

Insurance Europe Response to the European Commission's Consultation on the Review of the European System of Financial Supervision

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1. The European Supervisory Authorities (ESAs)

By way of introduction, Insurance Europe would like to highlight its strong support for the need to maintain EIOPA as a separate European authority. This is the only way for the European supervisory architecture can ensure that all sectors' specificities are duly considered, through dedicated technical experts.

1.1. Effectiveness and efficiency of the ESAs in accomplishing their tasks

1.1.a. How do you assess the impact of the creation of the ESAs on the financial system in general and on (i) financial stability, (ii) the functioning of the internal market, (iii) the quality and consistency of supervision, and (iv) consumer and investor protection in particular?

In general, Insurance Europe believes that the new European supervisory structure has served its purpose to begin the process of improving European supervision and has contributed to maintaining confidence in the EU financial system and the protection of consumers of financial services. The new EU supervisory architecture has only been in place since 2011. Therefore a complete assessment of the impact is not possible.

The ESAs have had only limited chances to draft regulatory technical standards and it is also too early for the ESAs to have installed a common supervisory culture to its full extent and ensure level application of EU rules across member states. It will take more time and experience before a common practice can be identified and assessed properly.

However, we strongly advise against the ESAs enlarging their regulatory powers and using instruments, such as guidelines, to circumvent the powers vested in the executive and legislative powers. In our view, it is fundamental to avoid a blurring of the supervisory and regulatory boundaries and to maintain a clear distinction between what is technical, where EIOPA's contribution is welcome, and what is strategic and political, where the ESAs do not have a role.

With regards to EIOPA specifically, the fact that Solvency II is not yet fully in place means EIOPA does not have the legislation on which to draft technical standards. Responses given by Insurance Europe to this questionnaire need to be understood within this context.

Based on our experiences, so far, we would also highlight the following points:

- (i) **Financial Stability:** The aftermath of the financial crisis showed the need for a better coordination of supervisors and a consistent supervisory approach at European and international levels.

Besides the harmonisation and coordination of supervisory practices, the establishment of the ESFS sent an important signal to markets and consumers rebuilding trust and credibility of the European financial markets. As a next step it is of utmost importance that this confidence can be maintained. The ESFS and in particular the three ESAs play a key role in this respect. As a counterweight to the mainly bank-driven ECB policy during the financial crisis and especially during the public debt crisis, the need for a strengthened and increased involvement of EIOPA, ESMA and the ESRB, would ensure consistent and well balanced regulation and in turn allow European legislators to avoid future financial crisis.

- (ii) **Internal Market:** Common understandings, standards and a common culture are necessary to achieve the internal market and foster its functioning. Insurance markets are highly diverse across Europe. The insurance distribution markets, social and tax regulatory environments, social security systems and policies for old-age provisions, restrictions on asset management, Property & Casualty (P&C) needs as well as cultural backgrounds and local consumers' needs and demands differ widely across member states, resulting in different, locally-tailored products and undertakings' strategy. Maintaining diversity while establishing common standards where necessary is indispensable in this respect and as it constitutes a key challenge in establishing a single European insurance market.

- (iii) **Quality and Consistency of Supervision:** The coordination of the national competent authorities (NCAs) who are responsible for the day-to-day supervision is one of the main tasks of the ESAs. It is essential for a successful supervision of the European internal market to supervise undertakings on an efficient, coherent and effective basis. We therefore appreciate the work conducted by EIOPA. During the last two years EIOPA has made efforts to develop a common supervisory culture, while at the same time avoiding any disruption of the operational day-to-day supervision of insurance undertakings and groups. Due to the aforementioned heterogeneity of the insurance market, it is absolutely necessary that a strong European insurance supervision is built on strong NCAs. While EIOPA is developing and safeguarding a common European supervisory culture, it is the NCAs which should transpose this culture into their national markets in an appropriate way.

Based on this distinction, EIOPA should remain as a coordinator in day-to-day supervision to avoid regulatory arbitrage and to supervise the application of the common culture. If NCAs act in a way which contradicts the common culture mentioned above, EIOPA may intervene where appropriate. This intervention should be aimed only at NCAs.

Strengthening the group supervisor would, in addition, set a sign for the future of the supplementary supervision of financial conglomerates. By transposing the SSM, the ECB will be involved into the supplementary supervision of mixed financial holdings. A strong group supervisor backed by EIOPA would be able to maintain its position in this environment.

- (iv) **Consumer Protection:** Besides the stability of the financial markets, ensuring consumer protection is the second key objective of the ESAs' work. In this respect, it should be noted that the ESAs' contribution to financial market stability and promoting the safety and soundness of markets and

convergence of regulatory practices will necessarily contribute to a higher degree of consumer protection on a structural basis.

Insurance Europe would, however, question both the ESAs' wide interpretation of Article 9, and the value of the large amount of activities this interpretation has resulted in. These activities are time and resource intensive, they often provide little benefit as they concern areas of national relevance, and they distract the ESAs from important regulatory tasks.

In addition, the ESA Regulations enable the ESAs to react on possible negative impacts of products/activities on consumers by issuing warnings or prohibit certain practices. In principle, this possibility is deemed to be a practicable and appropriate approach for counteracting bad practices/products. However, we have some specific concerns regarding those warnings and prohibitions (see below and also reply to Q 1.1.6.b.)

Regarding insurance markets, we believe that the increase in efficiency of the future regulatory framework (Solvency II) will help both insurers and supervisors to foster consumer confidence in the insurance sector and financial market stability. The additional measures, warnings and prohibitions, should be used carefully as they have strong signalling effects on markets and reputation of undertakings. For this reason, the criteria for deciding on a prohibition should be clearly specified in an additional legal act. Moreover, the ESAs Regulation should be amended so as to provide the ESAs with the ability to withdraw any already-released warnings, and in any case the ESAs should be obliged to do so at any time once the situation which gave rise to the warning has ceased. However, some NCAs are already empowered to issue warnings and prohibitions. Therefore, in line with the subsidiarity principle, the ESAs should only be permitted to release warnings and prohibitions if the relevant NCA have failed to take the appropriate action. Therefore, a close cooperation between the ESAs and the NCA is indispensable.

1.1.b. Do the ESAs' mandates cover all necessary tasks and powers to contribute to the stability and effectiveness of the financial system? Are there elements which should be added or removed from the mandate? Please explain?

Insurance Europe believes that the new EU architecture contributes to financial stability and therefore supports it.

Based on the experiences during the first two years after the establishment of the ESAs we did not recognise evidence for amending the mandate conferred to the ESAs. However, clarifying some of the provisions on which the ESAs fulfil their tasks would contribute to the practicability and transparency of the according processes and thus foster sustainability and support for processes and the authorities themselves.

EIOPA is the European voice of insurance supervisors. Insurance Europe appreciates EIOPA's contributions to international discussions, particularly in the IAIS. We support this role in discussions of global supervisory bodies, provided the role of the European Commission when it comes to financial regulatory issues beyond supervision is not undermined.

1.1.c. In your view, do the ESAs face any obstacles in meeting their mandates? If yes, what do you consider to be the main obstacles? Please explain.

Insurance Europe appreciates EIOPA's efforts and commitment during the first two years since its establishment. It has raised the visibility of the insurance issues in regulatory discussions. EIOPA's work programme is an ambitious one. In this period of financial and economic crisis, EIOPA has an important role inputting to the regulatory processes and in its coordination role of supervisory activity. The cooperation between EIOPA and NCAs should therefore be strengthened.

By way of example, Insurance Europe considers the following areas to be especially important for EIOPA to fulfil its tasks in the future.

- Clarification is necessary on the different measures involving the ESAs and when and to which extent they can and should be used. A clear and defined distinction between regulatory technical standards, implementing technical standards and guidelines and recommendations is indispensable.
 - Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS): the different purposes of regulatory technical standards on the one hand and implementing technical standards on the other are not at all clear. This problem should be addressed in any revision of the EIOPA Regulation.
 - Guidelines: the distinction between guidelines and technical standards is unclear and should be clarified further. Guidelines should be used to give clarity around legislation, but they should not be an additional legislative layer or even regulation by the back door.
 - A right of appeal by industry and other third parties against guidelines before they are officially published which currently does not exist, would be an efficient instrument to examine the guidelines, and would close a regulatory gap.

- As mentioned above, we support EIOPA's role in international discussions. At European level, Insurance Europe would like EIOPA to be more involved in supervisory discussions on cross-sectorial issues to ensure that the indirect implications for the insurance sector are properly assessed.

1.1.1. Work towards achieving a single rulebook - regulatory activities

1.1.1.a. Do you consider that the technical standards and guidelines/recommendations developed by the ESAs have contributed to further harmonise a core set of standards in the area of supervision (the single rulebook)? If you have identified shortcomings, please specify how these could be addressed.

The work of the ESAs is essential not only for the development of a single rulebook but for a common supervisory culture as well. Experiences of the people involved provides for an extraordinary market overview throughout Europe. Insurance Europe is engaged in the work of EIOPA and ESMA, and EBA to a lesser extent. The following comments however focus exclusively on EIOPA.

EIOPA has not put in place any drafts of technical standards so far. The legal basis, i.e. the Omnibus II Directive, has not yet been adopted. EIOPA has contributed to draft joint ESAs standards on EMIR, but it is still too early to comment on EIOPA's activities in this field.

The use of delegated acts, regulatory technical standards (RTS) and implementing technical standards (ITS) should remain limited and in any case be strictly framed to cover purely technical issues in order to avoid confusion between the executive, legislative and supervisory powers.

Although we do not yet have direct experience of the adoption of RTS by EIOPA, we are concerned about the procedure for their adoption in the EIOPA Regulation. These procedures put a great deal of power in the hands of EIOPA and there should be wide opportunity for the European Commission, European Parliament and Council to challenge EIOPA's proposals. Deficiencies in these procedures could contribute to the adoption of a flawed set of technical standards under Solvency II.

It is critical that the scope of EIOPA's technical standards and guidelines is defined by levels 1 and 2. Such technical standards and guidelines should not be used as a means to regulate by the backdoor.



An example of the very broad interpretation of these powers is the current (level 3) discussions on external audit of the information publicly disclosed under Solvency II, where EIOPA is considering the establishment of requirements that were rejected by the European Parliament's ECON Committee in level 1.

We strongly advise against EIOPA enlarging its regulatory powers and drafting an increasing number of technical standards and own initiative guidance. Guidelines should not be used as instruments to circumvent the powers vested in the executive and legislative powers. This leads to a blurring of the regulatory and supervisory boundaries.

In our view, it is fundamental to maintain a clear distinction between what is technical, where EIOPA's contribution is welcome, and what is strategic and political, where EIOPA does not have a role.

EIOPA has released only a few guidelines, and is currently developing and consulting on Solvency II interim measures. It is too early to tell how these will develop, but we would warn against the risk of interim guidelines leading to or indirectly influencing political decisions. Such interim guidelines should be avoided and in case of urgency, strictly limited in terms of content and duration.

It is important that guidelines are consistent with level 1 and level 2. The objective of the general requirements should be to help avoid a fragmentation of the European internal market, and facilitate the transition to the new supervisory system. However, the level of detail on the Solvency II interim measures is alarming. We are also concerned that they are anticipating legislation that is still being developed. This could prove very costly for industry and consumers.

In general we do not oppose the principle of EIOPA's guidelines. However, there is a tendency for EIOPA's guidelines to take the form of detailed, prescriptive rules, constituting a rulebook at a third level, sitting underneath the primary legislation and the technical standards, complicating the regulatory regime and constituting a significant regulatory burden for insurance and reinsurance undertakings and, finally, contradict the principle-based regulation. EIOPA's power to issue guidelines and recommendations gives it the ability to develop its own rule book with little or no involvement by other EU policymakers. Guidelines should be strictly limited to supervisory practices and situations which are well-identified in the relevant directive or regulation.

1.1.1.b. What is your assessment of the work undertaken by the ESAs as regards providing opinions (e.g. technical advice) to the EU institutions?

Insurance Europe believes the EU institutions are best placed to answer this question. We would however suggest considering the extent to which the ESAs technical advice is fully independent and exclusively technical.

However, we consider the opinions provided for by the ESAs as an important part in the legislative process. Each of the ESAs representing an individual financial market sector is able to deliver high quality insight on the concerned sector, the basis of its business models and the principles and standards it is based on. Therefore, it is of utmost importance that the system of three ESAs is maintained.

We believe that EIOPA's involvement and representation in the ESRB discussions is very important, especially when cross-sectoral initiatives are discussed, as will be the case with the future framework on shadow banking which will also cover some of the insurers' activities. EIOPA's presence in such discussions would ensure that the insurance approach is taken into account and that potential unintended negative consequences and side-effects of legislation on insurers be avoided.

1.1.2. Common supervisory culture/convergence of supervisory practices

1.1.2.a. In your view, did the ESAs contribute to promoting a supervisory culture and convergence of

supervisory practices? If you have identified shortcomings how could these be addressed?

EIOPA can encourage a common culture and practices while still allowing the national supervisory authorities to take in account their specific national features. EIOPA should not add requirements on top of those already required by NCAs and should focus on its role of coordination rather than being a 'second' supervisor.

Within the insurance sector, the key measure for promoting convergence of supervisory practices is Solvency II. Until it is implemented, it is difficult to comment on this aspect. Insurance Europe considers that coordination and cooperation between ESAs and NCAs are going in the right direction, but should be further strengthened.

Having said this, it should also be noted that a differing transposition of EU legislation into national law does not always mean differences in supervisory culture or regulatory arbitrage. In some areas, it is still up to member states to decide how to conduct their national implementing legislation when implementing of EU legislation, as long as the outcome is in line with the respective directive.

1.1.3. Consistent application of EU law

1.1.3.a. In your view, do the procedures on breaches of EU law (Article 17 ESAs Regulations) and binding mediation (Article 19 ESAs Regulations) ensure the consistent application of EU law? If you have identified shortcomings how could these be addressed?

Insurance Europe is not aware of these tools having been used under the EIOPA Regulation. Having said this, we consider the procedures on breaches of EU law laid down in Article 17 ESAs Regulations to provide for appropriate solution. Through its two-step approach, a first interaction between an ESA and a NCA and with the later involvement of the European Commission, the procedure provides for a fast-track solution and an escalation via an EU institution.

Binding mediation should only be considered as an instrument of last resort, which is to be used only after all alternatives for the settlement of the disagreements have been considered. Before binding mediation is applied, all possible ways for consensus should have been used. As disagreements in insurance usually occur where two NCAs assess comparable situations differently and this will most likely involve cross-border activities of an insurance undertaking or group, the group supervisor should function as mediator. EIOPA participates in most colleges of supervisors and therefore has the chance to involve at early stage and avoid disagreement.

1.1.4. Emergency situations

1.1.4.a. Do you consider the ESAs' role in emergency situations appropriate? Please explain.

As no emergency situation has appeared so far, the answer to the following question is subject to a theoretical assessment.

In an emergency situation, the ESAs are empowered to require NCAs to take specific activities to avoid or remedy the situation. We generally consider this provision to be appropriate, as an emergency situation, when declared by the Council on the basis of the recommendation of the ESRB, represents a serious threat and potential high risk for the stability and integrity of the single (financial) market. Having said this, we believe that a close cooperation between NCAs and the ESAs would be indispensable in this process. This would enable the ESAs to properly take into account the specificities of national markets when assessing the emergency situation.

1.1.5. Coordination function (Art 31 ESAs Regulations)

1.1.5.a. Do you think that the coordination role of the ESAs is appropriate? If you have identified shortcomings, please specify how these could be addressed.

We consider the coordination function of Article 31 ESAs Regulation to be appropriate and key for the success of the ESFS as a whole. The coordination between the ESAs and the cooperation with the ESRB are basic requirements for the functioning of the system. The Joint Committee plays an important role in terms of ESAs' coordination, in particular on the future of the regulation of financial conglomerates. Within this Joint Committee, EIOPA has a key role to play in ensuring the expertise of insurance supervision is fully considered in cross-sectoral discussions.

The coordination role is extremely important especially for providers of infrastructure services in the securities markets (e.g. central counterparties and central securities depositories) (see also response to question 1.1.7c).

The ESAs should ensure that all relevant national authorities receive the same information quickly and efficiently and ensure appropriate coordination. The exchange of information should be generally based on data which is regularly collected by the ESAs. Only in cases where an emergency situation potentially threatens the stability of the markets additional data should be exchanged. For a functional and practicable system which is not overly burdensome for undertakings, the single point of entry for every data collection should be the competent authority in charge, usually the NCA.

1.1.5.b. In your experience, to what extent have coordination activities carried out by the ESAs contributed to promoting a coordinated EU response to adverse market conditions? Please explain.

Insurance Europe is not aware of this having taken place, hence it is unable to assess the ESAs' functions in this regard.

1.1.6. Tasks related to consumer protection and financial activities

1.1.6.a. How do you assess the role and achievements by the ESAs in the field of consumer protection? Please specify the main achievements by each ESA.

Insurance Europe notes that EIOPA has been very active in the field of consumer protection and financial innovation (CPFI) since its establishment, taking initiatives in the fields of insurance guarantee schemes; financial literacy and education; consumer trends; disclosures and selling of products; national competent authorities' competences in the field of consumer protection; complaints-handling by insurance undertakings; industry training standards; warning, temporary prohibitions and restrictions procedures; and organising Consumer Day events.

EIOPA has set an ambitious work programme in the CPFI field in 2013, which includes good practice reports on industry training standards and on comparison websites, an analysis of general good rules, guidelines on complaints-handling for insurance intermediaries (following those adopted on insurance undertakings), an analysis of regulatory/supervisory actions on cross-selling, a technical advice on consumer protection for cross-border pension activities, a report on consumer trends (e.g. complaints, sales, product innovation), an analysis of the situation on payment protection insurance, a survey on the compliance with the ruling of the European Court of Justice in the "Test-Achats" case, a methodology for risks related to retail products.

It is important that any work by EIOPA and the other ESAs in the field of consumer protection is duly coordinated with the NCAs, as most are active in this area.

Insurance Europe would however question both the ESAs' wide interpretation of Article 9, and the value of the large amount of activities this interpretation has resulted in – as illustrated above for EIOPA. These activities are time and resource intensive, they often provide little benefit as they concern areas of national relevance, and they distract the ESAs from important regulatory tasks. These activities come indeed in addition to any regulatory work that EIOPA may be requested to carry out in view of developing technical standards on IMD2 and, together with the other ESAs, on the KID for PRIPs. In this regard it has to be taken into account that level 2 measures should not concern any substantial decisions, which have to be made in the primary act approved by the EU legislators. It is important that the oversight role of European Parliament, Council and the European Commission is strong in this area. The ESA's role should not concern implementation tasks addressed to member states or provisions which do not require further specifications.

Overall, we would point out that it is too early to assess the effects of EIOPA's activities on consumer protection.

1.1.6.b. Are you aware of the warnings that were issued by the ESAs so far? If yes, please specify which ones and whether they have contributed to improve consumer protection or any other objective of the ESAs.

Insurance Europe is not aware of any warnings that have had direct relevance to the insurance industry.

However, a recent warning is the ESMA warning on contracts for difference (CFDs). We understand this warning was useful. Warnings are a recommended tool, as they offer less administrative, legal and technical challenges than prohibitions or restrictions. Instead, with measures such as a prohibition, consumers and investors face a period of uncertainty with regard to their investment in terms of when issues such as payments, contracts etc. will be solved. If the used tool is a warning, the investor can make an informed decision.

This being said, warnings as well as prohibitions should be used carefully as they have strong signalling effects on markets and reputation of undertakings. For this reason, the criteria for deciding on a prohibition should be clearly specified in an additional legal act.

Furthermore, some NCAs are already empowered to issue warnings and prohibitions. Therefore, in line with the subsidiarity principle, the ESAs should only be permitted to release warnings and prohibitions if the relevant NCA have failed to take the appropriate action.

Moreover, the ESAs Regulation should be amended to provide the ESAs with the ability to withdraw any already-released warnings, and in any case the ESAs should be obliged to do so at any time once the situation which gave rise to the warning has ceased. This is all the more important as, in fact, a warning regarding a financial activity that does not pose any serious threat to the objectives laid down in Article 1(6) of the ESA Regulation may seriously affect the reputation of the concerned undertaking(s) and the stability of the European financial markets.

In addition, Article 60 of the ESAs Regulation should clarify explicitly there is a right to appeal ESAs' decisions to release warnings or prohibitions.

1.1.6.c. What are the main strengths and weaknesses of the current framework on consumer protection (Article 9 ESAs Regulations) and what would you suggest to address any possible shortcomings?

Insurance Europe would question the legal basis for EIOPA's issuance of guidelines to date, and the extent to which such a broad interpretation of the task falls within the remit of EIOPA's tasks and responsibilities.

Article 9(2) of the EIOPA regulation refers to adopting guidelines and recommendations with a view to promoting the “convergence of regulatory practice”; however, we fail to see how this relates to topics subject to guidelines so far, such as complaints-handling.

In addition, Insurance Europe questions the broad interpretation given by EIOPA to various recitals and articles of the Solvency II Directive in order to serve as a further basis for its guidelines on complaints handling by insurance undertakings.

For example, recital 16 of the Solvency II Directive states that “the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policyholders and beneficiaries.....” We would question whether the “adequate protection of policyholders and beneficiaries” extends to the processing of consumer complaints. Moreover, the reference to reinsurance in this same provision would suggest that it is directed more towards the prudential and financial capacity of the firms concerned to meet their commitments vis-à-vis the policyholders and beneficiaries. In addition, Articles 41 and 46 of Solvency II provide for both an effective system of governance and internal control system. We would also question whether the scope of these obligations can be interpreted to apply to all areas, including consumer complaints handling which is something that is clearly not specific to the insurance sector.

Insurance Europe is also concerned over the legal status of the guidelines. The full extent of the consequences of any EIOPA guidelines, and their interaction with national legislation or with national supervisors’ guidelines, particularly where there may be any form of conflict or contradiction between them, remain unclear. In practice, some market participants understand guidelines as binding rules, and some supervisory authorities treat them as de facto legislation. This lack of clarity creates an uneven playing field in the EU. Therefore we suggest that the non-binding nature of guidelines and their addressees are clearly described in the ESAs regulations and in the guidelines themselves. Guidelines should not be an additional legislative layer or be used as instruments to circumvent the powers vested in the executive and legislative powers as this would lead to a blurring of the regulatory and supervisory boundaries. Guidelines should be strictly limited to supervisory practices and situations which are well-identified in the relevant directive or regulation.

Moreover, there is currently no possibility to appeal from the ESAs guidelines. In order to address this shortcoming, Insurance Europe suggests introducing a right of appeal by third parties, including industry stakeholders, from any ESAs guidelines before they are published.

In conclusion, we wish therefore to caution against the development or adoption of any such guidelines in the future. Instead, we call on EIOPA and the other ESAs to focus their activities and resources on issues where they have been given a clear regulatory mandate by specific EU Regulations and Directives.

Regarding warnings and prohibitions please refer to our response to question 1.1.6.b.

1.1.7. Direct supervisory powers

1.1.7.a. How do you assess ESMA’s direct supervisory powers? If you have identified shortcomings, please specify how these could be addressed.

No comments.

1.1.7.b. How do you assess ESMA’s performance for the registration and supervision of credit rating agencies (CRAs)?

No comments.

1.1.7.c. Do you consider that further responsibilities of direct supervision should be entrusted on one or more of the ESAs, particularly with regard to institutions or infrastructures of pan-European reach? Please explain.

Insurance Europe does not consider that EIOPA should be given further responsibilities of direct supervision. Direct supervision of national undertakings should remain the responsibility of the NCAs. Equally, EIOPA should not impose additional requirements on top of those of NCAs. The current perception is that EIOPA is 'learning' on day-to-day supervision issues but it should not act as a direct supervisor.

Having said this, we would support EIOPA having a coordinating role for those institutions with a pan-European reach without prejudice to the role and remit of the lead supervisor.

In light of the increasing importance of central counterparties (CCPs), given the G20 objective for all standardised OTC derivatives to be centrally cleared, their appropriate supervision should be carefully considered. While it seems appropriate to leave direct supervision with the national authorities, we also support the ESAs' coordination role, 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.

1.2. Governance of the ESAs

1.2.1. General governance issues

1.2.1.a. Are the governance requirements sufficient to ensure impartiality, objectivity and autonomy of the ESAs?

No comments.

1.2.1.b. How do you assess the accountability requirements? If you have identified shortcomings, please specify how these could be addressed.

The accountability regime for EIOPA leaves room for improvement. This is notably the case in relation to the concern expressed in the response to question 1.1.1.a, i.e. that guidelines may be used as instruments to circumvent the powers vested in the executive and legislative powers, leading to a blurring of the regulatory and supervisory boundaries. Insurance Europe sees a role for the European Parliament in ensuring that the guidelines developed by the ESAs are based on the appropriate legal background.

The European Commission could also play a role here, for instance giving it a right of modification or repeal of the guidelines issued by EIOPA. This would avoid conflicts between national law resulting from the implementation of EU legislation, and guidelines brought about by ESA.

Along the same lines, although we appreciate the independence of EIOPA, it may be worth considering whether the European Commission should have certain rights. For example, perhaps granting the European Commission a voting right in relation to the decisions of EIOPA's management board where there is potential conflict with EU legislation (currently the European Commission is only permitted to participate in the meetings of the management boards without the right to vote, see Article 45 of the Regulation).

1.2.2. Decision-making bodies and voting modalities

1.2.2.a. Does the current composition of the Board of Supervisors (BoS) ensure that it acts efficiently? If you have identified shortcomings, please specify how these could be addressed.

ESAs decisions should be based on consensus. The Regulation therefore requires a qualified majority of the members of the Board of Supervisors (BoS) when adopting technical standards and guidelines. This voting regime is favourable compared to any single majority vote.

Some Insurance Europe members would be in favour of applying a weighted qualified majority which takes into account the size of markets. Other Insurance Europe members are of the opinion that voting procedures of the ESAs should not be amended.

1.2.2.b. Does the composition of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

We did not identify shortcomings on the composition of the Management Board.

1.2.2.c. Does the mandate of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

We consider the mandate of the Management Board to be appropriately designed and sensible for fulfilling the tasks efficiently. In contrast to its mandate we consider it inappropriate that some issues which have sustainable impact on the industries are dealt with only in ESA staff working papers, even though these issues should be usually dealt with by the BoS. The circumvention of the BoS through such working papers should be avoided. But it is the task of the BoS to ensure involvement in important decisions or the provision of opinions on issues considered to be important.

1.2.3. Financing and resources

1.2.3.a. How do you assess the arrangements on financing and resources? If you have identified shortcomings, please specify how these could be addressed.

No comments

1.2.4. Involvement and role of relevant stakeholders

1.2.4.a. How would you assess the impact of the relevant stakeholder groups within the ESAs on the overall work and achievements of the ESAs?

Decisions should be based on the broadest input possible. Views of all interested parties should be considered. We therefore appreciate EIOPA's openness and willingness when consulting stakeholders on numerous different issues throughout the process. At the same time, we fully understand that not every step in the development of standards, guidelines and recommendations can be subject to a (pre-) consultation. For these issues, the input of the IRSG is extremely important on topics which are not subject to public consultation in a first stage. In this sense, IRSG opinions on various issues are fundamental, for instance that on the EIOPA's draft guidelines on preparing for Solvency II. However given the composition of the IRSG, whose members are nominated *intuitu personae* and do not represent all stakeholders, public consultation should in any case take place at a later stage.

A comprehensive assessment shall be carried out on the performance of the relevant stakeholder groups since the establishment of ESAs. Particularly, further clarification shall be given on the exact role and governance of SGs in the decision-making process of ESAs (systematic consultation of SGs, clarification on the extent to which the advice of ESA is taken into account by the management of the ESAs).

1.2.4.b. Are you satisfied with the quality and timeliness of consultations carried out by the ESAs?

We appreciate EIOPA's efforts and commitment during the two years since its establishment. It has raised the visibility of the insurance issues in regulatory discussions.

Insurance Europe has contributed to numerous consultations on relevant topics of all three ESAs and the Joint Committee. We appreciate the ability to provide our opinion. However, we identified the following concerning aspects, in particular regarding consultations and impact assessments:

- There is little interaction between the ESAs and interested stakeholders. There is a lack of feedback on the industry input provided to the ESAs. It is unclear how inputs to consultations are considered or whether they have any effect.
- We would find it helpful to receive feedback from EIOPA on the outcome of the consultations or intended measures taken by EIOPA.
- The background documents and templates in some of the EIOPA consultations (ie the Quantitative Impact Studies (QIS4/5), or the EIOPA impact assessment on Long Term Guarantees, are of a lower quality compared to earlier conducted studies. Another example is the final report of Solvency II reporting requirements: there have been inconsistencies in the documents (summary documents, log-files, tables).
- Insurance Europe believes English should remain the working language, but some of our members note this might be a challenge for some SMEs.
- Often the ESAs conduct consultations and workshops with only a few selected stakeholders. Such a procedure is not conducive to transparency.
- The format of consultations varies from one ESA to another. These should be further aligned to make sure all relevant stakeholders, including insurance companies, have the same understanding of the consultations.
- Deadlines to respond to consultation, including some 'pre-consultations', have been very tight. Often many are released within a short time period of each other which makes this more challenging. However, we recognise the importance of getting regulation right and often the tight time restrictions imposed upon the ESAs themselves by the European Commission, European Parliament and Council. We believe the ESAs should be entitled to have a minimum time period in which to carry out the development of advice or technical standards.
- Transparency should be enhanced. We understand that not every step of the ESAs' work can be made public. For these cases the ESAs Regulation provides for a consultation process through the IRSG. It is therefore important that the Stakeholder Groups' work is as transparent as possible.
- We have found it confusing to see non-regulatory consultations that appear to duplicate other on-going consultations, i.e., the European Commission, as is the case with DG SANCO consultation on third pillar pensions, and separately EIOPA's on personal pension products. Considering the extensive regulatory agenda we are concerned at the resources being used on these duplicative work streams.

1.2.4.c. Are you satisfied with the appointment procedures for the stakeholder groups?

The process of the appointment of the members of the Stakeholder Groups as described in the ESA Regulations provides for a transparent and open possibility for all interested individuals to apply. However, the decision-making process on the choice of the future members is questionable. While the final decision is taken by the relevant BoS, the preparation for the final vote is conducted only by the ESAs themselves. Through this provision, it is possible for the ESAs to pre-elect possible members of their own stakeholder groups. To increase transparency in the pre-decision process external parties should be involved.

1.2.4.d. In your experience, does the composition of stakeholder groups ensure a sufficiently balanced representation of stakeholders in the relevant sectors? If not, which areas appear to be insufficiently/overly represented?

Insurance Europe considers the composition of the stakeholder groups as regards the weight of different stakeholders generally appropriate. However, we do consider the number of academics in some cases to be high considering they do not have a 'stake' in the regulation being discussed, unlike consumer or industry representatives. We also note that the possibility for representatives of small and medium undertakings to participate in such groups is very limited.

The insurance industry is not sufficiently represented in the Occupational Pensions Stakeholder Group (OPSG) and should be. The insurance sector plays a key role in the provision of occupational pensions in many EU member states. Therefore, we believe there should be an adequate representation of the insurance sector in this group.

1.2.4.e. Is the work undertaken by the stakeholder groups sufficiently transparent? Do you see areas where the approach towards transparency needs to be revisited?

As not every stakeholder can be part of the stakeholder groups, it is important that their work is as transparent as possible. The non-transparency of the ESAs stakeholder groups prevents other stakeholders being informed of its work and might lead to non-participants being disadvantaged in relation to participants.

The confidentiality principle prevents insurance companies being up-to-date on the workload and input submitted to EIOPA.

In addition given the composition of the Insurance and Reinsurance Stakeholder Group (IRSG), whose members are nominated *intuitu personae* and do not represent all stakeholders, public consultation should in any case take place at some point.

1.2.4.f. In your experience, are the ESAs, and in particular the ESAs stakeholder groups, sufficiently accessible for stakeholders not directly represented in these stakeholder groups?

See reply to Q 1.2.4.e above.

A challenge linked to the lack of transparency is to be informed about how discussions on issues are developing before final decisions are made. A possible way to address this would be to publish agendas and working documents well on time before the respective meetings take place.

With regard to hearings organised by the ESAs, we believe these are very useful for stakeholders to engage in discussions during consultations.

Transparency during the whole process will lead to a more efficient implementation procedure which in turn will contribute better to the single rulebook, level playing field and financial stability in the EU.

1.2.5. Joint bodies of the ESAs

1.2.5.a. How do you assess the functioning of the Board of Appeal (BoA)? If you have identified shortcomings, please specify how these could be addressed.

We do not have any experience of the Board of Appeal.

1.2.5.b. What is your assessment of having one joined BoA for all ESAs as compared to a dedicated BoA for each ESA respectively?

We do not have any experience and therefore cannot comment.

1.2.5.c. How do you assess the functioning of the Joint Committee (JC)? If you have identified shortcomings, please specify how these could be addressed.

The Joint Committee plays an important role, in particular on the future of the regulation of financial conglomerates, but also on other cross-cutting issues such as EMIR or the KID for PRIPS.

However, we are concerned that there is no balance in terms of representation and financial sectors' expertise in the Joint Committee's relevant group. In our view this needs to be properly addressed to ensure that there is proportionate representation on all relevant sub-committees.

An under-representation or a lower expertise in the field of insurance would have a negative impact on the quality and workability of the outcome of the future ESAs' work and level 2 proposals, which could ultimately be unsuited to insurance products.

Therefore, it is indispensable that decisions of the JC are not taken on a majority basis. If one of the ESAs identified shortcomings of certain initiatives regarding the sector represented by the ESA, an overruling by the other two ESAs should be possible.

The work of the joint committees could also be more transparent. For example, we welcome and are aware that important joint work had been carried out on the PRIPs initiative, but we have found it difficult to access information about this exercise. Its work should be, to the greatest extent possible, published regularly and systematically.

1.2.5.d. Does the JC ensure cross-sectoral cooperation and consistent approaches between the three ESAs? If you have identified shortcomings, please specify how these could be addressed.

It is important that topics with specific-insurance relevance remain within the remits of EIOPA.

The coordination role of the Joint Committee should however be further improved to ensure that all ESAs can input on legislation where there are indirect implications/consequences for the sectors under their remit – e.g. EMIR, resolution and recovery for banks (bail-in) etc.

2. ESRB

2.1. ESRB's mandate and experience

2.1.1. Risk identification and prioritisation

2.1.1.a. What are your views on the ESRB mandate? If you think it should be amended please specify how.

Insurance Europe supports the mandate of the ESRB, which has an important role to play in the new supervisory architecture.

This being said, given the wide range of issues the ESRB has under its mandate, Insurance Europe calls for a stronger insurance voice on cross-sectorial issues. The ESRB recommendations and opinions are very

important for the future of European financial market legislation. To allow the ESRB to fulfil its mandate it is of extraordinary importance that the sector specific experiences of the three ESAs are incorporated and that such experiences influence the ESRB's decision making process to a large extent.

We appreciate that the ECB, as major observer of financial stability in the Euro area, provides for important insight into the European financial system, especially as it is recognised that banking, unlike insurance, is systemic. However, as its expertise is banking-driven, it is important that the ESRB can understand other business models and take into account the interests of (and implications for) other participants in the financial markets. This is why we believe that a balanced approach of all three sectors is vital for a successful macro-prudential supervision, in accordance with Article 127 para. 6 of the the Treaty on the functioning of the European Union (TFEU). We would therefore consider it to be necessary to strengthen EIOPA's role in the ESRB.

2.1.1.b. What are your views on the definition of systemic risk, as provided by the ESRB Regulation? If you think it should be amended, please specify how.

The first sentence of the definition ("systemic risk means a risk of disruption in the financial system with the potential to have serious negative consequences for the internal market and the real economy") is quite generic, but appropriate, since it alludes to the concept of interconnectedness, which is a core aspect of the systemic risk concern. The second sentence ("All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree") widens the scope of systemic risk unnecessarily, and should therefore be amended. If the monitoring of systemic risk covers too broad a spectrum, there will be nothing to differentiate it from the routine monitoring of the financial system conducted by central banks before the crisis. This will be problematic if serious risks will once again be looked over during the chronicling of a large number of minor risks. Authorities charged with monitoring systemic risk should exercise self-discipline, and focus on issues which genuinely have the potential for serious negative consequences on the financial sector.

2.1.1.c. Do you think that the ESRB has developed a sufficiently preventive and forward-looking approach? Please comment on the successes and shortcomings and how they could be, respectively strengthened or addressed.

We believe that the strength of the ESRB lies on the one hand in its capacity to speak with an independent voice and on the other hand in its capacity to have a clear focus on issues which are systemically risky in nature, following its mandate, discussed above.

In Insurance Europe's opinion, it is important for these objectives to be achieved that in financial stability issues of a cross-sectorial nature, the ESRB takes a broad approach and gives due consideration to the specificities of all financial market sectors. It is also important that the ESRB's independence is such that the ESRB can express views even when such views would go against those expressed by other bodies in a different context.

2.1.1.d. What aspects of EU financial stability should be addressed by the ESRB as a priority?

The final sentence of the ESRB's mission ("It shall contribute to the smooth functioning of the internal market and thereby ensure a sustainable contribution of the financial sector to economic growth") provides an important balance within the mandate by requiring a contribution to the smooth functioning of the single market and so to ensure a sustainable contribution of the financial sector to economic growth. It is however not sufficient to assume that the financial sector can only make a contribution to growth through the smooth functioning of the single market and this aspect of the mandate might benefit from further reflection.

Insurance Europe also believes that the ESRB should make use of its unique position to assess the impact and possible unintended consequences of certain economic policies on different financial sectors. For instance, a prolonged environment of low interest rates, which has in recent years been the norm largely in response to the developments in the banking sector, can have unintended consequences. The ESRB should be able to assess and draw attention to the impact of such developments.

2.1.1.e. What is your assessment of the ESRB's coordination with other economic or financial policy areas or economic governance procedures, for example on macroeconomic imbalances?

No comments.

2.1.1.f. Please outline and comment on the areas in which the ESRB has been most effective.

No comments.

2.1.1.g. Should the ESRB specific mandate be adapted in light of the Single Supervisory Mechanism? If yes, how?

Given the uncertainty still surrounding the new supervisory architecture in banking, Insurance Europe finds it difficult to express a precise opinion on the need to adapt the mandate of the ESRB. This being said, in light of these developments in banking, in Insurance Europe's opinion it is even more important than is currently the case to ensure that the ESRB can speak with an independent voice on financial stability and systemic risk issues and has the expertise to do so.

2.1.2. Timeliness and appropriateness of warnings and recommendations

2.1.2.a. What are your views on the powers conferred to the ESRB by the ESRB Regulation (i.e. the power to issue warnings and recommendations)? Are they sufficient? Please explain. What are your views on the use the ESRB has made of these powers in practice?

The powers are appropriate, and the ESRB has made appropriate use of them. Some might argue that six recommendations over the period is not enough; Insurance Europe does not share this opinion, as macro-prudential bodies should be sparing in their recommendations. Furthermore, in many member states, NCAs are allowed to release warnings and/or prohibitions. In line with the subsidiarity principle, NCAs should take such measures. Should NCAs not act appropriately, EIOPA or the ESRB should then consider taking such measures. In addition, there should be a right to appeal warnings and prohibitions.

It is also important to keep in mind that when the ESRB was set up, one of its main objectives was to contribute to prevent a repeat of events that led to the 2007-2008 banking crisis. The fact that the ESRB has not issued any warning should not be a surprise as they will be looking forward in identifying any signs for potential future crises. Such crises as we have experiences in recent years are unlikely to be frequent.

2.1.2.b. What is your assessment of the ESRB's public recommendations in terms of content and timeliness? What is their impact on the direct addressees, and indirectly on the relevant market/market participants? If you identify any potential improvements, please specify how these could be delivered.

No comments.

2.1.2.c. Did the recommendations adequately address the relevant policy makers in alerting them to, and advising them on, the necessary measures for risk mitigation?

No comments.

2.1.2.d. Were the recommendations specific enough and did they address the main specific risks that could be identified in the period under review? If not, where would you identify the shortcomings and how could these be improved?

No comments.

2.1.3. Implementation of warnings and recommendations

2.1.3.a. How do you assess the non-binding character of warnings and recommendations? Could such tools be strengthened? If yes, please specify how.

It would be a mistake to strengthen the ESRB's current non-binding powers. The levers rightly lie with other institutions.

2.1.3.b. What is your assessment of the 'act or explain' mechanism chosen by the Regulation? If you identify any room for improvement please specify how this could be addressed.

Act or explain is the right approach. Sometimes both may be necessary.

2.1.3.c. What impact did public recommendations have on the market or public in general? Please outline your experience.

No comments.

2.2. Institutional framework and governance of ESRB

2.2.1. General governance issues

2.2.1.1. Key principles for good governance

2.2.1.1.a. Do the regulations provide ESRB with the right structures to follow the good governance model in terms of openness, participation, accountability, effectiveness and coherence and to promote a common supervisory culture? Please explain your answer.

No comments.

2.2.1.1.b. Has ESRB contributed to establishing a common macro-prudential policy framework and convergence of macro-prudential supervisory practices within EU? Please explain your answer.

No comments.

2.2.1.1.c. Has the ESRB acted as an impartial body in the interests of EU as a whole? Please explain your answer.

No comments.

2.2.1.2. Accountability and transparency

2.2.1.2.a. Are the ESRB's accountability and reporting obligations, (including the frequency), to the European Parliament and the Council sufficient and transparent enough? If not, please explain how they should be improved.

No comments.

2.2.1.2.b. What is your assessment of the nature of these public hearings?

No comments.

2.2.2. Decision-making bodies and voting arrangements

2.2.2.1. Voting arrangements for the designation or election of the Chair of the ESRB

2.2.2.1.a. What are your views on the fact that the President of the ECB is by rule the Chair of the ESRB? If you think this rule should be amended, please specify how the ESRB Chair should be appointed. For example, should it be defined in the Regulation or should she/he be appointed by an EU institution or the ESRB itself? If by an EU institution, by which one and how?

No comments

2.2.2.1.b. Do the governance arrangements ensure that the Chair carries out his tasks with sufficient independence? If not, please specify where there is room for improvement and how this could be addressed.

No comments

2.2.2.2. Composition, mandate and functioning of the General Board

2.2.2.2.a. What is your assessment of the composition, size and mandate of the General Board? If you identify any shortcomings please specify how these could be addressed.

No comments

2.2.2.2.b. What is your assessment of the relative representation of central banks on the General Board?

In spite of the recently published list of global systemically important insurers (G-SIIs), Insurance Europe upholds that insurers are not systemically important in a way that banks are, and that the two sectors have a fundamentally different exposure to systemic risk. Against this background, it is somewhat understandable that there are more central banks on the ESRB General Board. However, the insurance sector can bring a different perspective and valuable contributions to systemic risk debates so we would welcome a stronger insurance representation on the General Board.

In any case, on the rare occasions when insurance is considered by the ESRB recommendations, it is very important that the General Board includes sufficient insurance expertise and experience that can provide relevant input in debates.

2.2.2.2.c. What is your assessment of the participation of the European Supervisory Authorities (EBA, EIOPA, ESMA)?

We consider the participation of the ESAs as important for the work of the ESRB. To ensure a balanced and European approach, it is important to include all relevant particularities. Macro- and micro-prudential supervision influence each other on a broad basis. Consequently, ongoing and consistent cooperation and coordination are necessary.

2.2.2.2.d. What is your assessment of the presence of non-voting members at General Board meetings?

The presence of non-voting members at General Board meetings is necessary and required. The rotation principle provided by Article 6.3 of ESRB Regulation shall be maintained to avoid the underrepresentation of the insurance sector in instances when insurance-related recommendations are adopted by the General Board.

2.2.2.3. Internal organisation

2.2.2.3.a. What is your assessment of the supporting activities of the ECB to the ESRB, according to the relevant regulation (Council Regulation 1096/2010)? What are the key advantages and disadvantages of this set-up? If you identify any room for improvement, please specify how this could be addressed.

A close relationship between the ECB and the ESRB is appropriate.

2.3. Access to data

2.3.a. In your view, has the ESRB had adequate access to relevant data and financial information for the fulfilment of its mandate?

The access to data by the ESRB is considered to be sufficient for the fulfilment of its mandate.

2.3.b. For the analysis of systemic risk, what is the balance needed between, on the one hand, data in summary or aggregate form and, on the other hand, firm-specific data?

For the fulfilment of the tasks and the mandate of the ESRB, we consider aggregated data as sufficient and appropriate. Firm-specific data is only necessary when it comes to firm-specific supervision and thus micro-level. In addition, we want to emphasise the importance of not imposing additional burdens to undertakings by introducing additional data collection exercises and reporting channel. The only addressee of data for undertakings should be the competent supervisory authority. Any additional data request at ESRB level should not be addressed to the undertaking, but rather be fulfilled based on data already provided to the NCA. To allow for an appropriate and sensible approach, the single-point-of-entry has to be ensured.

2.3.c. How do you assess the data access procedures foreseen in the ESRB Regulation? If you identify any room for improvement, please specify how this could be addressed.

No comments.

2.4. ESRB external relations and communication

2.4.1. Positioning of ESRB as an authoritative policy institution focused on monitoring and preventing systemic risks

2.4.1.a. What is your assessment of ESRB communications?

Given the ESRB's important role in financial stability issues, it is important to ensure that it acts transparently and with an independent voice. Insurance Europe believes that a clear focus on issues which fall within its mandate would improve the impact and weight of its communications.

2.4.1.b. What is your assessment of the ESRB's reputation as the body responsible for identifying and helping to mitigate systemic risk?

Since the ESRB is a new body, and having in mind that it was established in the peak of the financial crisis, it is premature to assess whether it contributed to mitigating systemic risk. In Insurance Europe's view, the independence of its positions and strict adherence to its mandate will ensure a positive reputation for the ESRB as the body responsible for identifying and helping to mitigate systemic risk in the future.

2.4.2. Interaction with other international bodies (e.g. G20/FSB)

2.4.2.a. What is your assessment of the ESRB interactions with the International Monetary Fund (IMF); the Financial Stability Board (FSB); the G20 Group; macro-prudential authorities in any other relevant non-EU countries? If you identify any room for improvement, please specify how this could be addressed.

No comments.

3. Cooperation and interaction between the ESAs (micro level) and ESRB (macro level)

3.1. Assessment of market developments

3.1.a. What is your assessment of the past stress test exercises that were initiated and coordinated by EIOPA and EBA? If you have identified any shortcomings, please specify how these could be addressed.

No comments.

3.1.b. Did the stress tests and EBA's recapitalization exercise contribute to increase confidence in the stability of the financial system and increase the resilience of financial institutions? Please explain.

No comments.

3.2. Aspects of macro-micro interaction

3.2.a. What is your assessment of the cooperation between ESRB and the ESAs?

In which areas has cooperation been successful? If you identify room for improvement, please specify how this could be addressed.

No comments.

3.2.b. What is your assessment of the ESAs' follow-up actions on the ESRB recommendations? Please explain.

No comments.

3.2.c. Has ESRB contributed to the work of the ESAs by bringing a macro-prudential perspective into micro-prudential activities? If so, please comment on key successes and/or shortcomings.

No comments.

4. Structure of the ESFS

4.a. What is your assessment of the structure of the ESFS?

More time is needed to see the ESFS operate in practice before any definitive conclusions can be drawn. In our view, it is very important to recognise and understand the potential indirect consequences of legislation in a particular financial sector on another financial sector. In this sense, we believe maintaining the structure with three individual supervisory authorities is essential.

Furthermore, it seems important that the three ESAs and the ESRB have a regular dialogue, to avoid the risk of overlap or duplication of tasks, which could result in an exercise which is unnecessarily resource intensive and burdensome, both for regulators and industry.

EIOPA is by nature the institution to consult on questions of insurance regulation. We thus feel that EIOPA's involvement and representation in the ESRB is very important, especially when cross-sectoral legislation initiatives are discussed. In addition, EIOPA's strong presence would ensure that unintended negative side-effects of certain legislation on insurers can be avoided.

We oppose a change of the supervisory system in favour of the "twin peaks" model. We consider the currently applied sector oriented system as more efficient and effective for a sustainable and sensible financial supervision in Europe. Dividing the supervision over undertakings and markets leads to a duplication of the needed resources due to the heterogeneity of the different sectors and the inherent difference in business models. In addition, a recalibration of the structure of the ESFS would lose in efficiency.

To conclude, the separation of the three different supervisory authorities EBA, ESMA and EIOPA has to be maintained. The future SSM will involve the ECB into the micro-prudential supervisory framework and foster banking representation in this context. To balance these developments, an independent EIOPA is absolutely indispensable.

4.b. Does the structure of the ESFS facilitate the identification, monitoring and mitigation of systemic risk in the EU financial sector? Please explain.

The current structure of the ESFS with three sector specific micro-prudential supervisory authorities and the ESRB as macro-supervisor is well-prepared for the identification, monitoring and mitigation of systemic risks. The different participants in the European financial markets are affected by systemic risks in different ways. A careful sector-specific discussion is indispensable for achieving a sustainable approach to address systemic risk in Europe.

4.c. Do you consider that the ESFS can be further simplified in order to tangibly enhance coherence between the ESAs and the ESRB? Please explain and add concrete suggestions, where possible.

It is likely that ways of simplifying the ESFS will become apparent after sufficient time has passed to allow the current (the banking union) and recent changes (ESAs, ESRB Regulations) to the European Supervisory architecture to bed down. So far however, the ESFS seems designed properly for fulfilling its mandates.

Insurance Europe would like to stress again the importance of balancing influences in the ESRB and thus of strengthening ESMA and EIOPA's presence.

4.d. Do you consider that the structure of the ESFS, in particular the roles of EBA and ESRB, will need to be revisited in light of the establishment of the Single Supervisory Mechanism (SSM) and the new role of the ECB within the ESFS? Please explain and add concrete suggestions, where possible. How should synergies in terms of supervision within ESFS including ECB be exploited? Please explain.

Insurance Europe does not believe that the structure of the ESFS needs to be revisited. The existence of three separate authorities is the only way to ensure that the specificities of each sector be guaranteed and properly considered.

We have seen a trend to use banking rules as a benchmark for insurance regulation. Doing this is inappropriate, and leads inevitably to damaging consequences for insurers and policyholders. This is yet another reason to support the separation of the three different supervisory authorities EBA, ESMA and EIOPA.

The future Single Supervisory Mechanism for banks (SSM) will include the ECB into the micro-prudential supervisory framework and foster banking representation in this context. To balance these developments, a strong lead supervisor and independent EIOPA are essential to maintain an appropriate insurance presence in this environment.

4.e. From your experience, do you think that the ESAs and ESRB attract a sufficient number of diverse and excellent staff? If not, why not? If you identify room for improvement, please specify how this could be addressed.

No comments.

5. Miscellanea

5.a. Do you have any other comment on the effectiveness and efficiency of the ESAs and ESRB within ESFS and on ESFS in general? Please indicate whether the Commission may contact you for further details on the information submitted, if required.

No comments.