



Review of the European System of Financial Supervision

***EIOPA BoS and Stakeholder Groups
meeting, 28 November 2017***

The ESA review package, 20 September 2017

- Aim is **reinforcing integrated supervision** to strengthen the Capital Markets Union and financial integration
- This requires a **reinforced coordination role** for all ESAs and **new direct supervisory powers for ESMA**
- To make this work, the Commission is proposing to make the ESAs' **governance** and **funding** fit for their new tasks
- The proposal builds on
 - **7 years of operational experience** with the ESAs
 - almost **300 responses** to the Commission's public consultation on the ESAs
 - intensive dialogue with all relevant **stakeholders**
 - evaluations of the **European Parliament** and the **Commission**

The ESA review package comprises:

- **Omnibus Regulation** amending
 - **EBA, EIOPA and ESMA Regulations**
 - Operation of the ESAs and indirect supervision
 - **EuVeca, ELITF, EuSEF, MiFIR, Benchmark and Prospectus Regulations**
 - Transfer responsibilities in the area of direct supervision to ESMA
- **Omnibus Directive** amending *MiFID* and *Solvency II Directive*
- Amendment to **Commission's EMIR II proposal** technically adjust EMIR II with the ESA package

Key elements of the review

- Stronger **power to coordinate supervision** across the EU and beyond
 - To set priorities for all supervisory authorities and review their implementation
- **Direct supervision of ESMA** on certain prospectuses, harmonized European label collective investment funds, data reporting services providers, benchmarks
- Improved **governance and funding** of the ESAs
 - To act and take decisions in the interest of Europe as a whole
 - To have sufficient resources to carry their tasks
- Prominent role in **financial technological innovation** and **sustainable finance**

Tasks and Powers

- **Strategic Supervisory Plan:** ESA to set EU-wide priorities for supervision
- **Reviews of competent authorities** by EIOPA staff and decision making powers by the new independent Executive Board
- Monitoring of **outsourcing, delegation and risk transfer arrangements to third countries** (to issue opinions and recommendations)
- **Breach of Union law:** to be decided by the new Executive Board; request for information directly from any competent authority or financial institution/financial market participant
- **Settlement of disagreements:** can be triggered on ESAs own initiative in cross border situations; obligation of competent authorities to notify disagreement; disagreement presumed if a joint decision is not reached within the time limit

Governance

- **Board of Supervisors:** the main body in charge of overall guidance and decision making
 - the Executive Board members participate as non-voting members
 - consumer protection authorities can be present where relevant
- **Enhanced Chairperson**
 - appointed by Council (shortlisted by the Commission, approved by Parliament)
 - in charge of distributing work among the members of the new Executive Board
 - casting vote in the new Executive Board
- **Full time Executive Board** to replace the current Management Board
 - Chairperson and 3 (5 for ESMA) full-time members appointed by Council (shortlisted by Commission, approved by Parliament)
 - simple majority voting, Chairperson has casting vote
 - prepares decisions to be taken by the Board of Supervisors
 - decides on breach of Union law; dispute settlements; systemic risk; reviews of competent authorities; Strategic Supervisory Plan; delegation, outsourcing and risk transfer arrangements to third countries; stress tests and requests for information

Funding

Now: NCAs contribution (60%) and EU contribution (40%)

- **Insufficient**
- **Unsustainable**

The new system gives ESAs more flexibility

- **EU budget contribution** (up to 40%)
- NCAs contribution replaced by **contributions from industry** as direct beneficiary from the supervisory convergence fostered by ESA
 - each subsector of the industry bears the costs of the work carried out by ESAs in relation to that sector
 - within that sector, contributions to be distributed according to the size (not risk), reflecting the importance of financial firms and other market participants

Specific elements for EIOPA

- **Internal Models**

- Reinforcement of the EIOPA role to ensure supervisory convergence for the approval of internal models, in particular for cross border groups;
- EIOPA will be able to **obtain in a timely way all relevant information** upon its request and **issue opinions** to NCAs.
- Where there are disagreements between NCAs with respect to group internal models, EIOPA will also be able to **assist the authorities in reaching an agreement**;
- either at its own initiative, on the request of the NCAs, or in certain circumstances on the request of the group concerned.

- **Stress testing**

- The EIOPA regulation is aligned with the existing EBA Regulation:
- Including an **explicit annual obligation** to conduct stress testing and **publication of results**;
- The Executive Board will take decisions on stress testing

Specific elements for EIOPA (2)

- **Cross-border issues** (applicable for also for EBA):
 - EIOPA (and EBA) will set EU-wide priorities for supervision in the form of a '**Strategic Supervisory Plan**' against which all NCAs will be assessed.
 - NCAs to draw up **annual work programs** in line with the Strategic Plan.
 - This will permit EIOPA, to ensure convergence with respect to the prudential supervision of financial which are primarily active in Member States other than where they are established and supervised.
- **Motor Insurance:**
 - The motor insurance directive (Directive 2009/103/EC) is brought within the scope of the EIOPA Regulation.

Other key elements

- **Guidelines and recommendations**

- Ex ante **cost-benefit-analyses**
- **Prior public consultation**
- Stakeholder groups can issue an **opinion** if concerned by ESA exceeding its competence. The **Commission can require an ESA to withdraw** the guideline

- **Third-country equivalence**

- Upon request ESA to assist the Commission in preparing equivalence decisions
- ESA monitors on the regulatory and supervisory developments as well as enforcement practices in third countries and submit annual reports to the Commission

Specific changes regarding stakeholder groups

- **Stakeholder groups**

- Where the members of a Stakeholder Group cannot reach a common opinion or advice, the members representing one group of stakeholders can submit a separate opinion or advice.
- The ESAs' Stakeholder Groups can provide joint opinions and advice.
- Term is extended to four years.
- A 2/3 majority can give an opinion to the Commission on EIOPA's competence to issue guidelines. Can lead to withdrawal of guidelines.



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THANK YOU