

Eurofinas response to the European Commission's consultation on the operations of the European Supervisory Authorities

Who we are

Eurofinas, the voice of consumer credit providers at European level welcomes the opportunity to respond to the European Commission's consultation on the operations of the European Supervisory Authorities'. We very much value and support the work to improve the definition of the ESAs' mandate and institutional framework in order to increase their effectiveness.

As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers. The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, furniture, electronic appliances, education etc. It is estimated that together the Eurofinas members financed over 423 billion Euros worth of new loans during 2015 with outstandings reaching 981 billion Euros at the end of the year.

In Europe, consumer credit firms either can be banks, bank-owned subsidiaries, independent firms or the financing arms of manufacturing companies (known as captive companies). When they are banks or belong to a banking group, consumer credit companies are required to apply EU prudential regulation, either directly at legal entity level or through the inclusion of their activities in the requirements that are applied to the group at consolidated level. Also, depending on the Member State, EU prudential regulation may be applied to financial institutions.

In addition to the provision of consumer loans, companies represented by Eurofinas distribute insurance products on an optional and ancillary basis. Insurance products distributed include, among others, asset protection insurance, loan protection insurance and liability insurance. These insurance products are distributed either directly by consumer credit firms or by partners (retailers, dealers, etc.) that are part of their supply chain.

Introductory observations

As a general observation, we find that the work conducted by the European Supervisors is of very high quality, particularly given the very short deadlines allocated to produce the various standards, the technical nature of the topics, the greatly varying market characteristics, and the political sensitivities that are inherent to EU discussions. Against this backdrop, we would like to pay tribute to the staff of the ESAs.

We also welcome the engagement of the ESAs with its stakeholders. We think that the authorities are very open bodies and we appreciate the dialogue, the possibility to ask questions, the public hearings and the events.

Eurofinas welcomes the work of the European Commission to improve the definition of the ESAs' mandate and institutional framework in order to increase their effectiveness. Since the establishment of the European Supervisory Authorities, we have been engaging particularly with the EIOPA and the EBA, on a wide variety of topics, including:

- supervisory and prudential standards for credit institutions
- consumer protection and financial innovation
- securitisation
- anti-money laundering and counter financing of terrorism

We engage with the ESAs either in our capacity of lending institutions and insurance intermediaries. In these contexts, we have done our best to contribute in a constructive manner to the work of the ESAs and promote regular dialogue with the industry. We have been explaining the work of the ESAs, as well as the new supervisory culture to our membership on a continuous basis.

In our view, international and European supervisors tend to focus principally on bigger institutions. In reality, however, the financial sector involves many smaller players, which do not always have the time, resources and culture to follow developments outside of national frameworks. Depending on jurisdictions, local authorities may also not always be able to relay the relevant information at the right time.

Responses to the consultation 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?

In our view, the European Supervisory Authorities have been successful at fostering supervisory convergence at cross-sectoral EU level. However, we would like to take this opportunity to underline that supervisory convergence is not only about applying the same rules on EU level across the sectors, but also about the engagement of national supervisors with market operators (e.g. public hearings and workshops, opportunities to obtain information, raise questions). We believe that the ESAs have a role to play in improving this type of convergence on national level as well.

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

In our opinion, the ESAs sometimes go further than what is needed or foreseen at “level one” regulation, for example with regard to product oversight and governance arrangements. We think that this can lead to inconsistent application and supervision of Union law. In order to prevent this, we would like to suggest to introduce stronger political control in the management chains of the ESAs

In addition, it is not always clear which entities must apply the rules established by the ESAs (e.g. in the case of Guidelines) drafted by ESAs. It would also be helpful to receive clarification on the “comply or explain procedure”. This procedure was created in a corporate governance context and we do not feel that it is pertinent to apply in other contexts. It is a real shift from the supervisory culture in EU Member States as well.

Question 6: What is your assessment of the current tasks and powers relating to consumers 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

While it is true that the work of the ESAs has principally focused on supervisory and prudential frameworks, their work on conduct and consumer protection has grown in importance and output. In general, we welcome the work on these topics. Many issues, including digitalization, FinTech and innovation are indeed very important to work on, because of the structural implications that they have on the industry. We think that the ESAs have a role to play in supporting the ongoing digitalisation trend.

In our view, it is vital that the supervisor takes into account that market players are business operators which have certain financial, operational and skill restraints. In this respect, it is very important that the relevant supervisor promotes a positive environment, in which the different stakeholders can work together, and where firms can speak in confidence. We believe that so far, the EBA and EIOPA have been able to establish such constructive setting and it is essential that this is preserved. In this respect, we underline that our industry is committed to continue share expertise and be of assistance when needed, either with relevant data, or to elaborate on the specificities of our business model.

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 cover smaller details by guidelines and recommendations? Please elaborate and provide concrete examples

We support a strengthened role for the ESA's with regard to proportionality for reporting requirements, ensuring proportionate application of article 99 of the Capital Requirements Regulation.

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

A stakeholder group which brings together various stakeholders (i.e. business operators, regulators, consumer representatives) is valuable and should in principle be preserved, even though output and usefulness may differ by topic, given difficulties to reach consensus on certain topics. We think that the ESAs themselves are in the best position to evaluate the precise added value of these groups.

Question 29:

The current ESAs funding arrangement is based on public contributions: a) should they be changed to a system fully funded by the industry; b) should they be changed to a system partly funded by industry? Please elaborate on each of (a) and (b) and indicate the advantages and disadvantages of each option.

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"); or 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,

In our view, a complete halt to use EU funds for the ESAs' budget would not be consistent with the importance of EU-wide supervision of the financial services sector and the pressure put on the industry over the past years. As acknowledged by the European Commission, the approach taken to fund supervisors differs widely across EU Member States. We have difficulties with the introduction of a harmonised funding system of the ESAs that is in fact disconnected from the funding system of supervisors at national level. We believe that it should be for Member States to decide how to fund their contributions to the ESAs.

In all cases, the principle of proportionality must central to any decision taken on how contributions to the ESA budget are to be allocated. Smaller players simply do not have the same resources as the bigger, more established and significant credit and investment institutions. Contributions should be based on the size and the complexity of the institutions. It is vital to ensure that smaller institutions are not excessively burdened by changes to the current funding regime, especially since this would have a direct impact on their competitiveness in the market as well.

Contact persons

Alexandre Giraud
Deputy Director General
+32 2 778 05 64
a.giraud@eurofinas.org

Nadia Hazeveld
Legal Adviser
+32 2 778 05 72
n.hazeveld@eurofinas.org

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