



BANKING AND FINANCE

# Public consultation on the operations of the European Supervisory Authorities

Fields marked with \* are mandatory.

## Introduction

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Since their establishment, the European Supervisory Authorities have carried out remarkable work contributing to the building of the Single Rulebook, to ensure a robust financial framework for the Single Market and to underpin the building of the Banking Union as part of the EMU. However further progress in relation to especially supervisory convergence is needed to promote the Capital Markets Union (CMU) for all EU Member States, integration within the EU's internal market for financial services and to safeguard financial stability. While the ESAs have started to shift attention and resources to analyse risks to consumers and investors and undertake more work to increase supervisory convergence, work in this area must be accelerated. It will be important to also capture the ever growing benefits from technological developments such as FinTech, whilst addressing any possible risks arising in this context. ESAs have an important role to play in this respect.


A reflection is needed on what possible changes to the current legal framework are needed to optimise the rules within which the ESAs operate in order to increase their ability to deliver on their mandates. In particular, it is necessary to examine which changes to ESAs' existing powers and governance system are needed to increase the effectiveness of supervision (giving due consideration to the principle on the delegation of powers) and to design a funding system which would enable the ESAs to deliver fully on their mandates. In addition, a reflection is needed on the supervisory architecture to assess its effectiveness in the light of increasing complexity and interconnectedness of financial markets, and the need to ensure effective micro-prudential oversight to face the future challenges of the EU financial markets.

This consultation is designed to gather evidence on the operations of the ESAs focusing on a number of issues in the following broad areas: (1) tasks and powers; (2) governance; (3) supervisory architecture; and (4) funding. The aim is to identify areas where the effectiveness and efficiency of the ESAs can be strengthened and improved, while respecting the legal limitations imposed by the EU Treaties. The results should provide a basis for concrete and coherent action by way of a legislative initiative, if required.

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**Please note:** In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact [fisma-esas-consultation@ec.europa.eu](mailto:fisma-esas-consultation@ec.europa.eu).

More information:

- [on this consultation](#)
- [on the protection of personal data regime for this consultation](#) 

## 1. Information about you

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\*Are you replying as:

- ☐ a private individual
- ☒ an organisation or a company
- ☐ a public authority or an international organisation

\*Name of your organisation:

Assogestioni

Contact email address:

The information you provide here is for administrative purposes only and will not be published

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\*Is your organisation included in the Transparency Register?

(If your organisation is not registered, [we invite you to register here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#))

- ☒ Yes
- ☐ No

\*If so, please indicate your Register ID number:

89046007765-76

\*Type of organisation:

- |   |   |
|---|---|
| <input type="radio"/> Academic institution            | <input type="radio"/> Company, SME, micro-enterprise, sole trader |
| <input type="radio"/> Consultancy, law firm           | <input type="radio"/> Consumer organisation                       |
| <input checked="" type="radio"/> Industry association | <input type="radio"/> Media                                       |
| <input type="radio"/> Non-governmental organisation   | <input type="radio"/> Think tank                                  |
| <input type="radio"/> Trade union                     | <input type="radio"/> Other                                       |

\*Where are you based and/or where do you carry out your activity?

Italy

\*Field of activity or sector (*if applicable*):

*at least 1 choice(s)*


- ☐ Accounting
- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☒ Pension provision
- ☒ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Listed companies
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Other financial services (e.g. advice, brokerage)
- ☐ Trade repositories
- ☐ Other
- ☐ Not applicable



## Important notice on the publication of responses

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\*Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?

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- ☒ Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
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## 2. Your opinion

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### I. Tasks and powers of the ESAs

#### A. Optimising existing tasks and powers

##### I. A. 1. Supervisory convergence

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

**Question 1: In general, how do you assess the work carried out by the ESAs so far in promoting a common supervisory culture and fostering supervisory convergence, and how could any weaknesses be addressed?**

**Please elaborate on your response and provide examples.**

Assogestioni, the Italian Investment Management Association, welcomes the opportunity to reply to the Commission's Public Consultation on Regulations (EU) n. 1093/2010, n. 1094/2010 and 1095/2010.

To a large extent, the post-crisis activity of the ESAs has been focused in supporting the European Commission in developing legislative measures. Indeed, it is well known that the European Union reaction to the financial crisis was characterised by a massive introduction of new legislation, which has been identified by some commentators as a "tsunami". The new approach of the European Union to financial legislation is characterised by maximum harmonisation and both regulations and directives now include extremely detailed provisions to a level never experimented before.

Even though the reasons behind the new EU financial regulation landscape are understandable, that implies a great challenge for financial players. In this perspective, it is desirable that after such a massive legislative production a "pause" is granted to the market, so that it would be possible to apply the new rules and evaluate their effectiveness during an adequate period.

Only in this way, it would be possible to see the effect of the new provisions and to assess the need for promoting a systematic approach to the financial regulation. In this sense, as already stated in its replies to previous consultation papers of the European Commission (the Call for evidence: EU regulatory framework for financial services and the Green Paper "Building a Capital Markets Union") Assogestioni still believes that it is time to create a consolidated level 1 single rulebook, not only to grant certainty of the law (that it is far from being achieved), but also to avoid duplications, inconsistencies between different pieces of legislation and overlaps of requirements.

Focusing on the legal framework regulating asset managers, we would see merit in a more proactive role of ESMA aimed at identifying a common set of rules applicable to the management companies, regardless of the types of funds managed (UCITS or AIF). This common basis relating to management companies, notification process for cross-border activities and depositaries should then be adapted for the characteristics of the funds managed.

In relation to the work carried out by the ESAs as adviser of the European Commission for level 2 measure, we would like to highlight that sometimes, in our understanding, the ESAs have gone beyond their powers, suggesting level 2 measures that are not perfectly coherent with the level 1. This is particularly clear for the discipline on cost and charges disclosure in MiFID II. Whilst level 1 directive requires considering information provided in accordance with other Union law appropriate for the purposes of providing information to clients under MiFID II, the level 2 provisions seems to request additional data for funds other than the ones included within the KIID

/KID.

Moving to the future, during the next years, the role of the ESAs should be more focused in promoting a common supervisory culture and fostering supervisory convergence. In fact, even if Assogestioni appreciates the work carried out by the ESAs in this field, it is clear that the path toward a coherent application of the EU legislation in the different Member States is still long. In particular, we would welcome a more proactive approach of ESMA to identify and remedy possible divergences among national competent authorities in the application of Union Law (including technical standards issued by ESMA) and in supervisory practices.

In this filed a great relevance should be given to coordination between the ESAs, in order to promote a level playing field between different types of financial products and to foster common supervisory practices among the authorities. Regardless of the legal status of the service provider, for similar products and activities there should be similar rules. This is not the case, even focusing on the most recent pieces of legislation. To name one, the different regulation of the inducements provided by MiFID II and IDD does not seem justifiable in a client protection perspective.

Question 2: With respect to each of the following tools and powers at the disposal of the ESAs:

- peer reviews (Article 30 of the ESA Regulations);
- binding mediation and more broadly the settlement of disagreements between competent authorities in cross-border situations or cross-sectorial situations (Articles 19 and 20 of the ESA Regulations);
- supervisory colleges (Article 21 of the ESA Regulations);

To what extent:

a) have these tools and powers been effective for the ESAs to foster supervisory convergence and supervisory cooperation across borders and achieve the objective of having a level playing field in the area of supervision?

**Please elaborate on questions and, importantly, explain how any weaknesses could be addressed.**

In the first years of their activity, it seems that the ESAs have exercised self-restraint in using these tools and powers. Obtaining supervisory convergence in a field that for a long time has been characterised by different national approaches may not be straightforward and therefore, it is understandable that the ESAs proceed with caution in this task.

We consider that after the initial period, it could be the case for ESMA, and more generally for the ESAs, to conduct peer reviews on a regular basis and to make the results of these reviews publicly available unless confidentiality is justified by very strong arguments.

If divergences are identified, the ESAs should take action to remedy the situation as quickly as possible. The choice of the relevant tool should be done after balancing two different principles that should be equally respected. The principle of subsidiary and the need for a common application of the EU law.

b) has a potential lack of an EU interest orientation in the decision making process in the Boards of Supervisors impacted on the ESAs use of these tools and powers?

**Please elaborate on questions and, importantly, explain how any weaknesses could be addressed.**

We are not aware of a potential lack of an EU interest orientation in the decision making process in the Boards of Supervisors.

Question 3: To what extent should other tools be available to the ESAs to assess independently supervisory practices with the aim to ensure consistent application of EU law as well as ensuring converging supervisory practices? Please elaborate on your response and provide examples.

**Please elaborate on your response and provide examples.**


We do not believe that potential shortcomings in the supervisory convergence are linked to the absence of appropriate tools, rather to the different priorities that the ESAs have had to face during the last years and the aforementioned self-restraint.

Prior to increasing the number of tools available for the ESAs it is necessary to fully use the ones currently available, only in that case it could be possible to identify possible shortages. Otherwise, granting additional instruments would not be beneficial in pursuing the supervisory convergence.

Question 4: How do you assess the involvement of the ESAs in cross-border cases? To what extent are the current tools sufficient to deal with these cases?

**Please elaborate on your response and provide examples.**

#### **I. A. 2. Non-binding measures: guidelines and recommendations**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 5: To what extent are the ESAs tasks and powers in relation to guidelines and recommendations sufficiently well formulated to ensure their proper application? If there are weaknesses, how could those be addressed?

**Please elaborate and provide examples.**

Guidelines and recommendations are extremely useful tools for establishing consistent, efficient, and effective supervisory practices and ensuring the common, uniform and consistent application of Union law. However, it is worth noting that these instruments - even though they are issued on a “comply or explain” basis - are de facto binding legal instruments applicable to market participants in the same manner as EU or national regulations. Furthermore, unlike Regulatory or Implementing Technical Standards, such guidelines and recommendations may be issued by the ESAs without a mandate stemming from a Level 1 or Level 2 EU legislative text and are adopted by the ESAs themselves, without ex-post control or possibility to object to some of the



Guidelines by the Commission, the European Parliament, or the Council. This should lead to a rigorous interpretation of the ESAs tasks and powers in relation to guidelines and recommendation. In particular, the ESAs should use them only for giving guidance on how to interpret existing financial regulation at EU level and not for imposing new quasi-regulation requirements.

Moreover, it is necessary to clarify the legal status and binding character of the guidelines, as well as the capacity to enforce them. Particularly in the area of supplementary pensions, whereas both the European Commission and EIOPA have concluded that guidelines are non-binding, the ESAs Regulations define procedures aimed at encouraging the national Authorities to comply with guidelines and recommendations issued by the ESAs. This could lead to an automatic integration of the guidelines in the national legislations.

When pursuing supervisory convergence, the choice of the instruments is particularly critical, using level 3 measures instead of level 2 instruments could lead to different results. In particular, the uncertainty around the legal status of guidelines combined with a lack of reactions in case of incorrect application of the EU law at the national level could lead to unintended consequences that go against the aim of this tool. A clear example is the EBA Guidelines on sound remuneration policies under Articles 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013 (EBA/GL/2015/22). When focusing on the treatment of subsidiaries that are subject to specific sectoral legislation (e.g. Directive 2011/61/EU or Directive 2009/65/EC) and are part of a banking group, we believe that EBA has gone beyond its powers, by imposing de facto new requirements on the asset managers. But even worst, this has led to an inconsistent application of the legislation within Europe. Since guidelines are not legally binding, several NCAs of relevant Member States (e.g. UK, France and Germany) decided not to comply with these Guidelines, while other (like Italy) decided to follow the interpretation provided by EBA. It is clear that this situation is exactly at odds with the objective of guidelines and recommendation. In situations like the one described, we see two possible alternatives: (i) using legislative measures or (ii) in case guidelines are preferred, at least it would be necessary to use all the tools available for the ESAs for reacting to the wrong application of EU law by NCAs.


In light of the above, we encourage the Commission to take the appropriate steps to ensure that guidelines and recommendation are coherent with level 1 and level 2 measures and that they are applied consistently across Europe.

Apart from guidelines and recommendation, during the last years we saw an increasing use of additional “flexible” non-binding measures (Q&As, Opinions). Even though these instruments are useful in case a prompt interpretation of legislative measures is needed, the concerns expressed above in relation to guidelines and recommendations are applicable to these instruments. Indeed, their flexibility, that is the reason why they are so appealing for the ESAs, may exacerbate the problems in terms of legal certainty.

For Q&As the main concerns are linked to the absence of a public consultation before their release and the lack of a transitional period for the intermediaries to adapt to their provisions.

Assogestioni supports the efforts of the ESAs for establishing a common application of the EU law, but at the same time, we suggest using a more rigorous approach in the selection of the most appropriate tool. In addition, we think that the process that leads to the release of Q&As should be modified in order to obtain the market participants' views before their publication and to grant them a transitional period in case changes to their operations are required by the Q&As.

### **I. A. 3. Consumer and investor protection**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

**Question 6: What is your assessment of the current tasks and powers relating to consumer and investor protection provided for in the ESA Regulations and the role played by the ESAs and their Joint Committee in the area of consumer and investor protection? If you have identified shortcomings, please specify with concrete examples how they could be addressed.**

Promoting consumer and investor protection is a key goal for having robust and well-functioning capital markets. Increasing the trust of the investor in the financial sector is crucial and therefore all the initiatives with this aim are welcome.

The critical part is focusing on the right aspects for obtaining investor protection. We saw an increasing attention of the ESAs, in particular of ESMA, in the disclosure requirements. We all agree that disclosure is important, but the lessons learned from the financial crises and the behavioural finance tell us that it may not be the best tool for the investor protection. We believe that the ESAs should be more focused on the conduct of business rules rather than imposing increasingly higher levels of transparency in relation to the features of financial products that are very costly for financial intermediaries and probably of very little use for retail investors.

Assogestioni does not believe that the ESAs regulation should be modified for granting more powers to the Authorities in relation to consumer and investor protection. We believe that the current powers are sufficiently wide and that the ESAs should focus on how to make them properly work. In addition, it should be considered that MiFIR has already introduced significant powers in this field for the ESAs (i.e. product intervention powers). The new powers that are not yet entered into force suggest waiting for a comprehensive assessment before introducing any additional changes.


When discussing about investor protection a key objective is promoting regulatory consistency and level playing field. Products that have similar features and appear comparable for retail investors should be subject to the same rules. The ESAs and, in particular, the Joint Committee should work more on this aspect.

In this regard, the PRIIPs regulation theoretically may be seen as a significant step in this direction. Nevertheless, in practice the work carried out by the Joint Committee in relation to the level 2 measures was characterised by significant difficulties in terms of duration of the process, objectives and compatibility with other laws. Nonetheless, we think that it is the right direction and therefore the ESAs efforts should increase.

Question 7: What are the possible fields of activity, not yet dealt with by ESAs, in which the ESA's involvement could be beneficial for consumer protection?

If you identify specific areas, please list them and provide examples.

#### I. A. 4. Enforcement powers – breach of EU law investigations


Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 8: Is there a need to adjust the tasks and powers of the ESAs in order to facilitate their actions as regards breach of Union law by individual entities? For example, changes to the governance structure?

Please elaborate and provide specific examples.

We believe that the possibility for the ESAs to act in the case of national authorities incorrectly applying EU law is crucial for ensuring the consistent application of EU law as well as for fostering a common supervisory culture among national competent authorities. In this regard, in light of the number of recommendations issued, the enforcements powers appear to be perceived by the ESAs as measures of last resort. We understand the self-restrained approach, but we would definitely encourage the ESAs, and particularly ESMA, to make use of these procedures, if and when necessary, to prevent Member States from regulatory dumping or gold-plating that are detrimental to the development of the Single Market based on an effective level playing field.

#### I. A. 5. International aspects of the ESAs' work


Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 9: Should the ESA's role in monitoring and implementation work following an equivalence decision by the Commission be strengthened and if so, how? For example, should the ESAs be empowered to monitor regulatory, supervisory and market developments in third countries and/or to monitor supervisory co-operation involving EU NCAs and third country counterparts?

**Please elaborate and provide examples.**

Third-country entities are expected to assume greater importance in the European financial markets; therefore, we believe that the role of the ESAs in this field should be strengthened. In this regard, we believe that the ESAs powers should be modified in order to give them specific responsibilities (and powers) to follow third-country regulatory, supervisory and market developments having impact on the continuity of equivalent decisions made. In addition, we welcome the possibility to entrust the ESAs with monitoring the supervisory cooperation involving NCAs and third-country counterparts.

#### **I. A. 6. Access to data**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 10: To what extent do you think the ESAs powers to access information have enabled them to effectively and efficiently deliver on their mandates?

**Please elaborate and provide examples.**


Question 11: Are there areas where the ESAs should be granted additional powers to require information from market participants?

**Please elaborate on what areas could usefully benefit from such new powers and explain what would be the advantages and disadvantages.**

Even if we acknowledge that it could be appropriate increasing the data available for the ESAs and that they can play a role as an information hub, we believe that the request for information from market participants should not in any case result in a duplication of reporting obligations for supervised entities in general, and for pension funds in particular. The reporting activity entails substantial costs for supervised entities, especially for small-sized ones.

The exchange of information for statistical and information purposes among ESAs and NSAs should be encouraged, in order to avoid a disproportionate and unnecessary cost for market participants.

#### **I. A. 7. 7 Powers in relation to reporting: Streamlining requirements and improving the framework for reporting requirements**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.


Question 12: To what extent would entrusting the ESAs with a coordination role on reporting, including periodic reviews of reporting requirements, lead to reducing and streamlining of reporting requirements?

**Please elaborate your response and provide examples.**

Question 13: In which particular areas of reporting, benchmarking and disclosure, would there be useful scope for limiting implementing acts to main lines and to cover smaller details by guidelines and recommendations?


**Please elaborate and provide concrete examples.**

#### **I. A. 8. Financial reporting**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 14: What improvements to the current organisation and operation of the various bodies do you see would contribute to enhance enforcement and supervisory convergence in the financial reporting area? How can synergies between the enforcement of accounting and audit standards be strengthened?

**Please elaborate.**


Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 15: How can the current endorsement process be made more effective and efficient?  
To what extent should ESMA's role be strengthened?

Please elaborate.

## **B. New powers for specific prudential tasks in relation to insurers and banks**


### **I. B. 1. Approval of internal models under Solvency II**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 16: What would be the advantages and disadvantages of granting EIOPA powers to approve and monitor internal models of cross-border groups?

Please elaborate on your views, with evidence if possible.


### **I. B. 2. Mitigating disagreements regarding own funds requirements for banks**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 17: To what extent could the EBA's powers be extended to address problems that come up in cases of disagreement? Should prior consultation of the EBA be mandatory for all new types of capital instruments? Should competent authorities be required to take the EBA's concerns into account? What would be the advantages and disadvantages?

Please elaborate and provide examples.


### **I. B. 3. General question on prudential tasks and powers in relation to insurers and banks**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 18: Are there any further areas where you would see merits in complementing the current tasks and powers of the ESAs in the areas of banking or insurance?

Please elaborate and provide examples.

### C. Direct supervisory powers in certain segments of capital markets

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.



**Question 19: In what areas of financial services should an extension of ESMA's direct supervisory powers be considered in order to reap the full benefits of a CMU?**

**Please elaborate on your responses providing specific examples.**

A possible extension of ESMA's direct supervisory powers should be carefully evaluated. If the aim is enhancing supervisory convergence for developing a well functioning Capital Markets Union, then granting direct supervisory powers to ESMA is a measure of last resort. It should be adopted only after a thorough analysis of the current situation and the limits to cross border distribution and after having proved that all the other tools at ESMA's disposal are insufficient.

In accordance with the Treaties the objective of creating a single market should be pursued respecting the principle of subsidiarity, therefore all the initiatives that may represent a relocation of powers from NCAs to ESMA are very thorny.

Moreover, such a radical change in the supervisory model would have a high impact in the operation of the market players that are already facing major changes in the legal framework regulating their activities. This does not mean that in the long term it is not an objective, but at the current stage it is not a priority.

In particular, focusing on the examples provided by the Commission in the Consultation document, we do not believe that pan-European investment fund schemes are a good example of entities that should be subject to ESMA's direct supervision. Even though there are still some obstacles for having a perfectly smooth cross border distribution of funds within the EU, the funds market in Europe is already one of the most integrated in the financial sector. Therefore, we do not see the need for introducing such a radical reform. We think that ESMA already has the tools for improving the supervisory convergence without the need for an increasing of its powers.

What stated above should not be read as preference for a limited role of the ESAs, on the contrary we encourage the ESAs to play a role of strategic and coordination guidance of the NCAs. In this regard, the ESAs should also be more focused in monitoring the supervisory practices of the NCAs. For carrying out these tasks we believe that the ESAs should acquire an exhaustive knowledge of each national market that can be only achieved cooperating with the NCAs.

Question 20: For each of the areas referred to in response to the previous question, what are the possible advantages and disadvantages?

Please elaborate on your responses providing specific examples.


As referred in our previous answer, we only see disadvantages in giving ESMA the supervisory powers in relation to pan-European investment fund schemes, since they are already well supervised at national level.

Question 21: For each of the areas referred to in response to question 19, to what extent would you suggest an extension to all entities or instruments in a sector or only to certain types or categories?

Please elaborate on your responses to questions 19 to 21 providing specific examples

## II. Governance of the ESAs

### A. Assessing the effectiveness of the ESAs governance

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 22: To what extent do you consider that the current governance set-up in terms of composition of the Board of Supervisors and the Management Board, and the role of the Chairperson have allowed the ESAs to effectively fulfil their mandates? If you have identified shortcomings in specific areas please elaborate and specify how these could be mitigated?

Question 23: To what extent do you think the current tasks and powers of the Management Board are appropriate and sufficient? What improvements could be made to ensure that the ESAs operate more effectively?

Please elaborate.


Question 24: To what extent would the introduction of permanent members to the ESAs' Boards further improve the work of the Boards? What would be the advantages or disadvantages of introducing such a change to the current governance set-up?

Please elaborate.

Question 25: To what extent do you think would there be merit in strengthening the role and mandate of the Chairperson? Please explain in what areas and how the role of the Chairperson would have to evolve to enable them to work more effectively? For example, should the Chairperson be delegated powers to make certain decisions without having them subsequently approved by the Board of Supervisors in the context of work carried out in the ESAs Joint Committee? Or should the nomination procedure change? What would be the advantages or disadvantages?

Please elaborate.

## B. Stakeholder groups

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

**Question 26: To what extent are the provisions in the ESA Regulations appropriate for stakeholder groups to be effective? How could the current practices and provisions be improved to address any weaknesses?**

**Please elaborate and provide concrete examples.**


We believe that stakeholder groups are very good instruments for gaining the markets participants' views before taking a formal decision by the ESAs.

In the context of EIOPA, we appreciate the separation between the two distinct stakeholder groups, one representing the insurance sector and the other representing occupational pensions. We find this distinction effective and we call for its maintenance.

Regarding the role of the stakeholder groups, we highlight that it is not uncommon for them (particularly for the OPSG) not to receive a feedback on the contributions sent to the Authorities. It would be useful if the stakeholder groups may have a feedback on their work, and receive information clarifying if and how their opinions and suggestions have been taken into account by the ESAs.

We do not think that ESAs Regulations should be amended for improving their role, rather it could be desirable increasing their involvement by having more frequent meetings.

### **III. Adapting the supervisory architecture to challenges in the market place**

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

**Question 27: To what extent has the current model of sector supervision and separate seats for each of the ESAs been efficient and effective?**


**Please elaborate and provide examples.**

We believe that the sectorial structure of the ESAs has proved well in its early years, granting an adequate specialisation of each Authority. We acknowledge that the financial market is more interconnected than before and that the contours of the banking, insurance/pensions and securities have blurred, nevertheless peculiarities of each sector persist. We believe that the need for a more coordinated approach may be satisfied through a more relevant role of the Joint committee of the ESAs rather than by a radical change of the EU supervisory structure.

Question 28: Would there be merit in maximising synergies (both from an efficiency and effectiveness perspective) between the EBA and EIOPA while possibly consolidating certain consumer protection powers within ESMA in addition to the ESMA's current responsibilities? Or should EBA and EIOPA remain as standalone authorities?

We do not support a possible merger of EBA and EIOPA. We believe that the banking and the insurance/pensions sectors have different features that justify the presence of two authorities. Moreover, we do not believe that contingent reasons, like the relocation of EBA after Brexit, should affect a decision that should only be based on what is the best for the correct functioning of the financial markets. Finally, a merger of EBA and EIOPA would imply an excessive consolidation of power in one single authority and in one financial centre. Instead, we believe that the European authorities should be spread in different countries so to avoid any possible distortion of their activity that could be affected by an excessively relevant role played by some Member States. For the relocation of EBA we suggest considering Milan.

## IV. Funding of the ESAs

Please [refer to the corresponding section of the consultation document](#)  to read some contextual information before answering the questions.

Question 29: The current ESAs funding arrangement is based on public contributions. Please elaborate on each of the following possible answers (a) and (b) and indicate the advantages and disadvantages of each option.

a) should they be changed to a system fully funded by the industry?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

What are the advantages and disadvantages of option a)?

The funding model of the ESAs should be a consequence of their tasks; since we do not call for a change in their current role, we do not see reasons for modifying the present model. In any case, changing the system should never bring to a double level of fees for market players.

b) should they be changed to a system partly funded by industry?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

What are the advantages and disadvantages of option b)?

Question 30: In your view, in case the funding would be at least partly shifted to industry contributions, what would be the most efficient system for allocating the costs of the ESA's activities?

- ☐ a) a contribution which reflects the size of each Member State's financial industry (i.e., a "Member State key")
- ☐ b) a contribution that is based on the size/importance of each sector and of the entities operating within each sector (i.e., an "entity-based key")

Please elaborate on (a) and (b) and specify the advantages and disadvantages involved with each option, indicating also what would be the relevant parameters under each option (e.g., total market capitalisation, market share in a given sector, total assets, gross income from transactions etc.) to establish the importance/size of the contribution.

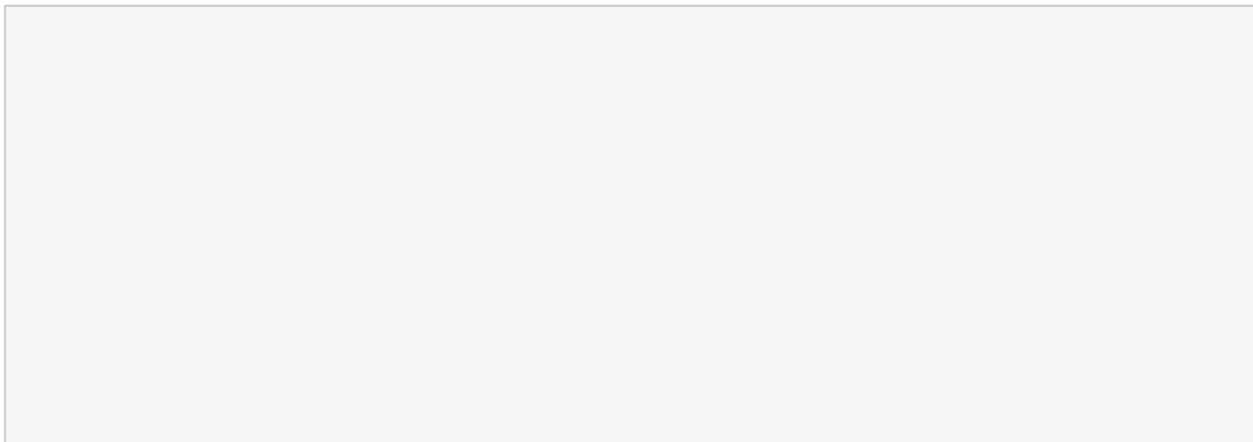
Question 31: Currently, many NCAs already collect fees from financial institutions and market participants; to what extent could a European system lever on that structure? What would be the advantages and disadvantages of doing so?

**Please elaborate.**

## General question

Question 32: You are invited to make additional comments on the ESAs Regulation if you consider that some areas have not been covered above.

Please include examples and evidence where possible.



## 3. Additional information

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Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

### Useful links

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

[Consultation details \(http://ec.europa.eu/info/finance-consultations-2017-esas-operations\\_en\)](http://ec.europa.eu/info/finance-consultations-2017-esas-operations_en)

[Specific privacy statement \(https://ec.europa.eu/info/sites/info/files/2017-esas-operations-privacy-statement\\_en.p\)](https://ec.europa.eu/info/sites/info/files/2017-esas-operations-privacy-statement_en.pdf)

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