

# Consultation on the Review of the European System of Financial Supervision

## Meta Informations

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## The European Supervisory Authorities (ESAs)

### Effectiveness and efficiency of the ESAs in accomplishing their tasks

How do you assess the impact of the creation of the ESAs on the financial system in general and on (i) financial stability, (ii) the functioning of the internal market, (iii) the quality and consistency of supervision, and (iv) consumer and investor protection in particular?

Organisation: Name: European Federation of Building Societies Contact: Andreas J. Zehnder Details: Rue Jacques de Lalaing 28, 1040 Brussels Main activity: promoting and supporting housing finance Transparency register ID Nr.: 33192023937-30 European Federation of Building Societies, Rue Jacques de Lalaing 28, 1040 Brussels Tel.: +32 (0) 2 231 03 71, Fax: +32 (0)2 230 82 45, E-mail: info@efbs.org The European Federation of Building Societies welcomes the possibility to participate in the consultation on the review of the European System of Financial Supervision. The European Federation of Building Societies brings together credit institutions and institutions which promote and support the financing of home ownership. It pursues the aim, in a politically and economically converging Europe, of promoting the idea of the acquisition of home ownership. The concept of saving-for-home-ownership is based on the idea of making available to a group of savers, by pooling their savings, the necessary funds to finance home ownership within a shorter time than would have been possible for a saver acting individually. For this, the customers of the Bausparkasse conclude a saving-for-home-ownership agreement for the savings amount required. They thereby undertake to make regular savings deposits. Bausparkassen grant loans secured by residential property to finance home ownership as a bulk business. In addition to this Bausparkassen business in the stricter sense, Bausparkassen are also allowed to make investments, however only in particularly safe investment vehicles. Considering the large amount of running legislative procedures, only part of the questions can be answered.

Do the ESAs' mandates cover all necessary tasks and powers to contribute to the stability and effectiveness of the financial system? Are there elements which should be added or removed from the mandate? Please explain?

In your view, do the ESAs face any obstacles in meeting their mandates? If yes, what do you consider to be the main obstacles? Please explain.

### Work towards achieving a single rulebook - regulatory activities

Do you consider that the technical standards and guidelines/recommendations

developed by the ESAs have contributed to further harmonise a core set of standards in the area of supervision (the single rulebook)? If you have identified shortcomings, please specify how these could be addressed.

What is your assessment of the work undertaken by the ESAs as regards providing opinions (e.g. technical advice) to the EU institutions?

### **Common supervisory culture/convergence of supervisory practices**

In your view, did the ESAs contribute to promoting a supervisory culture and convergence of supervisory practices? If you have identified shortcomings how could these be addressed?

### **Consistent application of EU law**

In your view, do the procedures on breaches of EU law (Article 17 ESAs Regulations) and binding mediation (Article 19 ESAs Regulations) ensure the consistent application of EU law? If you have identified shortcomings how could these be addressed?

### **Emergency situations**

Do you consider the ESAs' role in emergency situations appropriate? Please explain.

### **Coordination function (Art 31 ESAs Regulations)**

Do you think that the coordination role of the ESAs is appropriate? If you have identified shortcomings, please specify how these could be addressed.

In your experience, to what extent have coordination activities carried out by the ESAs contributed to promoting a coordinated EU response to adverse market conditions? Please explain.

### **Tasks related to consumer protection and financial activities**

How do you assess the role and achievements by the ESAs in the field of consumer protection? Please specify the main achievements by each ESA.

Are you aware of the warnings that were issued by the ESAs so far? If yes, please specify which ones and whether they have contributed to improve consumer protection or any other objective of the ESAs.

What are the main strengths and weaknesses of the current framework on consumer protection (Article 9 ESAs Regulations) and what would you suggest to address any possible shortcomings?

### **Direct supervisory powers**

How do you assess ESMA's direct supervisory powers? If you have identified shortcomings, please specify how these could be addressed.

How do you assess ESMA's performance for the registration and supervision of credit rating agencies (CRAs)?

Do you consider that further responsibilities of direct supervision should be entrusted on one or more of the ESAs, particularly with regard to institutions or infrastructures of pan-European reach? Please explain.

## **Governance of the ESAs**

### **General governance issues**

Are the governance requirements sufficient to ensure impartiality, objectivity and autonomy of the ESAs?

How do you assess the accountability requirements? If you have identified shortcomings, please specify how these could be addressed.

### **Decision-making bodies and voting modalities**

Does the current composition of the Board of Supervisors (BoS) ensure that it acts efficiently? If you have identified shortcomings, please specify how these could be addressed.

Does the composition of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

Does the mandate of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

### **Financing and resources**

How do you assess the arrangements on financing and resources? If you have identified shortcomings, please specify how these could be addressed.

### **Involvement and role of relevant stakeholders**

How would you assess the impact of the relevant stakeholder groups within the ESAs on the overall work and achievements of the ESAs?

Are you satisfied with the quality and timeliness of consultations carried out by the ESAs?

In the course of the financial crisis and the initiated legislative measures the financial branch has to follow and implement a multitude of legislative acts. These are: the directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (CRD IV), the regulation on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR), the proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010, the directive amending Directives 98/78/EC, 2002/87/EC and 2006/48/EC as regards the supplementary supervision of financial entities in a financial conglomerate and the proposal for a directive on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council. The amount of consultations of the EBA on technical standards which are linked to these legislative undertakings has increased significantly. For the financial branch it is difficult to handle them. Only between March and May 2013 the EBA had launched 17 consultations concerning the regulation on prudential requirements for credit institutions and investment firms. Small and medium-sized credit institutions are suffering because of the immensely increased amount of

work from massive disadvantages in comparison to the large universal banks. Their financial and human resources are mostly limited; therefore the participation in consultations is hindered. In addition, as the consultation documents are only available in English even though the EU Treaty guarantees the working and official languages, participation is hampered. The application and implementation of documents in the English language represents a major problem for credit institutions which only work on a regional level. Moreover, each EU citizen has the right to communicate with the EU institutions in the EU languages. Further, the EBA releases documents (such as “best practices”) with regulatory effect without consulting the relevant stakeholders. Sometimes, these documents are also guidance of the Financial Stability Board which are applied to EU level even though they were developed on international level. Considering the quantity of consultations a more adequate and longer deadline should be set for participation in the consultations.

Are you satisfied with the appointment procedures for the stakeholder groups?

In your experience, does the composition of stakeholder groups ensure a sufficiently balanced representation of stakeholders in the relevant sectors? If not, which areas appear to be insufficiently/overly represented?

The EU banking sector disposes of a great variety of different business models. As regulatory undertakings such as CRD IV/ CRR apply to all institutions which are active in the EU it would be most justified if also medium and smaller sized institutions could represent their interests accordingly. With reference to the composition of the last stakeholder group one has to notice that the composition was unbalanced and therefore the concerns of smaller and medium sized credit institutions and those regulated under specialized national law, such as Bausparkassen, not introduced and taken into account sufficiently.

Is the work undertaken by the stakeholder groups sufficiently transparent? Do you see areas where the approach towards transparency needs to be revisited?

Documents for meetings or minutes were only deficiently available on the website of the EBA.

In your experience, are the ESAs, and in particular the ESAs stakeholder groups, sufficiently accessible for stakeholders not directly represented in these stakeholder groups?

The possibilities to establish contacts with the EBA do not comply with transparency standards of other European Institutions. After more than two years since its foundation an organisation chart is still not viewable online.

### **Joint bodies of the ESAs**

How do you assess the functioning of the Board of Appeal (BoA)?  
If you have identified shortcomings, please specify how these could be addressed.

What is your assessment of having one joined BoA for all ESAs as compared to a dedicated BoA for each ESA respectively?

How do you assess the functioning of the Joint Committee (JC)?  
If you have identified shortcomings, please specify how these could be addressed.

Does the JC ensure cross-sectoral cooperation and consistent approaches between the three ESAs? If you have identified shortcomings, please specify how these could be addressed.

## **ESRB**

### **ESRB's mandate and experience**

#### **Risk identification and prioritisation**

What are your views on the ESRB mandate? If you think it should be amended please specify how.

What are your views on the definition of systemic risk, as provided by the ESRB Regulation? If you think it should be amended, please specify how.

Do you think that the ESRB has developed a sufficiently preventive and forward-looking approach? Please comment on the successes and shortcomings and how they could be, respectively strengthened or addressed.

What aspects of EU financial stability should be addressed by the ESRB as a priority?

What is your assessment of the ESRB's coordination with other economic or financial policy areas or economic governance procedures, for example on macroeconomic imbalances?

Please outline and comment on the areas in which the ESRB has been most effective.

Should the ESRB specific mandate be adapted in light of the Single Supervisory Mechanism? If yes, how?

### **Timeliness and appropriateness of warnings and recommendations**

What are your views on the powers conferred to the ESRB by the ESRB Regulation (i.e. the power to issue warnings and recommendations)? Are they sufficient? Please explain. What are your views on the use the ESRB has made of these powers in practice?

What is your assessment of the ESRB's public recommendations in terms of content and timeliness? What is their impact on the direct addressees, and indirectly on the relevant market/market participants? If you identify any potential improvements, please specify how these could be delivered.

Did the recommendations adequately address the relevant policy makers in alerting them to, and advising them on, the necessary measures for risk mitigation?

Were the recommendations specific enough and did they address the main specific risks that could be identified in the period under review? If not, where would you identify the shortcomings and how could these be improved?

### **Implementation of warnings and recommendations**

How do you assess the non-binding character of warnings and recommendations? Could such tools be strengthened? If yes, please specify how.

What is your assessment of the 'act or explain' mechanism chosen by the Regulation? If you identify any room for improvement please specify how this could be addressed.

What impact did public recommendations have on the market or public in general? Please outline your experience.

## **Institutional framework and governance of ESRB**

### **General governance issues**

#### **Key principles for good governance**

Do the regulations provide ESRB with the right structures to follow the good governance model in terms of openness, participation, accountability, effectiveness and coherence and to promote a common supervisory culture? Please explain your answer.

Has ESRB contributed to establishing a common macro-prudential policy framework and convergence of macro-prudential supervisory practices within EU? Please explain your answer.

Has the ESRB acted as an impartial body in the interests of EU as a whole? Please explain your answer.

### **Accountability and transparency**

Are the ESRB's accountability and reporting obligations, (including the frequency), to the European Parliament and the Council sufficient and transparent enough? If not, please explain how they should be improved.

What is your assessment of the nature of these public hearings?

### **Decision-making bodies and voting arrangements**

#### **Voting arrangements for the designation or election of the Chair of the ESRB**

What are your views on the fact that the President of the ECB is by rule the Chair of the ESRB? If you think this rule should be amended, please specify how the ESRB Chair should be appointed. For example, should it be defined in the Regulation or should she/he be appointed by an EU institution or the ESRB itself? If by an EU institution, by which one and how?

Do the governance arrangements ensure that the Chair carries out his tasks with sufficient independence? If not, please specify where there is room for improvement and how this could be addressed.

### **Composition, mandate and functioning of the General Board**

What is your assessment of the composition, size and mandate of the General Board? If you identify any shortcomings please specify how these could be addressed.

What is your assessment of the relative representation of central banks on the General Board?

What is your assessment of the participation of the European Supervisory Authorities (EBA, EIOPA, ESMA)?

What is your assessment of the presence of non-voting members at General Board meetings?

### **Internal organisation**

What is your assessment of the supporting activities of the ECB to the ESRB, according to the relevant regulation (Council Regulation 1096/2010)? What are

the key advantages and disadvantages of this set-up? If you identify any room for improvement, please specify how this could be addressed.

### **Access to data**

In your view, has the ESRB had adequate access to relevant data and financial information for the fulfilment of its mandate?

For the analysis of systemic risk, what is the balance needed between, on the one hand, data in summary or aggregate form and, on the other hand, firm-specific data?

How do you assess the data access procedures foreseen in the ESRB Regulation? If you identify any room for improvement, please specify how this could be addressed.

### **ESRB external relations and communication**

#### **Positioning of ESRB as an authoritative policy institution focused on monitoring and preventing systemic risks**

What is your assessment of ESRB communications?

What is your assessment of the ESRB's reputation as the body responsible for identifying and helping to mitigate systemic risk?

#### **Interaction with other international bodies (e.g. G20/FSB)**

What is your assessment of the ESRB interactions with the International Monetary Fund (IMF); the Financial Stability Board (FSB); the G20 Group; macro-prudential authorities in any other relevant non-EU countries? If you identify any room for improvement, please specify how this could be addressed.

### **Cooperation and interaction between the ESAs (micro level) and ESRB (macro level)**

#### **Assessment of market developments**

What is your assessment of the past stress test exercises that were initiated and coordinated by EIOPA and EBA? If you have identified any shortcomings, please specify how these could be addressed.

Did the stress tests and EBA's recapitalization exercise contribute to increase confidence in the stability of the financial system and increase the resilience of financial institutions? Please explain.

#### **Aspects of macro-micro interaction**

What is your assessment of the cooperation between ESRB and the ESAs? In which areas has cooperation been successful? If you identify room for improvement, please specify how this could be addressed.

What is your assessment of the ESAs' follow-up actions on the ESRB recommendations? Please explain.

Has ESRB contributed to the work of the ESAs by bringing a macro-prudential perspective

into micro-prudential activities? If so, please comment on key successes and/or shortcomings.

### Structure of the ESFS

What is your assessment of the structure of the ESFS?

Does the structure of the ESFS facilitate the identification, monitoring and mitigation of systemic risk in the EU financial sector? Please explain.

Do you consider that the ESFS can be further simplified in order to tangibly enhance coherence between the ESAs and the ESRB? Please explain and add concrete suggestions, where possible.

Do you consider that the structure of the ESFS, in particular the roles of EBA and ESRB, will need to be revisited in light of the establishment of the Single Supervisory Mechanism (SSM) and the new role of the ECB within the ESFS? Please explain and add concrete suggestions, where possible. How should synergies in terms of supervision within ESFS including ECB be exploited? Please explain.

From your experience, do you think that the ESAs and ESRB attract a sufficient number of diverse and excellent staff? If not, why not? If you identify room for improvement, please specify how this could be addressed.

### Miscellanea

Do you have any other comment on the effectiveness and efficiency of the ESAs and ESRB within ESFS and on ESFS in general? Please indicate whether the Commission may contact you for further details on the information submitted, if required.