

2010 ICMA Conference

ESMA and the Single Rule Book

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Our priorities

- 1° For supervisory purposes: Transparency in all markets:
Trading, Non-equity, Derivatives, AIFM, CRAs, ..
- 2° Reducing risk in market structures
Esp. derivatives: CCPs, TR
MMfs
Trading patterns
- 3° The right institutional setup

From CESR to ESMA

- Objectives: a European Rulebook !
- Is the **Rulebook a book of rules** ?
- The Rulebook refers to the **concept**
- One set of rules in all EU states
- **Beyond harmonisation**
 - Less directives: implementation too diverse
 - more regulation L.1 or L. 3
 - add: Binding technical standards: regulation by ESA endorsed by Commission

Some Objectives of the Rulebook

Contributing to facilitate

- cross border transactions
- integration of the markets, both retail and wholesale
- level playing field and economies of scale
- External effects: Setting the standard, Competition for excellence

Preventing

- regulatory arbitrage
 - but not at the supervisory field
- no “goldplating”

Weaknesses in the Present System

- **Significant risks not addressed**: derivatives, hedge funds, OTC markets
- **Weak coordination** of national supervisory practices: regulatory arbitrage, single state initiatives, no EU mandate
- **Harmonisation** often based on coordination of existing laws: PD, TD, MAD
- Less attention for **new developments** and practices: policy orientation was backward looking : Mifid

Regulatory Objectives

- Market wants more **guidance**
 - Markets want **common solutions**
 - Well thought through: large consultations
 - **Implemented** in all states in the same way
 - Preferably in line with **internationally** accepted practices- regulations
- But** : CESR system is purely **voluntary**: are majority decisions effectively implemented?

How to achieve this?

- Centralised rulemaking, coordinated local supervision
- **Binding Technical Standards** proposed by ESMA with endorsement by Commission
- Will be binding as regulations
- Monitoring **implementation** by ESMA: decisions binding on supervisors, ? on firms?
- **Conflicts** among supervisors: ESMA as mediator – arbiter.
- **Emergency** measures: coordination is essential

What you can expect

- More **detailed** guidance within the boundaries of the directive – but not a rule based system
- Would be **legally** binding: reliance also by third parties
- In parallel: recommendations, supervisory brief, Q&A will continue in other fields, or as a testing ground
- **Market based approach** preferred, if effective

My Wish

- May the European institutions be convinced that the present status of **disorganisation** and **opaqueness** creates considerable risks and dangers in the markets
- May they give the ESAs the adequate **tools and means** to contribute to better and more effective regulation in the interest of all.