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Finnish Financial Services' (FFI) response to the European Commission's public consultation on the operations of the European Supervisory Authorities

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FFI is an interest representation and advocacy on behalf of Finnish banks, insurance companies and asset managers. Our membership also includes providers of statutory insurance lines, which account for much of Finnish social security.

Key considerations:

- **Strengthen democracy:** As the representative of companies in a small Member State, international cooperation is our strength. We rely on EU institutions to represent our interests in addition to our national governmental bodies. However, more democratic participation of national representatives in the EU supervisory architecture would enable deeper understanding of the differences between small and large financial markets.

- **Increase transparency and stakeholder participation:** Common rules are important, but the voice of each stakeholder representative, regardless of the size of their home Member State, should be heard. At the moment we experience this better in our relations with the Commission than with the ESAs. Consequently, reforming stakeholder relationship and improving transparency of the legislative process are important to take into account in the ESA review process.

- **Separation of supervisory and legislative powers**: In our view, supervisory power should be the means of creating added value to ESAs. Politicians should remain responsible for legislation, and as we know, legislative and supervisory powers should be kept separate.

- **Coordinate without compromising expertise**: The FFI represents banks, insurance companies and asset managers, which means we have proven with our own example that cooperation and coordination between these sectors is possible. The Finnish Financial Supervisory Authority has been supervising all financial sectors for more than 10 years already. At the same time, we feel it is pivotal to understand the specificity of each sector, and maintain expertise on each of them when reforming the ESA structure.

- **Better preparation for high quality standards**: The ESAs should be given more time to prepare their level 2 standards and guidelines. This would reflect positively in the quality of legislation, and would properly make use of consultations with stakeholders. Summary of consultation replies, and reasons for not taking into account some of the most general comments, should be published, to improve the accountability and transparency of the ESAs' preparation of level 2 standards and non-binding guidelines.

  We recommend that, as a general rule, the ESAs are given at least from nine to eighteen months to complete technical standards following the agreement at level 1. Equally, the same time should be allowed for the industry to implement these rules.

- **Funding should come from the EU budget**: To ensure effective, transparent and equal supervision in all Member States, the EU budget should remain a source of the ESAs' funding. This gives the European Parliament legitimacy to supervise the ESAs, thus rendering them democratically accountable. The financial industry is already contributing through National Supervisory Authorities, and this system should be maintained as it stands.

I. Tasks and powers of the ESAs

A. Optimizing existing tasks and powers

1. Supervisory convergence

Q1: 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?

The ESA's have contributed well to the development of European Capital Markets by way of increasing supervisory convergence and providing common standards to the financial industry.

Promoting supervisory convergence should be the main task of the ESAs, for which the focus has been largely on Level 2 advice since the ESAs were created. For a well-functioning Single Market it is not enough to have a common rulebook, but also the reading of those rules by supervisors and supervisory practices should converge.

In many cases better coordination of the implementation of EU rules and enforcement by national authorities could have made it unnecessary to have more Level 1 rules. For example to remediate the vague wordings of the CRD with regards to supervision of banking groups, clear and pragmatic ESA rules would be welcomed.

One concrete example where more coordination is needed is entities that are supervised by one national competent authority but that provide crucial services to other countries (e.g. central counterparties and central securities depositories). ESAs should ensure that all competent authorities in different member states receive the same information quickly and efficiently and have influence on the supervision of this crucial entity. The implementation of PRIIPs and MiFID II rules in the beginning of 2018 are cases where there is especially high need to ensure good coordination between the ESAs.

There needs to be a clear distinction between powers of ESA and NCA's/ ECB in order to avoid inefficient and ineffective supervision (e.g. on-site visits, peer reviews, issue warnings or temporarily bans). Any financing duplication and cost inefficiencies should be avoided.

Q2: With respect to each of the following tools and powers at the disposal of the ESAs:

- peer reviews
- binding mediation and more broadly the settlement of disagreements between competent authorities in cross-border situations or cross-sectoral situations
- supervisory colleges

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?

It has become clear that there is a need for harmonized implementation and a level playing field between financial market participants which in turn will benefit greatly from convergence of supervisory practices.

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?

Q3: 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 your response and provide examples.

Before granting additional powers to ESAs, attention should be given to the extent to which they have used their existing powers until now, and make better use of them in cases where there are shortcoming in their application.

Q4: 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?

Further responsibilities of direct supervision could be examined when it comes to securities infrastructures with a pan-European or cross-border reach. CCPs play a key role in financial markets by mitigating counterparty credit risk on transactions between market participants.

We believe it could be beneficial that ESMA's direct supervisory powers would be reached to all central counterparties (CCP's) operating in the EU. Because of their nature, they operate cross-border and have a great systemic importance. Their supervision is currently done on national level and thus there may be instances where the supervision varies.

Even if the supervision of such market participants remains at the national level, the ESAs should receive at least a strong coordination role in the supervision, ensuring that national authorities from other relevant countries to the infrastructure receive all possible information and have influence on the service provider in question. Exchange of information and possibilities to influence are especially crucial in this respect, as the activity and the counterparty exposures of CCPs go largely beyond the borders of a specific jurisdiction and are therefore important to the stability and proper functioning of more than one financial market within the EU.

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2. Non-binding measures: guidelines and recommendations

Q5: 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?

The legal nature of guidelines is causing uncertainty across Member states and market participants. These are non-binding according to EU law but of a quasi-regulatory nature. A lot of the implementation depends on national authorities and on how the market participants understand these rules. This in turn leads to problems in achieving a fully functioning single market. There should be strict and clearly stated preconditions for issuing guidelines and recommendations

It is of central importance that any guideline or recommendation is consistent with the Level 1 or 2 texts. In a case where the Level 1 or 2 text does not give enough guidance to the ESAs or is unclear, they should abstain from guidelines and recommendations or seek further clarification on them from the legislative institutions.Guidelines should not be used to take a stand on the actual aim of the legislation but to complement it according to the exact delegation. This would ensure a clearer line between technical and political decisions and thus a better division of powers than there is today.

A particular case are so-called “preparatory” guidelines. So far EIOPA issued such “preparatory” guidelines on Solvency II and on Product Oversight and Governance (POG). However, the European legislator did not provide for such “preparatory” guidelines in the EIOPA Regulation. As a result the elaboration of such “preparatory” guidelines significantly shorten the overall implementation timeframe of two years for Directives or Regulations. A further consequence is the legal uncertainty resulting from such “preparatory” guidelines for insurance companies and policyholders until the official application date of Directives or Regulations. For example, in the case of POG guidelines, the Swedish NSA and Danish NSA have said they will not follow, the but Finnish NSA has made it a regulation. It creates an asymmetry and uncertainty in the market.

3. Consumer and investor protection

Q6: 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.

In general, we value the ESAs´ work in consumer protection. The ESAs should carefully follow the developments and trends in this field. The Consumer Trend reports issued by the ESAs have evolved over the years, and they now look at market developments more broadly from consumer protection point of view. Developing supervisory convergence further in this field should be a priority.

Issuing guidelines on the basis of the own initiative mandate in the ESA Regulation should however be used in restricted cases only. In some cases this mandate has been used when level 1 regulation is not adopted or transposed yet (like in the case of EIOPA adopting preliminary guidelines in Product governance, before IDD level 1 measures were transposed). This creates a risk of issuing overlapping rules and rule changes between the

preliminary and final ones. The scope of the own initiative mandate should not be interpreted in a broad way in order to circumvent the mandate issued by the European regulator in the level 1 text. .

In some cases, we have seen actions taken by the ESAs (either in the form of reports, opinions or guidelines) that would have been better if targeted to certain markets and not to all Member states. In cases where problems or market risks are clearly limited to certain markets, the ESAs should refrain from issuing actions for all markets. Actions should only be taken if threatening situations are present and a proper impact assessment has been made. Any action should not be made based on pure pressure from outside to take use of all the tools in the ESAs' mandate. This would also help to target actions and ESAs' resources efficiently to areas which are the most important ones.

Q7: What are the possible fields of activity, not yet dealt with by the ESAs, in which the ESAs involvement could be beneficial for consumer protection?

We feel the powers granted to the ESAs stretch to the right areas already and should not be extended.

4. Enforcement powers – breach of EU law investigations

Q8: 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?

5. International aspects of the ESAs' work

Q9: 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 monitor supervisory co-operation involving EU NCAs and third country counterparts?

We believe that more internal coordination and more common positions should be developed by ESAs and their members at international organisations. Only speaking with one voice at international fora can the interest of EU industry be well defended.

We would be in favour of strengthening the ESAs' work in relation to monitoring regulatory, supervisory and market developments in third countries. Given access to the EU market by third country firms via equivalence of their legal framework has become more prominent in EU legislation, we believe monitoring of equivalence decisions should be carried out by the ESAs on an ongoing basis and a report be made to the Commission to ensure that the conditions under which equivalence was granted are still valid. We believe the ESAs have the practical experience and knowledge to carry out such monitoring. However, the decision to grant equivalence should stay in the hands of the European Commission.

Brexit creates new challenges for European regulatory and supervisory architecture. The current equivalence regimes were not created for a market the size of the UK, so a new framework will need to be developed for the EU27/ UK market access and regulatory/ supervisory cooperation. Given the size and importance of the UK financial market servicing

the EU27 economy, it is important to create a framework post-Brexit where the ESAs can have an active regulatory and supervisory dialogue with the UK authorities given the amount of financial markets activity conducted in the UK and also the pool of knowledge and experience that the UK regulators and supervisors have.

6. Access to data

Q10: To what extent do you think the ESAs powers to access information have enabled them to effectively and efficiently deliver on their mandates?

The most important step would be to create a new architecture with one central point of collection. This hub would receive all fields that have to be reported under one or the other regulation. Authorities, ESAs as well as NCAs and other part takers, would have appropriate rights to load whatever is in their own scope. Clearly the investment necessary for this central data basis should be made at the level of ESAs to avoid duplication.

It's of utmost importance that authorities define what they want to achieve with the information they intend to collect. The next step is to define the information the authorities want to collect and then check if the target will be achieved.

It should also be emphasized that the regulatory burden is constantly growing and that the economic thresholds to enter in the financial sector is also growing. This in turn reduces competition - which is also a cost for the customer / buyer of financial services.

Q11: Are there areas where the ESAs should be granted additional powers to require information from market participants?

Market participants are already exposed to heavy information requests by many different authorities. By granting ESAs additional powers to require information directly from market participants would inevitably increase the burden for institutions and would most probaply lead to dublicating requests.

It is better that national competent authorities will coordinate the information requests at national level. It is very important for undertakings to have a central contact point as on the one hand many questions concerning supervisory reporting relate to national provisions and on the other hand the single entry point prevents that identical information are requested repeatedly and therefore allows for efficient reporting processes.

7. Powers in relation to reporting: Streamlining requirements and improving the framework for reporting requirements

Q12: 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?

ESAs should coordinate with each other but also with other authorities, especially with the ECB, ESRB, SRB and BCBS. Overlapping reporting requirements are not acceptable. We are especially concerned how the overlaps between EBA reporting and ECB reporting by euro area credit institutions will be dealt with.

For example, ECB requires euro area banks to report solo FINREP templates. Those solo templates overlap with ECBs statistical reporting requirements (BSI-templates). EBA requires banks to report FINREP on consolidated level and EBA has deemed that level sufficient.

ECB has also additional reporting requirements (for example STE-reporting) not harmonised by EBA ITS. Furthermore, ECB sets additional validation rules on top of those set by the EBA and those validation rules are not given to banks in advance. That leads to difficult situations where banks are faced with questions concerning data quality and are given very short time to answer.

This is somewhat inconsistent and we would prefer better coordination indeed. Single rulebook should be respected when it comes to regulatory reporting requirements and currently too many authorities are setting the rules.

In addition to coordination, there are number of things how regulatory reporting processes could be made less burdensome and more efficient:

- Principle of Proportionality: this principle should be given more attention. Especially small institutions are struggling with too heavy reporting requirements. Furthermore, it should be critically considered if solo reporting is always necessary.

- Principle of Materiality: This is a very important principle and currently missing in practise. Banks are using too much time exploring insignificant errors and minor inconsistencies which have no material effect.

- Clear guidance: Banks are spending too much time trying to understand what is being asked exactly. The quality of instructions must be improved. When setting new reporting requirements, standard setters should pay attention to how this information is being produced from banks' IT-systems. For example, if there already exist classifications and definitions for customers of products, new definitions for the same issues should be avoided. There are cases where the same issue is reported a little bit differently to different authorities.

- Communication: Regular and open dialogue between standard setters and the industry is currently missing. There should be a better possibility for the banking community to exchange views with upcoming reporting developments and their timelines on a regular basis. Public hearings are a good start but often they lack the possibility for the industry to be properly heard.

- Implementation periods: Upcoming changes and updates should be communicated to the banking industry well in advance. Whenever reporting is implemented for the first time, a longer remittance period needs to be determined to take this into account. Timeline for implementing new requirements for the first time should start running only from the day on which (sufficient) guidance has been provided. Banks need a minimum development period of 12 to18 months to complete the reporting project starting from the day on which they have been informed of the details in an official way.

- Consultation deadlines: Stakeholders must be provided with sufficient time, at least 3 months, to respond to consultations.

- Validation rules: they should be provided as soon as possible as this would help banks to duly understand the requirements and to implement them.

- Q&A –process: this tool is helpful but much too slow. Three must be a more efficient way to be heard if, for example, industry finds errors in guidance or validation rules. Currently it takes 2 to 4 months to get an answer.

  Uniform application of European reporting templates across all EU member states could significantly contribute to supervisory convergence, the reduction of duplications and overlaps as well as a level playing field. National reporting templates deviating from the European reporting templates could be identified and streamlined (e.g. in insurance sector, earlier reporting deadlines than defined by EIOPA, no acceptance of XBRL, additional quarterly data etc.)

  Q13: 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?

  An EBA opinion, which was delivered recently, proposes to give EBA the power to adopt supervisory reporting requirements directly through its own implementing technical decisions, rather than by means of draft ITS which need to be endorsed by the Commission.

  We do not support such initiative because reporting standards are not just technical in nature but include several possibilities for interpretations. Therefore we see risks if EBA would adopt drafts of its own and Commission would only have little time to react.

8. Financial reporting

Q14: What improvements to the current organisation and operation of the various bodies do you see would contribute to enchance enforcement and supervisory convergence in the financial reporting area? How can synergies between the enforcement of accounting and audit standards be strengthened?

Q15: How can the current endorsement process be made more effective and efficient? To what extent should ESMA's role be strengthened?

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

1. Approval of internal models under Solvency II

Q16: What would be the advantages and disadvantages of granting EIOPA powers to approve and monitor internal models of cross-border groups?

During the short timeframe since the implementation of Solvency II, extensive challenges relating to internal models and supervisory convergence thereof have already come to light.

The examination, approval and monitoring of internal models shall remain with the group supervisor. However, we see an important role for EIOPA in training and supporting national supervisors with regard to internal models. In order to assure a sound approval process EIOPA should take a mediating role between the group supervisor and the NCAs. However, the experience gathered so far does not call for an extension of EIOPA's power in the approval or monitoring process.

With its existing powers, EIOPA has already initiated several workstreams to achieve an increased harmonisation relating to internal models, e.g. via inclusion of relevant chapters in the supervisory handbook. Furthermore, it is our understanding that EIOPA has already taken the initiative to identify major discrepancies between internal models across the industry (e.g. on market and credit risk calibration, the dynamic volatility adjustment, and sovereign risk). In light of this already extensive ongoing work and looking ahead, we do not believe that a further enhancement of EIOPA's role in the direct approval or monitoring process of internal models is required. Instead, the group supervision process, including college of supervisor meetings should be streamlined, in order for group-wide internal models to work more efficiently.

We would also like to highlight that approving and monitoring internal models involve assessments of undertakings' governance system. Supervision of an undertaking's governance system cannot be split between the national supervisor and EIOPA.

2. Mitigating disagreements regarding own funds requirements for banks

Q17: 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?

Q18: 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?

C. Direct supervisory powers in certain segments of capital markets

Q19: 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?

We believe it could be beneficial that ESMA's direct supervisory powers would be reached to all central counterparties (CCP's) operating in the EU. Because of their nature, they operate cross-border and have a great systemic importance. Their supervision is currently done on national level and thus there may be instances, where the supervision varies.

Specifically on fund management the consultation raises the question whether ESMA should be given more direct supervisory powers on fund management. We do not believe this would be beneficial but rather it could create more bureaucracy. The barriers to cross-border distribution of funds are national tax issues, national marketing rules etc. which would not be overcome by moving authorisation/ notification of funds to ESMA.

If further tasks are given to ESMA, then this extension of responsibilities should be matched with adequate powers and tools to conduct properly the new supervisory tasks. Given it has shown problematic to ensure adequate budgeting for the ESAs, adding new tasks to ESMA should be rather evolution than revolution.

Q20: For each of the areas referred to in response to the previous question, what are the possible advantages and disadvantages?

Uniform supervisory powers on the CCPs at ESMA level could benefit all parties in the capital markets. Uniform supervisory powers would provide the market participants a clear view on how the CCP's are supervised. Therefore they would not need to know how different national competent authorities use their supervisory powers but instead could use their knowledge on all CCP's operating in the EU.

Q21: 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?

An extention could be made to all operations and instruments of the central counterparties.

II. Governance of the ESAs

A. Assessing the effectiveness of the ESAs governance

Q22: 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 indetified shortcomings in specific areas please elaborate and specify how these could be mitigated?

No major changes in the ESA governance are needed regarding the role of the Board of Supervisors and the Management Board. Given the specificities of the EU, and especially given the dynamics between large Member States and smaller, diverse markets, it is important that each Member State has a representative in BoS on 'one member one vote' -principle. Therefore, whilst we are supportive of further supervisory convergence, we do not support changes that would weaken the role of national supervisors in the ESAs' decision making.

Transparency of BoS meetings and decisions should be improved by consistently and contemporaneously publishing on its website the agenda of BoS meetings and informative meeting minutes, including information on votes cast. Similar calls have also been made by the European Parliament (refer to the 6 March 2017 Opinion of ECON on EIOPA's 2015 budget discharge).

Q23: 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?

We don't see a need for major changes in the ESA governance regarding the role of the Board of Supervisors and the Management Board. We notice that there is push by some to have more independent decision making by the ESAs by making the Management Board

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and Chair more independent from the NCAs. The reality in the EU with Brexit is that power is being concentrated in the hands of large central European Eurozone countries. Therefore, even if we are supportive of more supervisory convergence in the EU, we don't support changes that would weaken the role of (smaller) national supervisors in the ESAs' decision making. Given the specificities of the Nordic countries with smaller, diverse markets and three non-Euro currencies (SEK, DKK, NOK), it is important that the role of the Nordic supervisors in the ESAs' decision making is not diminished.

Q24: 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 indroducing such a change to the current governance set-up?

Q25: 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 advantage or disadvantage?

B. Stakeholder groups

Q26: 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?

ESAs prepare legislative proposals on a wide variety of issues, many of which are of very technical character. In our view an increased interaction with stakeholder groups and market participants – which possesses strong technical knowledge – before and during the legislative creation process would lead to more efficient legislation (given the political level of ambition) and at the same time potentially shorten the legislative process time.

We would welcome improvements to the governance of ESAs that would include a more significant role for the stakeholder groups . One option could be regular attendance of members of the IRSG and OPSG in the BoS (e.g. the Chairs and Vice-Charis of the IRSG and OPSG). This would ensure that the BoS increases its awareness of the stakeholder groups, that members of the BoS can forge new contacts with the stakeholder group members and thereby have the perspectives of the stakeholder groups at the forefront of their minds when reaching decisions. Currently, the stakeholder groups seem very removed from the BoS, making it harder to have informal exchanges of views.

It is absolutely necessary for members of stakeholders groups, task forces and other working groups to be allowed to consult and discuss their work within their own member organizations confidentially and under strict rules of procedure.

III. Adapting the supervisory architechture to challenges in the market place

Q27: To what extent has the current model of sector supervision and separate seats for each of the ESAs been efficient and effective?

Q28: 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?

Based on the experience of Finnish financial supervisory structure, we are modestly positive towards an idea of a single European financial supervisor. It would present, however, a fundamental change and would require a thorough analysis on the structural changes. We consider it crucial that expertise on each of the financial sector - and sensitivity to their differences, is maintained, regardless of physical structure.

IV. Funding of the ESAs

Q29: 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

No. We believe that the current funding structure is reasonable, and don't see a need to change it. It is important to keep part of the ESAs' funding from the EU budget, in order to maintain the European Parliament's interest in the supervision of the ESAs, and because these are public EU institutions.

The function of the ESAs has in large part been more of a regulator instead of a supervisor. Also, full funding from the industry could prove to be particularly problematic in a situation where deep financial crisis would hit the market, and reduce liquidity of financial companies. This would happen at a time when the ESAs would require enhanced resources, thus deepening the problem further.

Direct part or full funding of the ESAs by the industry would put into question the impartiality, objectivity and autonomy of the ESAs and raise conflict of interest issues.

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

Yes

No

Don't know / no opinion / not relevant

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No. If direct funding would come from the industry, then an equivalent amount should be reduced from funding currently directed through the NCAs.

Q30: In you 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., and "entity-based key")

Whatever the new financing structure will be for ESAs, it should not mean any increase in current industry regulatory costs. A reallocation of powers between NCAs and ESAs in the future could be accompanied with a proportional reallocation of funding too, but again without implying a cost increase for the industry.

Q31: 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?

Nobody would have an overall understanding of the contributions made by industry. Also, it is highly possible that funding to NCAs would not decrease even if funding of ESAs would come on top of the existing supervisory funding structure. Instead, we might see a development of ever increasing costs to the industry by both the NCAs and the ESAs.

A possible reallocation of powers between NCAs and ESAs should in future be accompanied by a proportional reallocation of funding too, but again without implying a cost increase for the industry.

General question

Q32: You are invited to make additional comments on the ESAs Regulation if you consider that some areas have not been covered above.