



Council of the
European Union

**Brussels, 11 August 2014
(OR. en)**

12447/14

**EF 211
ECOFIN 775
SURE 26**

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	11 August 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2014) 509 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS)

Delegations will find attached document COM(2014) 509 final.

Encl.: COM(2014) 509 final



Brussels, 8.8.2014
COM(2014) 509 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the operation of the European Supervisory Authorities (ESAs) and the European
System of Financial Supervision (ESFS)**

{SWD(2014) 261 final}

1) INTRODUCTION

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), working within a network of national competent authorities (NCAs), the Joint Committee of the ESAs (JC) and the European Systemic Risk Board (ESRB), constitute the European System of Financial Supervision (ESFS).

In light of the failures in financial supervision exposed by the financial crisis, President Barroso in 2008 requested a group of high level experts, chaired by Mr Jacques de Larosière, to make proposals to strengthen European supervisory arrangements, with the objective of establishing a more efficient, integrated and sustainable European system of supervision. Building on the recommendations issued by the group the Commission set out proposals to strengthen financial supervision in October 2009, which were adopted by the co-legislators in November 2010. The ESAs started their operations in January 2011.

The ESAs founding Regulations¹ require the Commission to publish a general report early in 2014 on the experience acquired as a result of the operations of the Authorities and the procedures laid down in these Regulations. This report shall be forwarded to the European Parliament and to the Council together with any accompanying proposals, as appropriate.

The Commission has assessed in detail the functioning of the ESAs covering the period from their inception to December 2013, involving a broad range of stakeholders. The Commission organised a public hearing on the ESFS review (May 2013), as well as a public and a targeted stakeholder consultation (April – July 2013). Due account was taken of the self-assessment provided by the ESAs², of the European Parliament Resolution on the ESFS review of March 2014³ as well as the studies undertaken by the IMF⁴ and the European Parliament.⁵

The review showed that in spite of the short reporting period, overall the ESAs have performed well. They have successfully built functioning organisations, have started to deliver on their mandates and have developed their own profiles. Where areas for improvements have been identified this report identifies scope for action in the short term and

¹ See Regulations (EU) No 1093/2010, 1094/2010, and 1095/2010 of the European Parliament and of the Council of 24 November 2010; OJ of 15 December 2010, L 331, pp. 12-119.

² Joint Committee (JC 2012 100), Self-Assessment Report of the European Supervisory Authorities, 21 December 2012 (not public).

³ European Parliament Resolution of 11 March 2014 with recommendations to the Commission on the European System of Financial Supervision (ESFS) Review.

⁴ International Monetary Fund – Financial Sector Assessment Program at EU level, March 2013.

⁵ See PE 507.490 (on the ESRB) and PE 507.446 (on the ESAs) both of October 2013.

the need for further assessment in relation to possible improvements over the medium term. A more detailed assessment of the operations of the ESAs/ESFS is presented in the Staff Working Document which accompanies this report.

In addition to the periodic requirement for review on the performance of the ESAs/ESFS the Commission is required to draw up a report by 16 June 2014 in respect of the delegated power to adopt regulatory technical standards conferred on the Commission pursuant to Article 11(1) of the founding Regulations. The respective report is provided in Annex I of this Report.

2) THE MANDATE AND ROLES OF THE ESAS

The new supervisory architecture, with the ESAs and the ESRB at its centre, is a cornerstone of the comprehensive reforms that have been initiated by the Commission since the outbreak of the financial crisis. The overall objective of the ESAs is to sustainably reinforce the stability and effectiveness of the financial system throughout the EU.

More specifically, the underlying rationale for setting up the ESAs was to ensure closer cooperation and exchange of information among national supervisors, facilitate the adoption of EU solutions to cross-border problems, and advance the coherent interpretation and application of rules. By preparing uniform standards and ensuring supervisory convergence and coordination the ESAs should shape the further development of a single rule book applicable to all 28 EU Member States and thus contribute to the functioning of the Single Market.

To this end, the ESAs have been assigned in the founding Regulations and subsequent secondary Union legislation regulatory, supervisory, financial stability and consumer protection roles and powers, including the following:

- Developing draft technical standards and issuing guidelines and recommendations, respecting better regulation principles;
- Issuing opinions to the European Parliament, the Council, and the European Commission;
- Resolving cases of disagreement between national supervisors, where legislation requires them to co-operate or to agree;
- Contributing to ensuring consistent application of technical rules of EU law (including through peer reviews);
- A coordination role in emergency situations;
- ESMA exercises direct supervisory powers for Credit Rating Agencies and Trade Repositories;

- Collecting the necessary information to carry out their mandate;

Some of the ESAs powers are further circumscribed by Union acts⁶. In particular the ESAs must exercise their tasks and powers assigned to them within the scope of the Union acts stated in their founding Regulations⁷, measures adopted under them, or any further Union acts which may confer tasks on them.

The establishment of a Banking Union, and notably of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM) as its key components, will impact the functioning of the ESFS, but does not call into question its existence and necessity. To the contrary, the ESAs will continue to be responsible for the establishment of common regulatory and supervisory standards and practices and the consistent application of EU measures across the Single Market. An assessment of the interactions between the ESFS and the Banking Union would be premature at this stage but will be closely monitored in the future.

3) ASSESSMENT OF THE ESAS' WORK: MAJOR ACHIEVEMENTS AND AREAS FOR IMPROVEMENTS

Overall effectiveness and efficiency: The ESAs have quickly established well-functioning organisations aimed at contributing to restoring confidence in the financial sector. The findings of the review reveal that the scope of the mandate of the ESAs is considered sufficiently broad with some room for targeted possible extensions, such as in the fields of consumer/investor protection⁸, the enforcement of International Financial Reporting Standards (IFRS) as well as in the area of shadow banking.⁹

Suggested way forward:

Against this background, the Commission will further examine in the medium to long term whether there is a need to expand the current mandates of the ESAs to cover new fields such as IFRS enforcement, a stronger oversight role on internal model validation particularly in the area of insurance, and shadow banking.

⁶ E.g. Regulation (EU) No 236/2012 on short selling and certain aspects of credit default swaps circumscribes the conditions under which ESMA can temporarily prohibit short sales (Art. 28).

⁷ Most importantly Art. 1(2) of the founding Regulations respectively.

⁸ E.g. include the Shareholders Rights Directive (2007/36/EC) and the Takeover Bids Directive (2004/25/EC) into the scope of ESMA pursuant to Article 1(2) of the ESMA Regulation.

⁹ See Communication from the Commission to the Council and the European Parliament, Shadow Banking – Addressing New Sources of Risk in the Financial Sector, COM(2013)614 of 4 September 2013.

Regulatory role: The work undertaken by the ESAs on the development of the single rulebook has contributed significantly towards enhanced regulatory harmonisation and coherence and has improved mutual understanding between supervisors. It also allowed the EU to equip itself with a significant amount of high quality rules within a relatively short timeframe.

Transparent, inclusive and efficient processes are seen as crucial in this area. Many stakeholders pointed to the need to provide for flexible deadlines, i.e. deadlines that are dependent upon the entry into force of the final agreement of the basic Union act, for the submission of draft technical standards to the Commission. This would provide the ESAs with sufficient time to prepare high-quality draft standards and allow for their public consultation within adequate time-frames. In addition, some concerns pointed to the lack of detailed feedback on the consultations and the frequently perceived lack of high-quality cost benefit analysis.

Stakeholders and the ESAs themselves repeatedly called for an increased involvement of the ESAs in the preparation of level 1 financial services legislation. The ESAs are set up as decentralised agencies and have therefore an important role in contributing to the implementation of Union policies. They are however distinct from European institutions and their role in the regulatory process therefore has to be assessed within the limits posed by the Treaty.

While regulatory tasks have been constantly added to the ESAs' workload during the period covered by the review, various stakeholders stressed that relevant developments were not always mirrored by an equivalent increase in terms of human resources and corresponding budget.

Guidelines and recommendations adopted by the ESAs pursuant to Article 16 of the ESAs Regulations are of non-binding nature but have specific characteristics ('comply or explain' effect). They proved to be a flexible instrument for convergence however stakeholders pointed to some uncertainties relating to the concrete scope and nature of these measures. In the Commission's view the use of the ESAs' powers must be solidly grounded on the legal basis covering their acts. In particular, the two objectives for issuing guidelines and recommendations set out in Article 16(1) of the founding Regulations, namely to establish "consistent, efficient and effective supervisory practices" and to ensure the "common, uniform and consistent application of Union law" have to be read cumulatively.

Further clarity was requested from many stakeholders on the possibility of challenging guidelines and recommendations under EU law. In the Commission's view Article 60 of the founding Regulations is limited to decisions and thus does not provide a legal basis for challenging guidelines and recommendations. To the extent Guidelines and recommendations are intended to produce legal effects vis-à-vis third parties they should be subject to review

under Article 263(1) TFEU. However, the Court of Justice did not yet have opportunity to judge this particular aspect of the ESAs Regulations.

More than 150 technical standards were submitted in form of draft technical standards to the Commission during the review period. ESMA submitted 92 draft technical standards. Subsequent to the successful conclusion of the negotiations on the CRDIV/CRR framework in spring 2013, EBA submitted 58 draft technical standards, while EIOPA has carried out extensive preparatory work given the pending negotiations on the Solvency II / Omnibus II framework and submitted its first technical standard. One joint regulatory draft technical standard on the Financial Conglomerates Directives was submitted by all three ESAs in 2013. During the period under review the Commission has approved more than 45 technical standards in total of which only three were sent back to the ESAs for further amendments.

Suggested way forward:

To remedy concerns expressed by stakeholders, the ESAs should in the short term enhance the transparency of regulatory process, including by setting an adequate time frame for responding to public consultations and by providing more detailed feedback on the input received at this occasion. The ESAs should also ensure high quality cost-benefit analysis and draft legal texts for draft technical standards. Draft technical standards should systematically be subject to public consultations.

For its side the Commission will pay particular attention to the appropriateness of timelines and the scope of empowerments for technical standards in its draft legislative proposals and during discussions taking place within the legislative process.

Supervisory role: The creation of a common Union supervisory culture and the promotion of convergent supervisory practices is necessarily a long term objective. The ESAs have so far focussed on their regulatory role. This can be partly explained by the need for prioritisation given scarce resources but appears to be also linked to some shortcomings in the governance structure of the ESAs¹⁰.

The ESAs have started conducting peer reviews. It is understood that greater use will be made of this tool, including not only thematic peer reviews but also country peer reviews and more systematic follow-up, once work on the regulatory framework has been advanced.

EBA and EIOPA, and with the establishment of CCPs since September 2013 also ESMA, have been actively involved in all aspects of the work of colleges of supervisors and have improved their functioning through the provision of guidance and the oversight of agendas and annual action plans. The ESAs contributed to enhance supervisory reporting and disclosure. However, more effective use could be made of the ESA's right of access to data

¹⁰ See the section on governance.

from competent authorities and financial institutions, subject to the conditions set out in the ESAs Regulations.

The ESAs have not issued recommendations, or indeed binding decisions under Articles 17 to 19 ESAs Regulation (e.g. on breach of law, emergency situations, binding mediation), but have made use of their non-binding mediation powers and moral suasion. The lack of use of binding mediation is attributed by stakeholders to various causes including the current governance structure of the ESAs which does not favour decisions or proceeding against national authorities, the dissuasive effect of the relevant powers as well as the lack of clarity of the founding Regulations as to the scope of and triggers for binding mediation. One possible option to further examine could be to clarify in the founding Regulations the scope of and triggers for binding mediation.

The ESAs' activities as regards international matters are framed by their underlying mandates. The presence of the ESAs in relevant international organisations is perceived as contributing to ensuring consistency with global benchmarking and is expected to further strengthen and complement the European voice, alongside the Commission, in international fora. The specific requirements regarding the international work of decentralised agencies set out in the Common Approach to these agencies, are intended to help agencies to operate within their mandate and the existing institutional framework.

Suggested way forward:

As a first immediate step to address stakeholder concerns the ESAs should consider increasing the focus on supervisory convergence, in particular through increased use of peer reviews and appropriate follow-up.

In a second stage, the Commission will explore options to review the triggers for and scope of binding mediation powers, including its possible clarification on the scope and triggers in the founding regulation. Similarly the Commission will examine further whether the ESAs' right of access to data should be strengthened to grant them direct access to data, where necessary, for the performance of their tasks.

Financial stability – monitoring and coordination role: The ESAs have actively contributed to monitoring developments in financial markets and to test the resilience of financial institutions as well as of the EU financial system as a whole. To this end the ESAs have established various tools to fulfil their systemic risk identification responsibilities. To date no emergency situation has been declared but the ESAs have taken steps in order to act effectively should this be necessary.

The ESAs have taken various measures to promote coordinated action and to facilitate exchange of information. Most notable examples include the 2011/12 recapitalisation exercise

as well as the Joint Committee report on cross-sectoral risks¹¹, the ESMA coordination of measures adopted by competent authorities on short selling¹², and the EIOPA opinion on the low interest rate environment.¹³ Most stakeholders expressed strong satisfaction with the ESAs coordinating role.

Consumer protection role: The ESAs have established internal structures on consumer protection issues within their organisations. The horizontal nature of consumer protection allows for its implementation through various aspects of the ESAs' work. While it is true that there is still limited scope for the authorities to (temporarily) ban or restrict certain financial activities pursuant to Article 9(5) of the ESAs Regulations and no emergency situation has so far been declared, the relevant scope for action laid down in the founding Regulations is broad and better use could be made of existing provisions. In addition, currently the powers of Article 9(5) may only be exercised if specified in the sectorial legislative acts referred to in Article 1(2), which currently only applies to a few legislative acts. Consideration could be given to convert Article 9(5) into a self-standing empowerment.

As a matter of fact several national authorities represented in the respective BoS do not hold consumer protection mandates at national level and thus lack the necessary expertise and tend to prioritise other issues of more direct concern to them. To remedy this fact the ESAs could introduce a mechanism to ensure close co-operation and the involvement of the relevant national authorities in order to bring in the expertise and ensure a comprehensive approach to consumer protection at ESAs level.

All three ESAs have published guidance on consumer protection issues and several Consumer/Investor days have been held. So far, the ESAs have issued four warnings, notably on investments in Foreign Exchange (Forex) (December 2011), on the pitfalls of online investments (September 2012) on Contracts for Differences (CfD) (April 2013), and on virtual currencies (December 2013) which were published on the relevant websites.¹⁴ However, public awareness of these warnings appears to be limited to date.

Furthermore, to ensure a framework consistent across sectors and appropriate coordination of the ESAs' activities, more use could be made of the Joint Committee (JC). This could be achieved for instance, by the exchange of best practices between the authorities which would

¹¹ For the August 2013 report, see: http://www.esma.europa.eu/documents/10180/43119/ESAs_joint_risk_report_autumn_2013_final.pdf.

¹² <http://www.esma.europa.eu/content/Update-measures-adopted-competent-authorities-short-selling-0>.

¹³ See: <https://eiopa.europa.eu/en/publications/eiopa-opinions/index.html>.

¹⁴ See: <http://www.esma.europa.eu/page/News-investors>.

allow for better definition and clarification of their relevant competences in line with the legal basis.¹⁵

Suggested way forward:

As a first step to address stakeholders' concerns, the ESAs should consider to give a higher profile to consumer/investor protection related issues (incl. increased visibility) and making full use of available powers. Similarly broader and more structured use could be made of the Joint Committee. The ESAs should also ensure, to the extent possible, the co-operation with and the involvement of national authorities competent in the field of consumer protection where these are distinct from those represented at the level of the Board of Supervisors.

In a second stage the Commission will examine further whether Article 9(5) of the ESAs Regulations should be converted into a self-standing empowerment.

Governance, internal organisation joint bodies and stakeholder groups (SGs): The ESAs are required to take action through their respective Boards of Supervisors (BoS) in the sole interest of the European Union.¹⁶ While the shift away from a decision-making process based on consensus to actual voting is a step forward, the predominant role of the representatives of NCAs in the decision making process has given rise to some criticism. In particular, concerns prevail that national views rather than EU-wide interests dominate the proceedings.¹⁷ Consideration should be given to options that will strengthen the effectiveness and efficiency of the ESAs, while maintaining a high level of accountability.

The Management Boards of the ESAs are considered to work satisfactorily. Similarly it is widely recognized that the Chairpersons and Executive Directors have fulfilled their mission in an effective way and have, in general, given a high profile to their authorities. In addition, a broader role of the ESAs' staff in preparatory bodies, such as chairing standing committees and working groups and drafting important documents, could be considered among other options to improve the functioning of the ESAs while respecting the need for accountability to the Board of Supervisors.

The two joint bodies of the ESAs, namely the Board of Appeal and the JC, have proven to be useful mechanisms to ensure consistent views and cross-sectorial cooperation. In particular,

¹⁵ A good example for this heightened cooperation can be found in the complaint handling area where both EBA and ESMA sought inspiration from EIOPA's groundwork and plan to develop identical complaint handling procedures for the banking and securities field.

¹⁶ Following the establishment of the SSM the decision making of EBA has been amended, providing for a double simple majority in specified circumstances.

¹⁷ See European Parliament Resolution of 22 March 2014 with recommendations to the Commission on the European System of Financial Supervision (ESFS) Review, para AU; IMF Country Report No 13/65, March 2013, p. 11; Mazar's report, October 2013, p. 34.

the JC carries the potential to play a more prominent role in facilitating cross-sectorial cooperation but visibility, transparency and governance could be improved.

While the role of stakeholder groups (SG) is valued by most stakeholders their impact so far has been limited and resource requirements for setting up and running them are extensive. Concerns have been expressed about the challenge to ensure a balanced representation of the different interest groups and in particular, consumers, users of financial services, employee representatives and SMEs.¹⁸ Some of these shortcomings could be addressed by extending the mandates for SG members and by staggered appointments to ensure continuity.

Suggested way forward:

There are a number of short term improvements which could be undertaken by the ESAs to address concerns in this area, while ensuring the Board of Supervisors retains its oversight of any delegation. In particular, consideration should be given to:

- The role and influence of ESAs staff within preparatory bodies could be enhanced;
- The authority of the Chairperson could be reinforced through more use of the delegation of specific tasks in accordance with Article 41(1) of the ESAs Regulations;
- The role, visibility and transparency of the Joint Committee could be strengthened;
- Stakeholder groups could be composed in a more balanced way and the transparency of their relevant work could be strengthened;

In the longer term and while preserving the careful balance reached in the context of the establishment of the SSM, and without prejudice to Article 81a of the EBA Regulation which requires to review the voting arrangements once the number of non-participating Member States reaches four¹⁹, the Commission will explore options on how to improve the governance of the ESAs to ensure that decisions are taken in the interest of the EU as a whole.

¹⁸ The composition of the SGs will also need to respect the opinion of the European Ombudsman of 07 November 2013 on the composition of the EBA banking stakeholder group following a complaint from Uni Europa in September 2011 which confirmed a number of deficiencies regarding the selection process carried out by EBA for the composition of the various stakeholder categories and called for a more balanced representation of the stakeholders of the different categories, in terms of geographical balance and gender balance. See for more detailed information on the ombudsman's decision: Decision of the European Ombudsman closing her inquiry into complaint 1966/2011/(EIS)LP against the European Banking Authority.

¹⁹ See Article 81a of Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013, OJ L287 of 29.10.2013, pp. 5-14.

Financing: The ESAs' budgets are based on 60% contribution from the NCAs and 40% contribution from the EU budget²⁰ and are fully subject to applicable financial transparency rules in particular towards the budgetary authorities. While their budgets have been significantly increased since their inception most stakeholders consider the current funding arrangements as not commensurate to their increasing tasks and responsibilities. In particular, stakeholders are concerned that further increases risk translating into funding reductions at national level and/or do not appear to be sustainable for numerous NCAs. Further analysis could be carried out to assess the possibility of different funding models for the ESAs, including by increasing the level of funding by raising fees and levies.

Suggested way forward:

Given EU and national budgetary constraints, the Commission considers that a revision of the existing funding model should therefore be envisaged, ideally abolishing EU and national contributions. To this end, the Commission will launch preparatory work to improve the funding arrangements of the ESAs so that they could fulfil their mandate while taking into account budgetary constraints. The Commission will also examine the conditions for funding the ESAs through alternative funding models, including assessments of proportionality and impact of any envisaged model.

Structure of the ESAs: The overall structure of the ESAs appears appropriate as it takes into account all elements of the financial services sector and facilitates close cooperation between the micro- (ESAs) and the macro-prudential (ESRB) dimension. Calls for structural changes, such as merging the authorities into a single seat or introducing a twin-peaks approach²¹, should be carefully assessed in light of the establishment of Banking Union.

There is broad consensus on the effectiveness and efficiency of direct supervision of CRAs by ESMA and on its mandate for supervising trade repositories. Consideration could be given to extending direct supervisory powers to critical market infrastructures as has been raised by various stakeholders.

Suggested way forward:

Against this background, the Commission will continue its reflection and further assess in the medium to long term, the need for additional structural changes, including a single seat and the possible extension of direct supervision to integrated market infrastructures.

²⁰ And fees raised by ESMA for the supervision of credit rating agencies and trade repositories.

²¹ The Twin Peaks Approach refers to a separation of regulatory functions between two regulators: one performing prudential tasks and the other focussing on the conduct-of-business.

4) CONCLUSIONS

In spite of difficult circumstances the ESAs have quickly established well-functioning organisations. Overall they have performed well against their broad range of tasks, while facing increasing demands with limited human resources. The review revealed some areas where further improvements are required in the short- and medium term in order to allow the ESAs to fully exploit their mandates, while taking into account the establishment of the Banking Union.

I. Areas for improvement in the short term

Some of the improvements can be implemented in the short term by the ESAs and the Commission and would not require any change to the legislative framework. This is the case as concerns:

- The focus on supervisory convergence could be increased in order to ensure the consistent implementation and application of EU law, in particular more and better use of peer reviews could be made and more systematic follow-up needs to be ensured where deficiencies have been detected.
- Enhance the transparency of the process for preparing draft technical standards or advising the Commission and ensure, where needed, high quality cost-benefit analysis, including an analysis of impacts on stakeholders and Fundamental Rights, where relevant;
- Give consumer/investor protection tasks a higher priority and make full use of available powers.
- Enhance internal governance:
 - Stakeholder groups should be composed in a balanced way, taking into account the opinion of the Ombudsman. Transparency of the work of the stakeholder groups could be strengthened.
 - The role and influence of ESA staff within preparatory bodies, such as working groups, standing committees, task forces etc. could be reinforced.
 - The role and visibility of the Joint Committee could be enhanced, e.g. by a dedicated website and systematic publication of its work. ESAs could make better use of the Joint Committee to focus on core cross-sectorial issues, including on consumer and investor protection as well as prudential matters.

- To enhance the authority of the Chairperson and to allow for swift decision making in the European interest, more use could be made of the delegation of specific tasks to the Chairperson, for instance on requests for information, as provided for in Article 41 (1) of the ESAs Regulation.

In the short term the Commission will take action in the following areas:

- Make sure that empowerments for technical standards in future legislative proposals have deadlines relative to the entry into force of the basic legal act.
- Pay particular attention to the appropriateness of timelines and to the scope of empowerments for technical standards in draft legislative proposals and during discussions taking place within the legislative process.

II. Potential main areas for possible improvements in the medium term

At the same time, most of the issues stressed by stakeholders that warrant further attention would imply legislative action to amend the ESA founding Regulations. The Commission intends to further examine the technical and legal aspects of the various issues raised and to launch preparatory work to assess the possible options for addressing these issues in the medium term. This work will in particular examine:

- Without prejudice to the agreement on EBA voting arrangements reached under the SSM package the governance of the ESAs could be improved to further enhance the capacity of the Board of Supervisors to take swift decisions in the interest of the EU as a whole. Thought could be given to strengthen the authority and role of the Chairperson and to amend the composition and mandate of the Management Board in order to confer more permanent and executive functions on it.
- Improvements to the funding arrangements of the ESAs, including the use of alternative sources of funding, ideally abolishing EU and national contributions.
- The ESAs could have direct access to data where necessary for the performance of their tasks and in line with the applicable legislation²². The role of the Chair and/or the Management Board could possibly be strengthened in this respect.
- Possible extensions of the current mandates should be thoroughly assessed in the light of the subsidiarity principle and against costs and benefits. Potential areas for further tasks to be assigned to the ESAs concerned could include the area of IFRS enforcement, a stronger oversight role on internal model validation, shadow banking, and direct supervision of highly integrated market infrastructure, such as CCPs.

²² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p.1.

- The scope of Article 9(5) of the ESAs Regulations could be converted into a self-standing empowerment.
- The mandate in the area of consumer/investor protection could be clarified and enhanced where necessary, in order to better define the respective roles and priorities of the ESAs with a pivotal role assigned to the JC.
- The possible strengthening of the ESAs dispute settlement powers.
- The duration of mandates for Stakeholder Groups members could be increased. Consideration should be given to limiting stakeholder groups to one per ESA.
- The possible need for structural changes, including a single seat and extending direct supervision powers to integrated market infrastructures.