



European Commission
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Ref: Bank of Lithuania response to the targeted consultation on the supervisory convergence and the single rulebook

The Bank of Lithuania (BoL) welcomes the opportunity to reply to the European Commission's (EC) consultation on the supervisory convergence and the single rulebook.

Overall, we believe that the European Supervisory Authorities (ESAs) play a very important role by contributing to the development and sound functioning of the single market for financial services, fostering and strengthening supervisory convergence, bringing clarity, and enhancing customer and investor protection. It should be mentioned that ESAs played an essential role in coordinating the activities of the National Competent Authorities (NCA) and issuing recommendations for financial markets during the COVID-19 outbreak.

This consultation seeks to reach targeted views on certain aspects related to the 2019 ESAs review and contributes to a wider debate on supervisory convergence and the single rulebook. Given that many of the recent ESAs review changes have been fully implemented only recently, it is difficult to make assessments on many of the issues raised, as the practice is not yet fully formed and established.

However, we would like to highlight some aspects and challenges that are important to the BoL as an integrated supervisor for the whole financial market in Lithuania and which shall be considered in the merits of this consultation.

I. Financing of ESAs

The constant growth of ESAs' budgets is becoming a serious challenge for supervisors, especially in the countries where supervision is integrated. Both ESAs and NCAs periodically emphasize the need to review the funding model for ESAs with a higher share of EC funding for ESAs. This is not a new proposal, but in our view the decision towards the change is postponed already too long. The EC should also bear in mind the fact that each new mandate given to the ESAs has a direct impact on NCAs expenditure.

From our perspective as the regulator of the whole financial market in Lithuania, we support the idea considering the reorganization of the ESAs into a single institution. Such a step would probably reduce the overall costs of maintaining the administrative apparatus and we believe that the activities and projects of the ESAs would be more coordinated in the view of the supervision of the entire financial market.

II. Coordination and information sharing between the 3 ESAs

As the supervisor responsible for supervising the entire financial sector, we lack closer coordination at the level of all 3 ESAs. Sometimes the same initiatives (questionnaires, data inquiries, etc.) come at different times or in uncoordinated terms, and the reporting burden in these cases is higher. As mentioned, the merging of 3 ESAs would be beneficial from this point of view.

III. Direct supervision

It is difficult to assess new mandates following the revision of the ESAs in 2019, but it should be noted that each new mandate contributes to the growth of ESAs budgets, which has a direct impact on national supervisors, especially small ones, and it should be taken into account that this kind of the burden may weaken the functions of direct national supervision.

We are careful when it comes to proposals of centralizing supervision at the EU level. We support the idea that, in the area of supervision, it is necessary to move in stages: we should first harmonize legal requirements, then harmonize supervisory practices, and only then talk about a centralized supervisory mechanism at the EU level supervision, if we are to identify the risks that need to be addressed.

The ESMA raises funds for the direct supervision functions from market participants, whereas national supervisors do not receive those resources, but must devote time and resources preparing for meetings and taking the decisions at the Board of Supervisors (BoS) level. In some cases, supervisors representing small financial markets may not even be aware of the specificities of certain directly supervised entities, such as CCPs, but need to be involved in decision-making, which means devoting even more resources. In our view, it should be considered whether the decisions regarding direct supervision (e.g. sanctions) should be taken by the ESMA Chair or another internal body or committee composed of ESA staff.

IV. Data quality and capabilities

Another important area that needs to be addressed is data quality and capabilities. For the small markets, ensuring data quality requires a lot of resources, so we support the idea that the ESMA should play a greater role in ensuring data quality, in order to enhance the availability of information at the EU level for regulators, investors and market participants.

We strongly encourage the work towards simplifying reporting and data collection using the latest technologies such as Regtech and Suptech, which could ultimately reduce costs and the burden for NCAs and market participants.

V. Capital Markets Union and Single Rulebook

The Action Plan on Capital Markets Union (CMU) contains a number of important initiatives to develop the European capital market. In our view, the following should be given the highest priority:

- **Providing businesses – especially SMEs – with adequate access to financing.** We strongly encourage the introduction of easier regulation for SMEs. Key measures include simplifying SMEs listing rules for public markets, as well as setting up a bank referral scheme to direct SMEs to providers of alternative funding.
- **Encouraging more long-term and equity financing from institutional investors.** Especially insurance companies within Solvency II framework (e.g. to ensure that the prudential framework appropriately reflects the long-term nature of the insurance business).
- **Fostering financial literacy and participation of retail investors in capital markets.** For instance, by ensuring that retail investors receive fair and adequate advice as well as clear and comparable product information.
- **Setting up a European single access point (ESAP),** providing EU-wide access to all relevant information disclosed to the public by companies, including financial companies. It is important to avoid an increase in the reporting burden of companies. A cost-benefit approach while designing such platform should be employed to create tangible added value.

On top of that, the development of the CMU must not be limited to technical – albeit important – changes. In order to create a truly deep and liquid European capital market, **we must remove key obstacles related to diverging insolvency regimes or lengthy**

procedures for tax withheld in cases of cross-border investment. Rapid progress in these domains is needed to make tangible progress towards creating a fully-fledged CMU.

We support the convergence of supervisory practices, moving towards a single rulebook. The move towards a more harmonized legal framework should take into account the principle of proportionality and technological neutrality, where potential new rules are created. It should always be carefully evaluated if there is a need for new regulation. New rules only should be created if uniform compliance with the existing requirements cannot be achieved through supervisory convergence measures. It also should be noted that in order to achieve the CMU's objectives, the EU regulation must be flexible and competitive vis-à-vis other worldwide markets (UK, US, etc.), especially as the UK left the EU and it is now much more flexible and quicker to take the necessary decisions or adapt its legal framework.

It is likewise important to note **the need for coherence in the EU legislation in different sectoral areas**, for example, strict GDPR requirements and their coherence with the financial market legislation. The GDPR should not unduly restrict market development and seek more flexible solutions, to strike a balance between data protection and financial market development without undermining consumer interests.

In terms of **consumer protection** requirements, the aim should be to apply already proven regulatory practices uniformly across all financial sectors (such an assessment could be made in the context of reviewing CCD, MCD, MIFID, IDD and other financial sector directives). New forms of regulation should be sought to ensure that retail investors receive clear and comparable product information, as the existing practices show that information is often difficult to read by consumers, as it is too lengthy and hard to process. More regulation should be based on the grounds of behavioural economics.

VI. Level 2 legal acts and Q&A process

It is important for the ESAs to be flexible in the development of Level 2 legal acts, as they can take the necessary decisions more quickly and provide clarity which is often needed.

The financial market is fast-changing and often requires a quick response. In our view, the current Q&A process on the interpretation of the EU law (following the ESAs review) is inefficient and time-consuming, as it has become complex and very lengthy. We think that obtaining rapid response at this point is crucial. Delayed answers may result in national supervisors issuing opinions that may differ in various Member States.