

JC-2013-051**19 September 2013**

2014 Work Programme of the Joint Committee of the ESAs

In 2014, the Joint Committee will continue to give high priority to the areas of consumer protection and cross-sectoral risk analysis. Further it will continue to pursue the regulatory work already underway in key areas such as Financial Conglomerates, Anti-Money Laundering, Benchmark setting processes and Credit Rating Agencies and will enhance visibility of its work to external stakeholders. Also the Joint Committee will continue to monitor legislative and regulatory developments in 2014 both at the European and international level, and ensure appropriate follow-up, including in relation to Systemically Important Financial Institutions (SIFIs).

I. Consumer Protection

In 2014, the ESAs will continue to ensure through the Joint Committee that Consumer Protection is a high priority. A second joint Consumer Protection Day will be organised in 2014 in London. The work on Consumer Protection will focus on the following objectives listed according to their priority:

- **PRIPs:** to develop rules on disclosures for Packaged Retail Investment Products (PRIPs) as anticipated in the legislative proposal, by way of development of draft Regulatory Technical Standards (RTS) and provision of advice and assistance to the European Commission. The PRIPs provide retail investors with easy access and exposure to different types of underlyings or target markets, but can be complex for investors to understand. Further, the ESAs will coordinate the work on selling practices and conduct of business applying to PRIPs, in order to ensure appropriate convergence and consistency in this regard.
- **Complaints-handling:** to continue on-going work on complaints-handling guidelines for EBA and ESMA based on EIOPA's guidelines for complaint handling by insurance undertakings, which are expected to be consulted upon in Q4 2013 and finally adopted by EBA's and ESMA's respective Board of Supervisors in Q1 2014.
- **Self placement:** to continue in a Joint Committee forum the work that a joint ESMA/EBA task force initiated in 2013. Self-placement refers to the practice of banks selling proprietary

financial instruments – such as common equity shares, preference shares, hybrid securities and debt – to their existing banking customers. Banks might use self placement as an inexpensive means to improve their capital position, potentially to the detriment of retail depositors who are often proactively approached to buy these products and are unlikely to seek to buy them out of their own initiative. They may often be given the impression that the product is a deposit, 'save as a deposit', and/or protected by a Deposit Guarantee Scheme. The work should identify any consumer detriment issues related to such practises, to develop policy proposal if necessary, and to take appropriate steps in the Joint Committee and/or the Standing Committees of the ESAs, as required.

- Cross-selling: to develop guidelines focusing on indicating to firms, through high-level principles and practical examples, which cross-selling practices violate the firms' obligation to act honestly, fairly and professionally in accordance with the best interests of its clients.
- Commercial comparison websites: these websites have gained increasing significance over the past few years, often used a means of communication or distribution channels that enhance comparability of information for consumers. However, significant drawbacks have also been identified with regard to over reliance by consumers on the price of products, rather than understanding the underlying terms and conditions such as the often very limited scope of products and/or providers covered by a website, potential conflicts of interests, such as those arising from the remuneration model of the website (pay-per-click vs. pay-per-sale), and non-transparent criteria used by some websites for promoting certain of their search results as "Top Choice", "Best Buy" or similar. Taking this into account, a "How to Use" guide for consumers is to be developed on how best to use comparison websites in terms of what consumers should be particularly aware of when doing so (including any conflicts of interest by website owners, potentially biased presentation of results, and scope of products and providers covered).

II. Risk Assessment

Cross-sectoral risk analysis and assessment will continue to be one of the main areas of focus for the Joint Committee in 2014. The ESAs, through the Joint Committee, will continue to present in 2014 two Reports on Risks and Vulnerabilities to the Council's Economic and Financial Committee's Financial Stability Table, as part of their joint bi-annual reporting on micro-prudential analysis of cross-sectoral developments. These Reports highlight the results of joint research into key trends and threats to financial stability. The ESAs will strengthen the interaction and cross-referencing in the sectoral risk reports. They will consider enhancing the Report's visibility through a wider distribution among interested parties in the EU.

The ESAs will continue to develop suitable indicators for cross-sectoral financial risks, and to enhance their analytical approaches. In particular, the ESAs will work towards closer cooperation on evaluating financial market developments of mutual concern, such as bank funding, credit derivatives, asset encumbrance, financial innovation, financial market integration, bank bail-in including possible spill over effects on insurance and pension providers, and risks related to new technology, i.e. cyber risks. They also intend to cooperate closely on shadow banking and issues related to systemically important financial institutions (SIFIs).

In addition, the ESAs remain committed to enhance their risk reporting through the ESAs' Risk Dashboards, whose presentational consistency, scope, and analytical granularity will be further developed and harmonised. The ESAs will explore options of closer coordination on risk and market intelligence, and ways of further improving the presentation.

The ESAs will improve their intelligence on household finance and the way they manage their assets and liabilities, with specific information on such issues as financial consumer investments and risk appetite.

The ESAs will also develop further their work launched on analysing interactions and possible unintended consequences between the core financial regulatory frameworks in the EU, i.e. Solvency II, the Capital Requirements Regulation/Capital Requirements Directive IV, and the proposed Recovery and Resolution Directive.

III. Regulatory work

Financial Conglomerates: Appropriate supervision of financial conglomerates – large financial groups active in different financial sectors, often across borders – is a crucial element in ensuring financial stability in the EU, in particular due to their systemic importance. The ESAs stand ready to further contribute to the European Commission's fundamental review of the Financial Conglomerates Directive, which enhances the prudential soundness and effective supervision of these financial groups (FICOD, 2002/87/EC). The ESAs will work on the development of joint draft Regulatory Technical Standards on definitions, on risk concentration and intra-group transactions, as sought in the FICOD.

With the aim to contribute to further convergence of consistency of regulatory framework applying to financial conglomerates, the ESAs will continue their work initiated in 2013 on developing Guidelines on coordination arrangements of Financial Conglomerates, as well as Guidelines on supervisory practices for supervising mixed financial holding companies, again sought in the FICOD. Further, the ESAs will continue to update the list of identified Financial Conglomerates and publish it on their websites for the benefit of increased transparency.

Anti-Money Laundering (AML): The ESAs will continue their work in respect to equivalent/non-equivalent countries, by gathering, disseminating and analysing information to be notified to them according to the current Anti-Money Laundering Directive (3rd AMLD, 2005/60/EC).

They will also start to work on several of the tasks foreseen in the Commission's proposal for the 4th AMLD, such as Guidelines on enhanced and simplified due diligence, Guidelines on risk based supervision and draft Regulatory Technical Standards on central contact point of agents of payment and e-money institutions, having regard to developments during the negotiation of the Directive

Further, they will follow anti-money laundering developments in respect to the review of the Payment Services Directive (2007/64/EC).

European Market Infrastructures Regulation: The Joint Committee will aim to finalize the joint draft Regulatory Technical Standards on Risk mitigation techniques for OTC derivatives not cleared by a Central Counterparty (CCP). The work on the Regulatory Technical Standards had been started in 2011 and paused in 2012 due to global developments pending. It has been re-started and the draft Regulatory Technical Standards is envisaged for consultation and submission to the European Commission in 2014.

Credit ratings and External Credit Assessment Institutions (ECAI): The ESAs will work together on the mapping of all ECAI's credit assessments into the relevant credit quality steps under Capital Requirements Directive IV and Solvency II, using the EBA's ECAI Network, whose work is already underway in this regard.

The ESAs will also cooperate on a biannual report, to be published from 2014, about the extent to which legislations of Member States refer to external ratings and about steps taken by Member States to reduce such references. In that respect, synergies and consistency with the latest provisions of the Regulation on Credit Rating Agencies (CRA III, 462/2013) shall be monitored.

Benchmark setting processes: Following the publication of the joint EBA/ESMA Principles for Benchmark-Setting Processes in the EU in June 2013 to address the problems in the area of benchmarks in the period until a potential formal regulatory and supervisory framework for benchmarks has been devised in the EU, the ESAs will continue to cooperate closely on issues of mutual interest in this area. The ESAs will in particular discuss criteria for alternatives for interest rate benchmarks, as well as relating contingency and potential transition issues. Further, the ESAs will

continue to participate and provide input to FSB work on the review of major interbank benchmarks (including Euribor).

Impact Assessment Network: This network will continue to assisting the ESAs with respect to the conduct of impact assessment in relation to Technical Standards, Guidelines and Recommendations and their respective consultations, and contribute to the general quality of the impact assessment process.

IV. Supervisory Practice

The ESAs will work together on the joint ESAs' cross-sectoral Training Programme. The Joint Committee's Sub-Committee on Financial Conglomerates will continue to monitor college discussions in relation to the FICOD requirements and any implications from the developments under way at the global level under the aegis of the Financial Stability Board (FSB), Basel Committee on Banking Supervision (BCBS), International Organization of Securities Commissions (IOSCO) and International Association of Insurance Supervisors (IAIS) on Systemically Important Financial Institutions (SIFIs), and will exchange experience and analysis gained in this regard so far.

V. Common Processes and Procedures and other tasks

With the aim to contribute to fostering supervisory convergence and a common supervisory culture in the EU, the ESAs will cooperate closely to ensure cross-sectoral consistency in line with their institutional role. They will continue to provide operational and secretarial support to the Board of Appeal.

The ESAs will await with interest the outcome of the review of the ESFS (European System of Financial Supervision) by the European Commission and will consider implementation of possible recommendations, as appropriate. In addition, further views will be exchanged on possible improvements of the ESAs' framework.

The ESAs will assess the possible impacts of the Banking Union proposal on the joint work of the ESAs, in particular in the domain of risk assessment and supervision of financial conglomerates, and develop the necessary co-operation arrangements between the respective ESAs and the new Single Supervisory Mechanism.

The ESAs will aim to review and update the 3L3 Guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by the Qualifying Holdings Directive 2007/44/EC, originally issued in 2008.

The ESAs will also continue to monitor legislative and regulatory developments in 2014 both on European and international level, and ensure appropriate follow-up, including in relation to SIFIs. In this respect, subject to legislative developments, the ESAs will jointly develop Guidelines/Technical Standards in relation to Audit.

With a view to strengthen public appearance of the Joint Committee, the ESAs will aim to further harmonise the Joint Committee related content on the three ESAs websites, and seek to develop a common Joint Committee homepage.
