

## EUROPEAN SECURITIES AND MARKETS AUTHORITY'S REPLY

ESMA welcomes the ECA report regarding its performance audit on the Single Market for investment funds which is an area of high relevance to ESMA's work.

ESMA would like to make the following comments:

### Paragraph 56

The fact that some tools in certain cases may have led to more limited changes in NCAs' practices does not in ESMA's opinion mean that these tools are in general not very effective. There are examples, as also recognised in this report, where supervisory convergence initiatives undertaken through convergence tools (e.g. guidelines, opinions, Q&As, networks, bilateral exchanges with NCAs) have been effective in creating more convergence.

### Paragraph 66

ESMA makes use of its powers and tools to try to address the issue of enforcement. For instance, within the Enforcement Network, ESMA works on determining whether common referral criteria for enforcement cases across NCAs can be identified. In addition, when ESMA receives complaints about breaches of EU law by financial market participants which refer to the concerned NCA's alleged failure to act, it conducts BUL preliminary enquiries and, where relevant, closely monitors the matter until supervisory and/or enforcement action is taken by the NCA. There are recent successful examples of this approach where ESMA closely monitored NCA's actions so as to be satisfied about the supervisory and enforcement actions taken at national level.

### Paragraph 111

ESMA does not have access to regulatory UCITS data as there is no framework in place for regulatory reporting of UCITS data to ESMA. Therefore, ESMA cannot use granular regulatory UCITS data, including internal stress test results performed by funds, to develop supervisory stress testing or back-testing of stress simulations.

Regarding the delay between the reported MMF data and the analysis, this must be put into the context of the implementation of the reporting itself (beyond stress test results). ESMA expect this to improve in the future.

### Recommendation 2

#### (b)

ESMA accepts the recommendation.

ESMA will aim to introduce a more structured approach to identify the relevant convergence tools based on the risks identified. ESMA will also endeavour to perform a more structured follow up on relevant convergence initiatives undertaken, applying a risk-based approach to this end, given the resources implications from ESMA and NCAs side needed to perform a meaningful follow up.

**(c)**

ESMA accepts the recommendation.

ESMA will explore means to collect and monitor available information on supervisory practices, applying a risk-based approach to this end. Linked to this, ESMA will seek to further assess the effectiveness of the tools and relevant outcomes reached in promoting consistent and effective supervision, noting that measuring impact and effectiveness remain challenging exercises for every supervisor.

**Recommendation 3**

**(b)**

ESMA accepts the recommendation

**(c)**

ESMA partially accepts the recommendation.

ESMA strongly supports the creation of such a tool which would be beneficial to EU investors. However, its introduction would require a clear legal mandate and an adequate timeframe for implementation.