



## **Regulation of the new European Supervisory Authorities. November 2010.**

The European Commission (COM) submitted, on September 2009, a proposal for reform of the financial supervision in Europe, which has finally been approved by the Council and the European Parliament.

The new supervisory model is composed by the European Systemic Risk Board (ESRB), which will be responsible for risk assessment and supervision to safeguard the stability of the financial system, and the European System of Financial Supervisors (ESFS), responsible for supervising financial institutions that consists of an integrated network of national supervisors, the ESRB and the new European Supervisory Authorities (ESAs), created on the basis of current Lamfalussy Level 3 committees and with additional competences. National authorities will still be in charge of day supervision except what is established in sectorial dispositions.

The ESAs shall have the power to propose to the COM specific rules for national authorities and financial institutions; develop directives and recommendations; mediate and settle disputes between national supervisors; contribute to ensure the consistent implementation of Community legislation, and take action in emergencies, including the banning of certain activities or products. In addition, the European Securities and Markets Authority (ESMA) shall have direct supervisory powers over credit rating agencies.

During the negotiation process with the Parliament, important changes have been introduced regarding the position adopted by the Council at the beginning of the process. Among these amendments, the new Authorities are now given the possibility to temporarily ban or restrict certain financial activities when they could have an adverse effect on the normal operation of the financial markets or the stability of all or part of the system. They shall also have the power to take decisions directly involving individual institutions in the consistent implementation of the rule, in emergency situations and in binding mediation.

The new Authorities will be governed by a Board of Supervisors, composed of the heads of national supervisors, who will decide, barring exceptions, by a simple majority. There will be a Management Board made up of the chairperson of the Authority and six members of the Board of Supervisors. The chairperson and the Executive Director of the Authority shall be responsible for the representation and daily management of the Authority, respectively.

To ensure co-ordination between the three Authorities and their joint action in cross-cutting areas, a Joint Committee will be created, composed of the chairpersons of the three Authorities, and whose chairperson will also act as vice-chair of the ESRB. In addition, there will be an advisory body for regulatory issues, the Securities and Markets Stakeholder Group. Finally, the people and institutions concerned that have a legitimate interest will be able to appeal against the decisions of the ESA before a Board of Appeal made up of independent experts, without prejudice to any rights of appeal to ordinary courts of justice.

The new Authorities will be financed through obligatory contributions from national authorities, amounting to 60% of the total, plus a subsidy from the European Union included in the general budget. They may also receive funding through fees paid by directly supervised institutions, as is the case of credit rating agencies.

The new regulation shall enter into force on the day following its publication in the Official Journal of the EU with the form of a Legislative Regulation and shall be directly applicable in the Member States. The new authorities shall start work on 1st January, 2011.

In three years' time, a report shall examine the appropriateness of preserving a sectoral supervision model and that of adopting a system of prudential supervision, as well as the use of rules of conduct separately or integrated in a single supervisor. After one year, the COM shall draw up a report on the appropriateness of entrusting the Authorities with new powers of direct supervision of pan-European institutions or infrastructures.

Documents relating to the reform can be consulted following [this link](#):

[http://ec.europa.eu/internal\\_market/finances/committees/index\\_en.htm#overview.](http://ec.europa.eu/internal_market/finances/committees/index_en.htm#overview)