



SUMMARY OF CONCLUSIONS

Securities and Markets Stakeholder Group

Date: 8 July 2022
Time: 13:30 – 16.30
Location: Microsoft Teams
Contact: federica.briganti@esma.europa.eu

1. Report from the Steering Committee
<p>The SMSG Chair welcomed the participants and reported on the SMSG activities since the last meeting. The SMSG has been working on developing two advices: 1) the advice on Sustainability Reporting Standards; 2) the advice on SFDR RTS on product exposures to gas and nuclear activities.</p> <p>The SMSG Chair informed the SMSG that the agenda was slightly changed as the election of the Chair and Vice-chair(s) will take place in the first place.</p>
2. Adoption of Summary of Conclusions (13 May 2022)
<p>The summary of conclusions from the 13 May 2022 meeting was adopted.</p>
3. Election of SMSG Chair and Vice-Chair(s)
<p>The Chair of ESMA presented the rules of procedure for the election of the Chair and Vice-Chair(s) of the SMSG. SMSG members decided that the SMSG will have two Vice-Chairs. SMSG members agreed to proceed with the election.</p> <p>The SMSG re-elected Veerle Colaert as its Chair and re-elected Christiane Hölz and Rainer Riess as its Vice-Chairs.</p> <p>There was discussion on the need to revise the SMSG Rules of Procedure in regard of the appointment of vice-chairs, to ensure that if two vice-chairs are elected, one should be an industry-representative, and the other a consumer-representative. It was decided to take this up in a later meeting, together with a discussion on certain other updates on the Rules of Procedure.</p>
4. Recent market developments

- Adina Gurau (SMSG member) presented a study that compares the performance of active and passive funds. She highlighted that existing research often: (i) does not take into account the real funds' benchmark; (ii) do not compare funds with fund indices; (iii) should be adjusted to take into account the reverse survivorship bias and "lifetime bias"; and (iii) should take into account the time horizon factor sensitivity. Therefore, the study presented aims at addressing these shortcomings, also providing an additional analysis looking at the performance of active and passive funds over the ten-year horizon. On average, among the universe studied, 38% of active managers outperformed their passive counterparts during their lifetime, 13% of active managers outperformed according to market standard assumptions and finally, 57% of the time active management outperformed over the same period of the previous analyses on a rolling basis. Some conclusions of this study will be taken on board to develop a paper that Adina Gurau is preparing.

SMSG discussed the results of this study, including: (i) the difficulty, for investors and especially retail investors, to discriminate which funds are likely to outperform over time; (ii) potential issues with the construction of the sample over the ten and twenty-year horizon, since there were no passive funds 20 years ago (the study used proxies to deal with this); (iii) the fact that the study is based on gross performance, while costs are very important, and net performance is more relevant for end investors; (iv) the question whether a mix of active and passive funds is better for investors or not; (v) whether the term "passive" funds is inadequate, since many active choices still need to be made – the term "index-investing" may therefore be preferred.

ESMA staff remarked on the importance of predictability, which makes it hard to choose the funds that will outperform, and reflected on the role of passive investment management twenty years ago in the EU, especially when looking at fixed income funds. Furthermore, ESMA staff concluded that any study in this context is appreciated and is supportive of further development in terms of costs and especially in terms of distribution costs.

- Ben Granjé (SMSG member) presented the outcomes from the survey carried out by the 2^o Investing Initiative (2DII) on the abolishment of aggregated ESG ratings. He explained that the purpose of this study, entitled "Do we speak the same language – market survey on the future of ESG ratings", is to provide evidence in this emerging area. As part of the study, they surveyed 190 sustainable finance professionals, and the findings show significant disagreement amongst stakeholders as to whether what is being measured reflects what should be measured. In particular, ESG ratings should represent scores focused on "sustainability risks" (i.e., related to financial outcomes) or "sustainability footprints" (i.e., sustainability outcomes). Generally, academics and NGOs observe a significant gap between what the ratings should represent in theory and what they represent in practice. The respondents disagree on what ESG ratings should measure. An overwhelming majority of respondents do not believe that there is a meaningful correlation between the sustainability risks a company faces and its "sustainability performance", suggesting that it is not possible to provide ratings that integrate both aspects in one score. Survey respondents strongly believe that ESG ratings should ideally be correlated across service providers. The majority of survey respondents (+80%) are in favor of abolishing aggregated ESG ratings that merge environmental, social, and governance issues, and replacing these aggregated ratings with individual 'E', 'S' and 'G' ratings arguing that this would increase transparency for investors and limit the possibilities of firms to hide bad scores in one pillar behind good scores in others. Additionally, the confusion of metrics and ratings can create space for greenwashing. Regulation should set minimum standards, which should be met in

order for ESG rating providers to be allowed to issue “sustainability ratings”. Rating providers should clarify whether they work on risk and/or performance.

The SMSG discussed the proliferation of public labels, which can create an additional layer of confusion and may serve as an entrance barrier (market dimension), and stressed the importance of the difference between ESG performance and ESG risks. Any ESG ratings’ regulation should differentiate between the two aspects. Further clarity and analysis are needed on the existing measurement mechanisms and the implications for the market prices. During the discussion, it was mentioned that it is important to differentiate between issuer ratings and (retail) product ratings, but that investors tend to confuse the two. Further, diverging scores, if not too large in scope, can have positive effects such as stimulating analytical work and preventing over-reliance. It was highlighted that index providers cooperate with rating agencies, and that the role of those indexers is also very important.

ESMA highlighted the importance of clarity on what is being measured (the footprint or the risk). ESMA staff emphasised the importance of transparency to ensure that users are well informed. ESMA also agrees that these products should be clearly labelled as to what they are measuring and supported by transparent methodologies. As discussed during the last SMSG meeting, ESMA recently published the results of its call for evidence on the EU market for ESG ratings. It shows a concentration of players and possible conflicts of interests as prominent issues. Overall, ESMA staff underlined to support efforts to promote transparency and minimum standards in the market for ESG ratings.

- Sari Lounasmeri (SMSG member) presented the research on the investors’ sentiment and ownership, based on the outcomes of a survey conducted by the Finnish Foundation for Share Promotion. She gave an overview of the replies to questions about what investors see as the biggest threats (inflation, war, economic downturn) and highlighted how the respondents reacted to the start of the Russian attack on Ukraine. The survey also asked how many investors hold cryptocurrencies. She clarified that the study would probably be extended beyond Finland next time.

SMSG discussed the role of social media and neo-brokers on investors’ and young investors’ investment decisions and the related risks. ESMA confirmed its interest in this type of initiative and supports the idea behind the investor sentiment barometer.

5. ESMA Strategy

The Chair of ESMA presented the outline of the ESMA Strategy 2023-2028. For 2023-2028, ESMA decided to articulate the strategy around three strategic priorities and two thematic drivers. This new ESMA strategy is being discussed with the Board of Supervisors. She presented the three strategic priorities which will be aimed at: (i) fostering effective markets and financial stability; (ii) strengthening supervision of European capital markets and; (iii) enhancing the protection of retail investors. Together with these, two thematic drivers will be aimed at enabling sustainable finance and facilitating technological innovation and data usage. The new ESMA Strategy is expected to be published by the end of September 2022.

The SMSG discussed the new ESMA Strategy, welcoming the reference to financial education. Some members suggested reference to enhancing the quality of the advice given by intermediaries. Furthermore, some SMSG members suggested to reflect the impact of inflation and build on the principles of

competitiveness and proportionality. Other SMSG members highlighted that the Strategy should also reflect concerns stemming from crypto-assets and non-fungible tokens.

6. SFDR RTS on product exposures to gas and nuclear activities

ESMA staff presented the work and approach adopted by ESMA in relation to the development of the draft SFDR RTS on product exposures to gas and nuclear activities.

Chris Vervliet (SMSG member), rapporteur of the group on SFDR RTS on product exposures to gas and nuclear activities, presented the SMSG advice developed in respect of the draft RTS to be developed by the ESAs in response to the mandate from the European Commission to amend the SFDR RTS for product disclosures to gas and nuclear activities. It was explained that the SMSG advice has been developed following certain principles to help investors to take an informed decision, avoid complexity and ensure meaningful transparency. A different approach is needed in relation to pre-contractual information which is aimed to help investors take an informed decision and periodic information which should facilitate analysis. Furthermore, due to the fact that the *ex-post* periodic reporting refers to actual exposures and not to minimum proportions, the SMSG considers it useful to distinguish in periodic reporting the actual proportions of fossil gas and nuclear energy.

The advice was adopted, subject to the written comments sent by the SMSG after the preparatory meeting held on 7 July 2022.

7. Breach of Union Law

ESMA provided some background, explaining that it launched two formal BUL investigations so far, in 2013 and in 2017. In each case, when ESMA reached out to the relevant NCA, the NCA came up with a solution and no further BUL procedure was needed. ESMA furthermore presented its current work carried out on the breach of union law (BUL), together with its powers under the ESMA Regulation and BUL Rules of procedure as well as the ESMA BUL strategy.

The SMSG asked some questions, in regard of the composition of the advisory panel, and on the disclosure policy of ESMA in regard of BUL procedures. The SMSG decided to discuss further the role of SMSG in relation to the BUL matters in a future SMSG meeting.

Name	Organisation	
Alemanni, Barbara	University of Bocconi	present
Avgouleas, Emiliios	University of Edinburgh	absent
Balthasar, Stephan	Allianz SE	excused
Bergmann, Henning	Deutscher Derivate Verband (German Derivatives Association)	present
Bezzina, Geoffrey	Head of the Arbitrer's office, Malta	present
Biernacki, Piotr	Polish Association of Listed Companies	present
Bindelle, Florence	EuropeanIssuers AISBL	present
Christov, Lubomir	Advisor to the Bulgarian National Association "Active Consumers"	present
Colaert, Veerle	KU Leuven University	present
Funered, Urban	Swedish Securities Dealers Association	present
Gažić, Ivana	Zagreb Stock Exchange	present
Granjé, Ben	The Flemish Federation of Investors	present
Gurau Audibert, Adina	Association Française de la Gestion financière (AFG)	present
Hölz, Christiane	Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW)	present
Jewell, Dermott	Consumers' Association of Ireland	present
Litvack, Eric	Société Générale	present
Lounasmeri, Sari	Finnish Foundation for Share Promotion	present
Mandic, Stjepan	Concepto Ltd	present
Oberndorfer, Martha	Advisor to Austrian Public Sector Clients of ESG	present
Pedersen, Morten Bruun	Danish Consumer Council	absent
Petrella, Giovanni	Università Cattolica	present

Prache, Guillaume	Better Finance	present
Riess, Rainer	Federation of European Securities Exchanges (FESE)	present
Saade, Virginie	Citadel	present
Santillán, Ignacio	Spanish Investors Compensation Scheme for investment firms (FOGAIN)	present
Scheck, Martin	International Capital Market Association (ICMA)	present
Schuurs, Pieter	Index	present
Stiefmüller, Christian Martin	Finance Watch AISBL	present
Van de Werve de Schilde, Tanguy	EFAMA	present
Vervliet, Chris	European Works Council at KBC Group	present

ESMA

Verena Ross	Chair
Natasha Cazenave	Executive Director
Frederiek Vermeulen	Team Leader of Governance and Strategy unit
Salvatore Gnoni	Head of Unit of Investor Protection and Intermediaries unit
Tania de Renzis	Senior Risk Analysis Officer of Innovation, Products and Technologies unit
Patrik Karlsson	Senior Policy Officer of Investment Management unit
Amandine Zelenko	Team Leader of Enforcement Team