

European Supervisory Authorities: powers, governance and funding

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PURPOSE: to review the tasks, powers, governance and funding of the three European Supervisory Authorities (ESAs) to strengthen and improve the supervision of EU financial markets.

LEGISLATIVE ACT: Regulation (EU) 2019/2175 of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Banking Authority, Regulation (EU) No 1094/2010 establishing a European Insurance and Occupational Pensions Authority and Regulation (EU) No 1095/2010 establishing a European Securities and Markets Authority, Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and contracts or to measure the performance of investment funds and Regulation (EU) 2015/847 on information accompanying transfers of funds.

CONTENT: the Regulation strengthens the mandates, governance and funding of the three European Supervisory Authorities (ESAs) - the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) - by giving them greater responsibility for ensuring convergence of financial market supervision.

Combating money laundering and terrorist financing

The Regulation strengthens the role and powers of the EBA with regard to supervision for the purpose of combating money laundering. In particular, the EBA is entrusted with the task of collecting information from the competent national authorities, improving the quality of supervision by developing common standards, carrying out risk assessments and facilitating cooperation with non-EU countries in cross-border cases.

Supervisory convergence system

The Regulation improves the current system in order to increase the efficiency, consistency and transparency of the process. It builds on existing tools, such as peer reviews, guidelines and question-and-answer systems, while introducing new ones, such as the establishment of coordination groups at EU level to be considered whenever competent authorities see the need for coordination in the light of specific market developments.

Protection of consumers and financial activities

The powers of each of the three ESAs are strengthened.

The EBA shall take a leading role in promoting transparency, simplicity and fairness in the market for financial products or services throughout the internal market, in particular by: (i) analysing consumer trends, such as the evolution of costs and charges of retail financial products and services in the Member States; (ii) developing retail risk indicators for customers.

The ESAs shall be empowered to coordinate so-called 'mystery shopping' by competent authorities, where appropriate.

In addition, ESMA shall be granted direct supervisory powers over the administrators of critical benchmarks, as well as over providers of data communication services.

ESAs shall also play an important role in identifying and signalling risks to financial stability arising from environmental, social and governance factors and in improving the compatibility of financial market activity with sustainability objectives.

Governance of the ESAs

The Regulation provides for decisions to be taken by the Board of Supervisors and gives the competent national authorities a key role in the governance structure of the ESAs. It also reinforces the role and powers of the chairperson, who should be selected on the basis of merit and skills, respecting the principle of gender balance.

Reporting channels

ESAs shall have specific reporting channels for receiving and handling information provided by a natural or legal person reporting on actual or potential breaches, abuse of law, or non-application of Union law. ESAs shall ensure that information be provided anonymously, or confidentially and securely, and provide feedback.

Responsibility of the European System of Financial Supervisors

At the request of the European Parliament, the Chairperson of the Authority shall attend a hearing before the European Parliament on the performance of the Authority. A hearing will take place at least once a year. The Chairperson shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.

ENTRY INTO FORCE: 30.12.2019. Some provisions are applicable from 1.1.2020 and others from 1.1.2022.