

## Terms of Reference

# Sustainability Standing Committee

1. ESMA's mission is to enhance investor protection, promote orderly financial markets and safeguard financial stability, by (i) assessing risks to investors, markets and financial stability, (ii) completing a single rulebook for EU financial markets, (iii) promoting supervisory convergence and (iv) supervising specific financial entities.
2. In order to fulfil its mission the ESMA Strategy 2023-2028<sup>1</sup> sets out three strategic priorities: (i) fostering effective markets and financial stability, (ii) strengthening supervision of EU financial markets, and (iii) enhancing protection of retail investors and two thematic drivers: (i) enabling sustainable finance, and (ii) facilitating technological innovation and effective use of data.
3. ESMA shall act within the powers conferred by its establishing Regulation (ESMA Regulation or ESMAR<sup>2</sup>) and among others within the scope of Article 8(1a) ESMAR which, inter alia, requires the authority to take account of sustainable business models and the integration of environmental, social and governance related factors when carrying out its tasks and in relation to the matters within its remit that are covered in Regulation (EU) 2020/852<sup>3</sup>, the "EU Taxonomy".
4. In order to fulfil ESMA's mission and in line with ESMAR, the Board of Supervisors has established the Sustainability Standing Committee, thereafter 'SSC', pursuant to Article 41 of ESMAR as a permanent internal committee. These Terms of Reference specify its tasks, responsibilities, functioning and governance.

### Tasks and responsibilities

5. The SSC contributes to ESMA's mission by:
  - enabling sustainable finance ('SF'), a thematic driver which is embedded across all ESMA activities and aims at achieving the ambition and objectives set out in ESMA strategic documents<sup>4</sup>;
  - ensuring effective integration of Environmental ("E"), Social ("S") and Governance ("G") factors across all areas as well as consistency in the SF work carried out at ESMA across various sectors<sup>5</sup>.

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<sup>1</sup> [https://www.esma.europa.eu/sites/default/files/library/esma\\_strategy\\_2023-2028.pdf](https://www.esma.europa.eu/sites/default/files/library/esma_strategy_2023-2028.pdf)

<sup>2</sup> ESMA Regulation No 1095/2010 of the European Parliament and of the Council

<sup>3</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088.

<sup>4</sup> These documents include but are not limited to the ESMA Strategy 2023-2028, the Sustainable Finance Roadmap 2022-2024, and the ESMA Union Strategic Supervisory Priority ('USSP') on ESG disclosures.

<sup>5</sup> The reference to sectors in this document relates to sectors that are covered in ESMA's mandate.

6. The SSC's contribution is carried out through its own work and by contributing to the work of relevant Standing Committees ('SCs') and Groups. The work of the SSC is not expected to duplicate with the functions of the other SCs / Groups which will remain responsible for addressing sustainable finance related matters in the respective areas of action and/or EU legislation that fall within their remits.

*SSC own work*

7. The SSC is responsible for SF workstreams that are horizontal in the sense that they impact across several sectors in the sustainable investment value chain simultaneously, relating to several pieces of legislation or types of actors (issuers, financial market participants, retail investors). The SSC is responsible for developing the relevant work and submitting it to the Board for approval.
8. These workstreams include but are not limited to:
  - providing strategic input to the Board of Supervisors on sustainable finance matters relating to ambition and objectives set out in ESMA strategic documents mentioned in paragraph [5], notably on greenwashing, capacity building and supervisory convergence as well as enhancing consistency of the SF regulatory framework. In particular, the SSC will promote an integrated approach to supervising greenwashing;
  - dedicated projects to "E" or "S" topics ;
  - enhancing the usability of the EU Taxonomy across the sustainable investment value chain.
9. New or upcoming regulations may also fall under the SSC remit (in particular when the requirements set out in paragraph [7] are met. Notwithstanding this, the SSC is not responsible for the specific aspects of new or upcoming legislation where ESMA would be given the power to act as a direct supervisor.

*SSC contribution to work of relevant ESMA SCs / Groups*

10. Given the interlinkages amongst SF workstreams, the SSC provides its advice and expertise on sustainable finance to relevant SCs, and Groups and may convey its views to the BoS as needed in relation to specific SF workstreams of sectoral and horizontal SCs / Groups and Joint Committee Groups that are key for sustainable finance. The SSC has the discretion to select the workstreams to which it will contribute. To select these workstreams the SSC takes into account their horizontal nature and/or interlinkages with other pieces of SF legislation and / or in particular the extent to which they have a material effect on the sustainable investment value chain, by impacting the flow of sustainability-related information across sectors.
11. For this selection, the SSC also considers the importance of these workstreams to the SF framework and in particular its consistency and takes into account possible mandatory aspects of the work and resource availability. As part of its contribution to the work of other SCs / Groups, the SSC strives to maintain the efficiency of the process for the development of the work. Additionally, upon request of sectoral SCs and Groups the SSC also provides its advice and expertise regarding certain cross-cutting aspects of specific workstreams.

12. In its steer, the SSC focuses on:

- whether the selected workstream achieves the ambition and objectives set out in the ESMA Strategy 2023-2028, the SF Roadmap 2022-2024 and the USSP;
- whether ESMA is effective in integrating E, S and G factors;
- whether ESMA is consistent in its work across various sectors of the investment value chain.

### Coordination

13. The SSC should ensure close coordination in particular with the Issuer SC (ISC), the Investment Management SC (IMSC), the Investor Protection (IPSC), the Risk SC (RSC), the Data Standing Committee (DSC), the ESMA Supervisory Policy Committee (ESPC) and the Senior Supervisors' Forum (SSF) or the relevant groups reporting to them as well as groups reporting to the Joint Committee in order to achieve an aligned outcome for ESMA.

14. Coordination with the relevant ESMA Groups and Joint Committee sub-groups may be achieved in a number of ways as set out in the following non-exhaustive list which includes some examples of such coordination:

- Invite the relevant SC Group to provide timely updates including in relation to amendments to the annual work plan in response to urgent risks and problems;
- Provide the advice and expertise of the SSC on key workstreams on the basis of relevant documents to be shared with the SSC in a timely manner and at an appropriately early stage of the process (to be assessed on a case-by-case basis). Where appropriate, the SSC can also call for advice and expertise from other SCs / Groups;
- Provide to relevant SCs / Groups an update on the work of the SSC in relation to matters within the mandate of the relevant SC Group.

15. On the basis of prioritisation, the SSC should also discuss technical positions in the scope of the SC to ensure a coordinated EU approach when ESMA and NCAs participate in international fora.

### Composition

16. The SSC shall be composed of one person per Board of Supervisors member as principal member and one person as an alternate, each representing that Board member. In addition, a maximum of three persons or a functional email address can be added to the e-mail distribution list. Participants to an SSC meeting from the same NCA shall coordinate their positions in advance of the meeting.

17. Members of SSC shall also coordinate their positions with those held by persons from the same NCA, who serve as members of the project groups to the SSC.

18. Members of the SSC shall coordinate internally their positions with the positions of representatives of their authority in other ESMA SCs as well as with those of colleagues

in their authority working on other SF-related topics. This is essential to the well-functioning of this horizontal Standing Committee.

19. Furthermore, representatives of the European Commission shall be appointed as observers to the SSC. Representatives of EEA<sup>6</sup> and FRA<sup>7</sup> or other relevant bodies may be invited as observers to contribute to the discussion of topics that fall in the remit of the SSC as appropriate.
20. Members of the SSC shall have an adequate level of knowledge and skill and the seniority and mandate to be able to take a position on the matters discussed. Members shall commit to their own capacity building, in line with the direction set in the Sustainable Finance Training Plan 2022-2024 agreed by the Board of Supervisors<sup>8</sup>.
21. A member of the SSC may, when a topic for discussion in the SSC so requires, be accompanied by an expert from its Competent Authority for that part of the SSC meeting. The SSC member shall announce this intent to the Rapporteur in advance of the meeting.

### **Structure and governance**

22. The responsibilities of the Chair, Rapporteur and members of the SSC are as set out in the Procedures for ESMA groups, (ESMA/2011/BS/236rev2), which also set out the rules concerning ESMA Group's structure, governance and working methods.
23. The SSC may set up permanent working groups or temporary task forces or project team/drafting teams reporting to the SSC if required by the work and in line with the Procedures for ESMA groups.
24. The SSC will meet on a regular basis as required in order to deliver its tasks under ESMA's (multi-)annual work programme. Meetings of substructures will be organised as necessary to enable the SSC to fulfil its tasks.

### **Working methods**

25. The working methods will follow the Procedures for ESMA groups as described in paragraphs 31 and following of the Procedures for ESMA Groups.

### **Confidentiality**

26. All members of SSC are under the obligation to respect confidentiality as per paragraph 30 of the Procedures for ESMA Groups.

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<sup>6</sup> [European Environment Agency](#).

<sup>7</sup> [European Union Agency for Fundamental Rights](#).

<sup>8</sup> Sustainable Finance Training Plan 2022-2024 (Ref.: ESMA30-379-1174 | 28 October 2022).

## **Review**

27. The Terms of Reference will be reviewed at least every two years by the Board of Supervisors.