

## **Call for expressions of interest: Consultative Working Group for ESMA's Financial Innovation Standing Committee**

### **Background**

1. The two-year term of the current Consultative Working Group ('CWG') for the ESMA's Financial Innovation Standing Committee ('FISC') is due to expire. Therefore, ESMA is today launching the process to renew the CWG of FISC.
2. ESMA has established the CWG to benefit from the expertise of stakeholders who are specialised in the topics related to financial and technological innovation, including from ESG-related market developments, under ESMA's remit (securities markets, market infrastructures, institutional and retail investors) and with a view to support ESMA's objectives of investor protection, market integrity and financial stability. FISC looks to this group to provide expert advice regarding ESMA's work on Financial and Technological Innovation.
3. The CWG is a Consultative Working Group under the ESMA 'Procedures for ESMA Groups' of March 2012. Members of such groups are to be selected following an open call for candidates published on the ESMA website and are appointed for a period of two years. The relevant extracts of the procedures are set out in the Appendix. Upon completion of the selection process, ESMA will inform the applicants of the outcome and publish the composition of the 2021-2023 CWG on its website.

### **Financial Innovation Standing Committee (FISC)**

4. In order to fulfil its mission, the Board of Supervisors has established the Financial Innovation Standing Committee (FISC). The Terms of Reference cover the responsibilities and tasks of this group and the Procedures for ESMA groups (ESMA/2011/BS/236rev2) set out the rules concerning its structure, governance and working methods.
5. In line with the ESMA 2020-2022 Strategic Orientation (ESMA22-106-1942), the Financial Innovation Standing Committee will consider in all its activities how to (i) contribute to a larger retail investor base to develop the Capital Markets Union, (ii) promote sustainable finance and long-term oriented capital markets, (iii) develop digital finance as an opportunity for market participants and regulators, (iv) achieve a proportionate approach. The remit of FISC is multi-fold:

#### Assessing risks to investors, markets and financial stability



- FISC contributes to ESMA risk assessment activities in the following areas:
  - a. **Financial innovation and technological developments:** FISC contributes to ESMA risk assessments through the identification, the monitoring and the assessment of benefits and risks of financial and technological innovation.
  - b. **Consumer protection:** FISC contributes to the identification and monitoring of issues, risks and data needs related to consumer protection, including cost and performance of retail investment products
  - c. **Sustainability:** FISC contributes to the identification and monitoring of issues, risks and data needs related to ESG market developments. In performing these tasks, it pays special attention to cross-sectoral and cross-border risks.
- FISC provides its members with a platform to discuss and carry out new research and analysis to support and enhance the functions of ESMA. It also helps to disseminate these and other relevant studies among the Committee’s members and market participants.

#### Promoting supervisory convergence

- FISC contributes to ESMA supervisory convergence activities in the following areas:
  - a. **Work programme and prioritisation:** FISC contributes to ESMA’s work programme and prioritisation of activities by participating in the development of a harmonized framework for the assessment of financial and technological innovation, and retail investor trends and risks, including from ESG-related market developments. In doing so, FISC members inform each other of relevant market or policy developments with domestic or potential cross-border implications in their jurisdictions.
  - b. **Coordination of convergence work:** FISC coordinates at ESMA and national level financial and technological innovation issues. In its co-ordination role, FISC takes account of relevant work at ESMA level, but also at national level, facilitating efficient co-ordination and avoiding any duplication. In the areas that fall within the mandate of the other ESMA SCs, FISC can recommend that those SCs work, if appropriate, on policy measures in their areas of expertise, ensuring appropriate co-ordination between the SCs and with FISC in the area of financial and technological innovation. FISC may also make proposals on the co-ordination of responses to any issues identified in the area of financial innovation being considered, or to be adopted at national level.
- FISC provides its members with a platform to exchange information, experiences and regulatory initiatives at national level in the area of financial and technological innovation.

- FISC supervisory convergence co-ordination activities can range from FISC proposing and implementing,
  - a. an exchange of views on national authorities' practices in the area of financial and technological innovation, which are not covered by the remit of other SCs,
  - b. a review and assessment of regulatory/supervisory practice with regard to (or treatment of) new or innovative financial activities across the EU (in order to take account of any action taken at national level),
  - c. a number of different legal instruments in the area of financial and technological innovation (e.g., guidelines, opinions, warnings, etc.).

#### Completing a single rulebook for EU financial markets

- FISC contributes to ESMA single rulebook activities in the following areas:
    - a. **Technical advice:** FISC provides technical advice in in the area of financial and technological innovation on the basis of any work undertaken such as monitoring, gathering empirical evidence on trends, assessing that data, consulting with the relevant ESMA SCs as needed.
    - b. **Analysis:** The extent and shape of any assessment done is underpinned by sufficient analysis (including on costs and benefits) to determine whether some action is required to contain, reduce, restrict, or eliminate a given problem. The extent and shape of any assessment will depend on what the problem is in each case. Such analysis can encompass both an assessment of the scope, nature and impact of potential risks and an analysis of possible regulatory responses.
6. FISC advises ESMA's Board of Supervisors on the use of its product intervention powers set out in articles 40-43 of MiFIR.

#### **Description of main CWG tasks**

7. In accordance with ESMA's 'Procedures for ESMA groups', ESMA expects members of the CWG group to provide technical assistance in the field of their expertise to ESMA's work in the areas of (i) financial and technological innovation, (ii) retail investor trends and risks, and (iii) ESG-related market developments.
8. We will especially rely upon CWG members to provide FISC with market intelligence on emerging financial and technological innovations, as well as on related developments and initiatives within their own institutions, to help FISC identify developments within the financial services market that could impact ESMA's objectives.



9. We will look to the CWG to contribute actively to our discussions about the identification and construction of appropriate metrics to identify and in turn analyse products, services or processes that may pose a threat to investors and/or financial stability in our semi-annual meetings as well as to provide advice in the areas of their expertise in the periods in between the semi-annual meetings. In particular, we invite CWG members to provide input to our semi-annual meetings by presenting relevant topics in the field of their expertise.
10. We will look to the CWG to provide insight on developments around new or evolving products or their distribution that are relevant to ESMA's objectives.
11. We rely upon CWG members to provide mentoring and support to FISC's various research task forces and analytic work streams. These services typically include the provision of advice to the planning and the implementation of research projects, methodological input, the constructive discussion of intermediary or final outcomes as well as the reviewing of draft research reports. This may for CWG members with an academic background and working for academic institutions or public authorities also include joint risk analysis projects with ESMA staff and FISC members.
12. We expect CWG members to be available for the refereeing of articles submitted to the ESMA Working Paper Series. This task includes the provision of refereeing reports and the engagement in an active discussion of the contents of submitted Working Papers with their authors.
13. We look to the CWG to support the extension of our research network by providing contacts to other experts and provide recommendations on which institutions or experts to contact with regard to specific issues and topics. To this purpose, we invite CWG members to bring any relevant data, events or institutions to ESMA's attention.

### **Terms of Appointment**

14. CWG members are selected for a renewable term of three years.
15. CWG members are appointed on a personal basis, and are bound by confidentiality requirements in relation to all non-public information they are provided with while performing their tasks.

### **Selection criteria**

16. This call for expressions of interest is open to persons representing any organisation that plays an important role for financial markets in any part of the European Union (EU).
17. The CWG will be composed of individuals representing as balanced a proportion as possible of the relevant areas of expertise in the field of financial and technological innovation, retail investor trends and risks, including from ESG-related market developments.
18. The selection of CWG members will aim to ensure, to the extent possible, an appropriate geographical and gender balance, and representation of all relevant stakeholders across the EU

affected by the work of ESMA in this area. In particular, ESMA will be seeking to ensure a balanced representation of the following types of stakeholders:

- a. financial market participants/financial services' intermediaries;
- b. representatives of retail investors and users of financial services; and
- c. academics.

19. Assessment of eligibility will be based on the following criteria:

- a. a minimum of 10 years of relevant professional experience in the financial services sector related to financial innovation and financial market activities will be required for those representing financial institutions;
- b. a minimum of 10 years of experience relevant to the financial services field will be required for representatives of retail investors and users of financial services, and academics.

### **Selection process**

20. Applications will be accepted from natural persons only. Only the natural person selected will be admitted to the CWG. No substitution (alternates) of natural persons will be permitted throughout the full duration of the appointment, or during possible renewals.
21. Applicants not selected may be included on a list of experts, with the possibility of being invited to become a CWG member at a later stage.
22. ESMA's Executive Director, in consultation with the Head of the Risk Analysis and Economics Department and the Chair of FISC, will make the final selection of CWG members.
23. Members of the CWG are bound by confidentiality requirements in relation to all non-public information they are provided with, while performing their tasks.
24. ESMA reserves the right to exclude at any time from the CWG those members who breach the terms of reference contained in the annex in a serious manner, particularly when it comes to a minimum level of attendance, breaches of confidentiality or misrepresentation of their status of CWG members (points 3.B.iv, 3.B.v and 6 of the Annex 1).

### **Place of provision of services**

25. The CWG will meet at least twice a year and meetings, organised by ESMA, will normally take place at the ESMA premises in Paris or, occasionally, at the premises of national competent authorities. Periodic interactions through conference calls with members of the GEA are also anticipated.

### **Compensation, travel expenses**

26. Compensation for services as a CWG member is not paid.
27. CWG members are expected to meet their own travel expenses. However, members representing, for example, retail investors, trade-unions, shareholder associations and academics may be eligible for reimbursement of travel expenses and a daily allowance in accordance with ESMA policy.

### **Application procedure, closing date**

28. Relevant stakeholders meeting the required selection criteria and wishing to apply for a position on the CWG are invited to submit, in English:
  - a. a [completed application form](#), and
  - b. a detailed curriculum vitae (CV), preferably in the EU CV format - the link to the template for this is:

<http://europass.cedefop.europa.eu/europass/home/hornav/Downloads/EuropassCV/CVTemplate.csp>

29. It is optional for applicants to attach a motivation letter (2 pages maximum).
30. Unclear or incomplete applications will not be considered.
31. Applications must be submitted by email by no later than 31 January 2021 to [risk.analysis@esma.europa.eu](mailto:risk.analysis@esma.europa.eu), with "APPLICATION FISC CWG" and your first name and last name in the reference line.
32. Current CWG members can be renewed, but any current CWG member interested in being considered for renewal needs to re-apply through the above process and will be considered at the same time as the other candidates against the same criteria and objectives described in this document.
33. Successful applicants will be informed in due course following the conclusion of the application process.
34. ESMA will publish the composition of the Group on its website.



## **Appendix: Relevant extracts for CWGs from ESMA's 'Procedures for ESMA groups'**

### **II. EXTERNAL CONSULTATIVE WORKING GROUPS**

10. ESMA groups reporting to the Board of Supervisors may establish Consultative Working Groups (CWGs) in order to benefit from the expertise of market participants who are specialised in the specific area for which the group is responsible. The purpose of CWGs is to provide advice to the ESMA group during the course of developing a policy line in relation to specific technical matters, or to give a view on specific aspects of the proposals. The role and responsibilities of CWGs are without prejudice to those of the Securities and Markets Stakeholder Group.
11. CWG members are selected following an open call for candidates published on the ESMA website, including advice from members of the Board of Supervisors and the Standing Committee, with a final selection being made by the Executive Director in consultation with the relevant Head of Division/Unit of ESMA and the Chair of the relevant group. CWG members are appointed on a personal basis. Members of the CWG may be removed upon decision of the Executive Director in consultation with the Chair of the relevant group.
12. Terms of reference of CWGs are given in Annex 1.

## Annex 1

**These Terms of Reference are without prejudice to the role and responsibilities of the Securities and Markets Stakeholders Group**

### **Terms of Reference of Consultative Working Groups**

1. The purpose of the Consultative Working Group (CWG) is to provide technical assistance to ESMA in relation to all aspects of a particular group's work, such as the preparation of draft regulatory and implementing technical standards, Article 16 guidelines and the delivery of advice to the European Commission on the delegated and implementing acts required under a Directive/Regulation. The group is formed under the terms of ESMA's Public Statement on Consultation Practices (ESMA/2011/11). The CWG should be composed of market participants, consumers and end-users. Members of the CWG are selected according to the procedure set out in Section II of the Procedures for ESMA groups. The composition of the CWG is made public.
2. In meeting the above purpose, the group may be called upon to provide input at all stages of the policy formulation process.
3. In meeting the above objectives, the ESMA group and the CWG will apply the following principles.
  - A) Members of the CWG will have:
    - i. Access to evolving thinking of the ESMA group, including of any specific issues causing difficulty.
    - ii. The possibility to express their views to the ESMA group. Members of the ESMA group will be encouraged to attend meetings of the CWG.
    - iii. A work plan, including the dates of the main meetings of the CWG for the year ahead. Additional meetings can be called either at the request of members of the Consultative Working Group or of ESMA. Meetings are called by the Chair of the ESMA group in consultation with the rapporteur.
    - iv. The support of ESMA staff and the contact details of all members of the relevant ESMA group.
  - B) ESMA can expect the following from the members of the CWG:
    - i. Members will provide their independent expertise and not lobby for specific national or institutional positions. Members of the CWG are appointed and participate in their personal capacity.
    - ii. Practical examples to illustrate the implications of policy proposals.
    - iii. A sounding board that is prepared to provide alternative solutions and not just identification of problems.



- iv. That all information provided by ESMA will be handled with due confidentiality and not circulated to third parties.
  - v. That members will endeavour to make themselves available both to attend meetings and provide timely written submissions where required.
  - vi. The identification of specific issues that might require a subset of the CWG to consider. ESMA may call on additional experts where appropriate.
4. The final output of the work-stream is under ESMA's authority and is without prejudice to the opinion of the CWG.
  5. Members of the Consultative Working Group are selected for a renewable term of two years.
  6. Members of the CWG should make clear in their professional engagements that they are not representatives of ESMA.