

AFG's position paper on supervision

Supervisory convergence appears to be highly topical in the recent reflections on the future of the European Union, especially with regard to its competitiveness¹.

AFG welcomes the discussion on this topic and takes the opportunity to develop its views.

Supervision convergence on the “entities” side

AFG is also in favor of the recognition of the notion of group at the European level in case of large cross border asset managers, in order to reduce the reporting burden and organizational issues with respect to intra-group and intra-EU delegation arrangements.

This recognition of the notion of group would ensure that large asset management groups in the European Union could benefit from a greater supervision convergence. In this respect, we believe that such supervision could take the form of a “lead supervisor” of a national competent authority (“NCA”) for the following reasons:

- A “lead supervisor” NCA would allow to maintain two fundamental characteristics of an efficient supervision: proximity and reactivity.
- A “lead supervisor” NCA could be designated on an objective basis, to avoid any “forum shopping”, for instance using the criterion of the NCA of the parent company of the relevant asset management group or the criterion of the number of employees in a Member State. Indeed, other criteria, such as the assets under management, could evolve over time and hinder legal certainty, which is crucial for the competitiveness of our industry.

We also believe that such approach should apply both to EU and non-EU asset management groups operating in the European Union.

Other proposals, such as a single supervision by ESMA, based on an opt-in mechanism, or as a collegial supervision mechanism gathering relevant NCAs and ESMA, do not seem suitable, at least in the short/ medium term perspective, for the following reasons:

¹ [Position-paper-a-macro-prudential-approach-to-asset-management_1.pdf \(amf-france.org\)](#)
[Enrico Letta - Much more than a market \(April 2024\) \(europa.eu\)](#)

- Envisaging single supervision by ESMA should be subject to a preliminary full review of ESMA mandate that would allow to address current obstacles (both on governance and functioning aspects) to such a move. This should aim at developing and reinforcing ESMA competencies while considering as well appropriate articulation with NCA. Such set-up would require an in-depth gap analysis in order to assess its effectiveness for the industry.
- Dialogue between NCAs and between NCAs and ESMA should be encouraged and facilitated to foster convergence and pragmatism in supervision.
- Competitiveness should be integrated as a specific mission for ESMA, fostering a more predictable legal environment for our industry and ensuring the link between the rule making and the market practices.

Supervision convergence on the “products” side

With respect to the opportunity of having a single supervision on certain products whose characteristics are harmonized at the European level, we believe that at this stage at least and for the reasons mentioned above, a national supervision should be maintained as a default option. Single supervision may make sense in case of investment funds with a European label (stemming from a regulation), as ELTIF vehicles. Nevertheless, we would encourage more convergence and more control, especially to avoid gold-plating by certain NCAs, in order to foster legal certainty and competitiveness at the European level.