Information |
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Conclusion: The Board took note of the PTSC Report.

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| 2) | EMIR intragroup and equity option exemptions | Information |
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Conclusion: The Board took note of the report on EMIR intragroup and equity option exemptions.

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| 3) | EC Letter to ESMA on Margin & Clearing RTS | Information |
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Conclusion: The Board took note of the letter from the European Commission on the margin and clearing regulatory technical standard.

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| 4) | Further delay of the CSDR Settlement Discipline Regime | Information |
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Conclusion: The Board took note of the report on the further delay of implementation of the CSDR settlement discipline regime.

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| 5) | EC Letter to ESMA on RTS Settlement Discipline | Information |
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Conclusion: The Board took note of the letter from the European Commission on the Regulatory Technical Standard on settlement discipline.

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| 6) | CSDR Q&A | Decision |
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Decision: The Board adopted the CSDR Q&A.

24. Secondary Markets Standing Committee

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| 1) | SMSC Report | Information |
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Conclusion: The Board took note of the SMSC Report.

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| 2) | MIFID review – Final Report systemic internalisers non-equity | Decision |
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Decision: The Board adopted the MIFID review – Final Report on systemic internalisers (non-equity).

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| 3) | Opinion on pre-trade transparency waivers | Decision |
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Decision: The Board adopted the opinion on pre-trade transparency waivers.

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| 4) | MIFID Q&A | Decision |
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Decision: The Board adopted the MIFID Q&A.

25. Securitisation Network

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| 1) | Cover Note | Information |
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| 2) | Final Report on Guidelines on securitisation repositories data completeness and consistency thresholds | Decision |
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Decision: The Board adopted the Final Report on Guidelines on securitisation repositories data completeness and consistency thresholds.

26. Supervisory Convergence Standing Committee

- 1) SCSC Report Information

Conclusion: The Board took note of the report.

- 2) Thematic paper – *Enforcement on-site inspections NCA procedures and shared practices* Decision

Decision: The Board adopted the thematic paper Enforcement on-site inspections NCA procedures and shared practices.

- 3) Recovery/enforcement of cross-border financial penalties Decision

Decision: The board adopted the report on recovery of cross-border financial penalties.

27. Activity-based costing and fee management - 2019 results

- 1) Cover Note Information
- 2) Presentation Information

Conclusion: The Board took note of the activity-based costing and fee management 2019 results.

28. Budget 2020 – Amendment n. 2

- 1) Cover Note Decision
- 2) Revenue Decision
- 3) Expenditure Decision

Decision: The Board adopted the 2020 budget amendment.

29. A.O.B.

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Participants list

Voting members

Member State	Representative	Accompanying Person
Belgium	Jean-Paul Servais	
Bulgaria	Mariya Filipova	
Czech Republic	Vojtech Belling	
Denmark	Karen Dorte Abelskov	
Germany	Elisabeth Roegele	
Estonia	Andre Nõmm	
Ireland	Colm Kincaid (alternate)	
Greece	Vasiliki Lazarakou	
Spain	Sebastian Albella	
France	Robert Ophèle	
Croatia	Jurica Jednacak (alternate)	
Italy	Carmine Di Noia (alternate)	
Cyprus	Demetra Kalogirou	
Latvia	Ieva Ose (alternate)	
Lithuania	Vaidas Cibas (alternate)	

Luxembourg	Claude Marx	
Hungary	Krisztián Csáky (alternate)	
Malta	Christopher Butigieg	
Netherlands	Laura van Geest Jos Heuvelman (alternate)	
Austria	Eduard Mueller	
Poland	Magdalena Łapsa-Parczewska	
Portugal	Gabriela Figueiredo Dias	
Romania	Florentina Boboc (alternate)	
Slovenia	Sabina Bester (alternate)	
Slovakia	Peter Tkáč Tomas Ambra (alternate)	
Finland	Anneli Tuominen	
Sweden	Malin Omberg (alternate)	
ESMA Chair	Steven Maijoor (not for item 14)	

Non-voting members

European Commission	Ugo Bassi	
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EBA	Anne Tiedeman	
EIOPA	Kai Kosik	
ESRB	Francesco Mazzaferro	
Iceland	Páll Friðriksson (alternate)	
Liechtenstein	Reto Degen (alternate)	
Norway	Anne Merethe Bellamy	
EFTA Surveillance Authority	Jonina Sigrun Larusdottir (alternate)	

ESMA

Executive Director	Verena Ross (not for item 14)
Summary of Conclusions	Frederiek Vermeulen
Head of Governance and External Affairs	Roxana De Carvalho
Head of Markets and Data Reporting Department	Fabrizio Planta
Head of Risk Assessment and Economics	Steffen Kern
Team Leader Supervisory Convergence	Dora Blanchet
Senior Cooperation Officer	Frederiek Vermeulen



Done at Paris on 7 August 2020

Steven Maijor

For the Board of Supervisors