



Consultation report on the review of the European System of Financial Supervision. July 2013.

The European Commission launched, on the 26 of April, a consultation on the effectiveness and efficiency of the European System of Financial Supervision and its constituent agencies. The consultation, that includes a survey and a background document to help answering the questions contained in the survey, is addressed to all interested stakeholders but contributions are particularly sought from national and international public authorities, financial services companies and universities, and has been opened till the 19 of July. The European System of Financial Supervision (ESFS) was established by the Regulation (EU) n° 1092/2010, of the European Parliament and of the Council, of 24 November, on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, and has been operational since December 2011. The ESFS, according to article 3.1 of the Regulation, shall comprise:

- a) the European Systemic Risk Board (ESRB);
- b) the European Supervisory Authority (European Banking Authority (EBA)) established by Regulation (EU) n° 1093/2010;
- c) the European Supervisory Authority (European Insurance and Occupational Pensions Authority (EIOPA)) established by Regulation n° 1094/2010;
- d) the European Supervisory Authority (European Securities and Markets Authority (ESMA)) established by Regulation n° 1095/2010;
- e) the Joint Committee of the European Supervisory Authorities (ESAs) and;
- f) the competent or supervisory authorities in the Member States.

The European Supervisory Authorities (ESAs) were established with the common objective to contribute to: i) improve the functioning of the internal market including in particular a sound, effective and consistent level of regulation and supervision; ii) ensure the integrity, efficiency and orderly functioning of financial markets; iii) safeguard the stability of the financial system; iv) strengthening international supervisory coordination; v) prevent regulatory arbitrage and promote equal conditions of competition; vi) ensure the taking of risks (credit/investment/insurance) are appropriately regulated and supervised and; vii) enhance consumer protection. The ESRB was created as the EU body in charge of macro-prudential oversight and its essential role is to contribute to the prevention and mitigation of systemic risks to EU's financial stability by means of ex ante warnings and recommendations for remedial action in response to the risks identified.

The referred Regulations provide for a EC's review of the ESRB by 17 December 2013 and the ESAs by 2 January 2014. In order to make this revision, the EC has issued the present consultation which is organised into five sections: sections 1 to 4 state concrete questions about how the ESAs and the ESRB meet their objectives whereas the last section launches a single open general questions so that the participants in the consultation could expose any other comment on the effectiveness and efficiency of the ESAs, the ESRB and the ESFS.

1. ESAs: effectiveness and efficiency of the ESAs in accomplishing their tasks.

The ESAs' mandates include, among others, the power to contribute to the development of a single rule book through draft technical standards, guidelines, recommendations and opinions. Also, the ESAs have the power to ensure the consistency of supervisory practices and the uniform application of EU law, to take action in emergency situations, to promote transparency, simplicity and fairness for investors, to assess market developments, to participate in colleges of supervisors, to settle disagreements by mediation between national authorities, to collect information, and to coordinate, advise and collaborate with ESRB. ESMA, also, has direct supervisory powers for the registration and supervision of Credit Rating Agencies and Trade Repositories of the EMIR Regulation.

The ESAs have two decision making bodies: the Board of Supervisors –whose members shall enjoy a high degree of independence to objectively fulfil their mission- and the Management Board who is responsible for preparing the ESA’s work programme. The ESAs have an autonomous budget whose revenues consist of a combination of contributions from the national authorities, a subsidy from the UE and fees paid by the industry. To ensure a structured liaison with stakeholders the ESAs Regulations establish specialised separate stakeholder groups for each ESA with an advisory role. The ESAs have two Joint bodies: the Joint Committee with a cooperation purpose and the Board of Appeal.

2. The European Systemic Risk Board (ESRB).

The ESRB’s mandate stresses its preventive role. When significant risks to financial stability are identified, the ESRB shall provide warning and, where appropriate, issue recommendations for remedial actions. Five public recommendations have been issued since the inception of the ESRB. Warnings and recommendations are not binding and can be made public. The institutional Framework of the ESRB encompasses: a General Board (comprising 65 members), a Steering Committee, and Advisory Technical Committee and an Advisory Scientific Committee. Five general principles underpin a good governance model; the accountability principle obliges the ESRB to provide information about its actions to the European Parliament and the Council.

The ESRB cannot request data directly from financial institutions but it can send request to the ESAs, the European System of Central Banks and national authorities.

The ESRB performance is contingent on how well it manages relations with stakeholders and national authorities in order to, on one side, obtain information and, on the other, achieve the implementation of the macro prudential policies to mitigate the systemic risks.

3. Cooperation and interaction between the ESAs (micro level and the ESRB (macro level).

The new supervisory system is based on the coordination of the micro level and macro level actions. The ESAs have critical information about development in financial markets and in major firms to assess stability risks. The ESAs, in cooperation with the ESRB, have the important task to initiate and coordinate stress tests to assess the resilience of financial institutions with potential systemic risk in the EU, as well as to coordinate the communication on the outcomes of the stress test.

The ESAs do not have the power to request direct information from financial institutions and can only directly access information by requesting it from national authorities except where information is not made available by national authorities.

4. Structure of the European System of Financial Supervision.

Article 81 of the ESAs Regulations requires the EC inter alia to assess in its review whether (i) it would be appropriate to simplify the ESFS, in particular, to enhance the coherence between the macro and the micro level, (ii) the ESFS evolves in a fashion consistent with global developments, (iii) the EFSF is able to continuously attract highly qualified and diverse staff; and finally (iv) a single seat for all ESAs would enhance better coordination. This revision will take place every three years.

The report inquiries about the potential impacts of the Single Supervisory Mechanism –established in a EC proposal of September 2012- that assigns a core role to the European Central Bank (ECB) and constitutes a first step towards a banking union. The EC has recently published the proposal of a Single Resolution Mechanism that will complement the Single Supervisory Mechanism. Once the political agreement has been reached within the EU Institutions, the European Central Bank will be assuming its new tasks (but will not take over any tasks of the EBA) within the framework of the ESFS and will have to closely cooperate with the ESAs.

The EC final report on the ESFS’s review and any accompanying proposals, as appropriate, shall be forwarded to the European Parliament and to the Council.

If you want to read the consultation’s background document, please, do click on:

http://ec.europa.eu/internal_market/consultations/2013/esfs/docs/background-document_en.pdf

If you want to read the consultation paper with the survey, please do click on:

http://ec.europa.eu/internal_market/consultations/2013/esfs/docs/consultation-document_en.pdf