



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

TOWARDS EUROPEAN SUPERVISORY CONVERGENCE

The Joint Committee of the European Supervisory Authorities

Luxembourg: Publications Office of the European Union, 2016

© European Union, 2016

Reproduction is authorised provided the source is acknowledged.

Print:	ISBN 978-92-95087-02-6	doi:10.2854/076710
PDF:	ISBN 978-92-95087-01-9	doi:10.2854/73366

Contents

Foreword	5
I. The Joint Committee's mission, objectives and tasks	7
a. Introduction	7
b. Mission	8
c. Objectives	8
d. Tasks	9
e. Organisational structure	9
II. The first five years: Key achievements	11
a. Consumer protection and financial innovation	11
b. Financial stability	15
c. Financial conglomerates	16
d. Accounting and auditing	18
e. Anti-money laundering	20
III. Strategic Outlook	22

Foreword

In the aftermath of the financial crisis, the Joint Committee was established in 2011 as a forum for developing cross-sectoral consistency and joint positions on supervisory rules and practises in the three financial sectors: banking, insurance & pensions, and securities.

To celebrate the 5th anniversary of the Joint Committee, we have developed this booklet to pause and look back but also to give a flavor of the joint work going forward. Five years is not a long time for establishing structures, setting-up necessary procedures and seeing the first results of our joint work. At the same time, half a decade is sufficiently long for prioritising our work and for showing first tangible results accordingly. During this period, the Joint Committee has prioritised activities that enhance the protection of consumers in the financial markets, whilst other areas of important work have been contributions to ensuring financial stability, improved supervision of financial conglomerates, convergence in accounting standards and the fight against money laundering and terrorist financing.

Based on our joint new insights and experience, the booklet also takes a first stab at the type of activities we will be considering jointly as ESAs going forward. Today, national supervisory cultures and practices are still very different. For this reason, the main focus of the Joint Committee and the ESAs going forward will be on increasing convergence towards a more European supervisory culture. A joint European supervisory culture will help us to improve cross-sectoral aspects of supervision, based on a forward-looking and preventive approach to risks. We will prioritise the cross-sectoral dialogue with market participants to better understand their business models, strategies and underlying risks, also with a goal of better spotting interlinkages. Finally, a European supervisory culture will promote early awareness and coordinated supervisory action, where necessary, in order to protect consumers and mitigate possible disruptions of a cross-sectoral nature in the financial markets.



Gabriel Bernardino
Chair, EIOPA and
Chair of the Joint Committee
of the ESAs



Andrea Enria
Chair, EBA



Steven Maijoor
Chair, ESMA

I. The Joint Committee's mission, objectives and tasks

a. Introduction

In the midst of the 2008/2009 financial crisis, and from subsequent analyses of its causes, it became clear that better cooperation between national authorities for financial supervision would be key to prevent and mitigate similar threats for European and global economies arising in the future. Therefore, the European Commission and the EU legislators explored ways and means to improve cooperation across the three financial sectors of banking, insurance and securities markets. More precisely the purpose would be to:

- effectively address potential spill-over effects among financial sectors by jointly monitoring trends and threats in financial markets;
- closely coordinate measures to prevent and fight potentially harmful developments;
- ensure the consistent application of relevant Union laws and supervisory approaches across all three sectors.

To this end, the European System of Financial Supervision (ESFS) was created, which consists of:

- the three European Supervisory Authorities (ESAs), the European Securities and Markets Authority (ESMA) based in Paris, the European Banking Authority (EBA) based in London and the European Insurance and Occupational Pensions Authority (EIOPA) based in Frankfurt,
- the European Systemic Risk Board (ESRB),
- the Joint Committee of the ESAs, and
- the national or Eurosystem competent/supervisory authorities of each Member State, as relevant.

Within the ESFS, the Joint Committee is the bridge between the sectoral supervisory bodies to ensure cross-sectoral consistency and to develop joint positions in the area of supervision of financial entities and on other relevant cross-sectoral issues.

Through the Joint Committee, the three ESAs, with the participation of the European Commission and the ESRB, ensure regular and close coordination on supervisory activities in the scope of their respective responsibilities, and consistency in their practices. In particular, the Joint Committee works in the areas of micro-prudential analysis of cross-sectoral developments, risks and vulnerabilities for financial stability, consumer protection, supervision of financial conglomerates, accounting and auditing, and on measures to combat money laundering and terrorist financing. The Joint Committee explores and monitors potential and emerging risks for financial market participants and the financial system as a whole.

In addition, the Joint Committee plays an important role in the exchange of information with the ESRB, and in developing the relationship between the ESRB and the ESAs.

b. Mission

Each individual ESA's mission is to contribute to financial stability in its individual sector and to promote the sound functioning of financial markets as providers of safe consumer products and financing the real economy; the Joint Committee's own mission is to achieve these goals across all financial services sectors. The Joint Committee forms an integral part of the ESA's day-to-day work.

c. Objectives

In general, national supervisory authorities remain in charge of supervising individual financial institutions with the objective of the ESAs being to improve the functioning of the internal market by ensuring appropriate, efficient and consistent European regulation and supervision. The ESAs at the same time take into account the varying regulatory and supervisory environment of all Member States and the different nature of financial institutions. Therefore, the Joint Committee works to encourage compliance with rules applicable to the financial sector in order to preserve financial stability, to promote confidence

in the financial system as a whole, and to provide sufficient protection for financial consumers.

d. Tasks

The tasks of the Joint Committee cover the following areas:

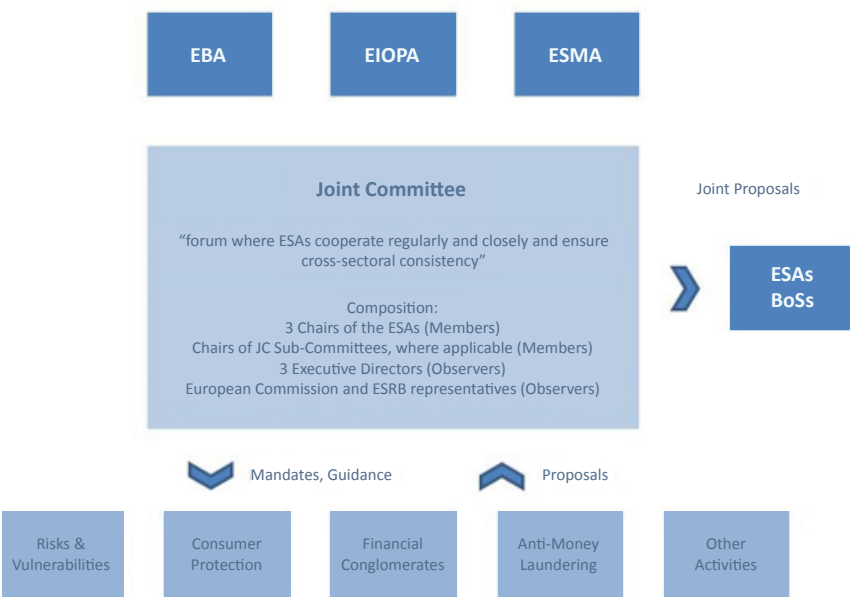
- Financial conglomerates: assisting in the identification of systemic risks of financial conglomerates, and assessing any cross-sector implications;
- Accounting and auditing: contributing to developing high quality and uniform supervisory standards, including regulatory reporting standards, and to act in the areas of auditing and financial reporting with a particular focus on international accounting standards;
- Financial stability: analysing cross-sectoral developments in micro- and macro-prudential areas, (systemic) risks and vulnerabilities for financial stability;
- Consumer protection: ensuring cross-sectoral consistency with regard to transparency, simplicity and fairness for consumer financial products or services;
- Anti-money laundering and counter-terrorist financing: working to achieve a consistent, proportionate and effective approach to combating money laundering and terrorist financing by supervisors and institutions across all three sectors;
- Other relevant tasks as required.

e. Organisational structure

The Joint Committee is composed of the Chairs of the three ESAs and, where applicable, the Chair of any Sub-Committee. The Executive Directors of the three ESAs also attend the JC meetings together with representatives from the European Commission and the ESRB.

The Chair of the Joint Committee is appointed on an annual rotational basis from the three Chairs of the ESAs who also takes on the role of Vice-Chair of the ESRB for that year.

The Joint Committee is organised as follows:



For the efficient and effective organisation of its key cross-sectoral tasks, the Joint Committee established Sub-Committees/work streams with respective mandates for their work monitoring new and existing cross-sectoral activities always with a view to promote the safety and soundness of markets and convergence of regulatory practice and presenting proposals for decision by the Joint Committee.

II. The first five years: Key achievements

a. Consumer protection and financial innovation

The Joint Committee places high importance on the protection of consumers, investors and policyholders, which is reflected also in the large number of deliverables and activities in this area.

One of the first deliverables was the Joint Position on Manufacturers' Product Oversight and Governance Processes in 2013.¹ Product oversight and governance (POG) processes refer to product manufacturers' internal processes, functions and strategies aimed at designing and bringing products to the market, and



© EBA

European Banking Authority (EBA)

¹ See: <https://esas-joint-committee.europa.eu/library>

monitoring and reviewing them over their life cycle. The Joint Position contains high-level principles that equally apply across the three sectors. The aim is to enhance consumer protection by strengthening manufacturers' internal process controls before a product is launched, to discourage products and services that may cause consumer detriment reaching the market. Responsibility needs to rest with the boards of financial institutions to ensure their business models are truly rooted in serving consumers' interests.

Subsequent to the issuance of the Joint Position on POG, the three ESAs individually transposed the principles into either technical advice to the European Commission or Guidelines addressed to competent national authorities and financial institutions, and also developed relevant POG provisions targeted specifically at distributors of financial products.

In 2012, EIOPA published its "Guidelines on Complaints-Handling by Insurance Undertakings". Taking into account the different regulatory provisions for complaints-handling between the securities and banking sectors, ESMA and the EBA considered that the adoption of identical Guidelines for the securities and banking sectors would help to achieve a consistent approach to complaints-handling across the banking, investment and insurance sectors to the benefit of firms, national competent authorities and consumers.

The Joint Committee Guidelines issued by ESMA and EBA aimed to:

- clarify expectations relating to firms' organisation regarding to complaints-handling;
- provide guidance on the provision of information to complainants;
- provide guidance on procedures for responding to complaints;
- harmonise the arrangements of firms for the handling of all complaints they receive; and
- ensure that firms' arrangements for complaints-handling are subject to a minimum level of supervisory convergence across the EU.

The following year, in 2014, the Joint Committee issued a reminder to credit institutions and insurance undertakings about the applicable regulatory requirements regulating the placement of financial instruments with depositors and policy holders ('Self Placement').²

The Joint Committee analysed the practices followed by some financial institutions to comply with EU capital rules and requirements. These practices concern institutions engaging in 'self-placement', i.e. placing with their clients

² See: <https://esas-joint-committee.europa.eu/library>

financial instruments that they, or their group companies, have issued and that are eligible to comply with specific prudential requirements. Such practices may breach some of the rules governing financial institutions and result in significant consumer detriment. In particular, the Joint Committee noted that loss bearing features of many self-placement products expose consumers to significant risks that do not exist for most other financial instruments, notably the risk of having to share losses (risk of bail-in). For these reasons, the Joint Committee reminded financial institutions across the EU about their responsibility to comply with rules governing conflicts of interest, remuneration, provision of advice and suitability and appropriateness of products.

Another Joint Committee main deliverable has been the development of a Key Information Document (KID) mandated by the packaged retail and insurance-based investment products (PRIIPs) Regulation. The products covered by PRIIPs include funds, structured products, unit-linked and with-profits life insurance contracts, and structured deposits.

Buying PRIIPs is complex for consumers compared to many other consumer goods. For such consumer goods the assessment of quality and whether the goods perform according to the consumers' expectations can often be made right away. By contrast, the quality of financial products can be very hard to assess. In addition, the retail investment environment has become increasingly

complex, such that effective disclosures of information are crucial. Yet traditional approaches to disclosures, which have focused solely on information and with little regard to its presentation, have not always been effective, as demonstrated by insights derived from research into consumer behaviour. As a consequence, the proposed KIDs provide retail investors, for the first time across the EU, with simple and comparable information designed with consumer behaviour in mind.



© EIOPA

European Insurance and Occupational Pensions Authority (EIOPA)

In the format of an A4-page document, the KID will increase the transparency and comparability of information about the risks, performance and costs, as set out here:

Key Information Document	
Purpose This document provides you with key information about this investment product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this product and to help you compare it with other products.	
Product [Name of Product] [Name of PRIIP manufacturer] [where applicable ISIN] [website for PRIIP manufacturer] Call [telephone number] for more information [Competent Authority of the PRIIP Manufacturer in relation the PRIIP] [date of production of the KID]	
[Alert (where applicable) You are about to purchase a product that is not simple and may be difficult to understand]	
What is this product? Type Objectives Intended retail investor [Insurance benefits]	
What are the risks and what could I get in return?	
Risk Indicator	Description of the risk-reward profile Summary Risk Indicator SRI template and narratives as set out in Annex III, including on possible maximum loss: can I lose all invested capital? Do I bear the risk of incurring additional financial commitments or obligations? Is there capital protection against market risk?
Performance Scenarios	Performance Scenario templates and narratives as set out in Annex V including where applicable information on conditions for returns to retail investors or built-in performance caps, and statement that the tax legislation of the retail investor's home Member State may have an impact on actual payout

Finally, since 2013, the Joint Committee has organised an annual Joint Consumer Protection Day which provides a forum for exchange and discussion between consumers, regulators and industry participants and EU officials on important consumer issues and supervisory practices. The conference, which took place in the host cities of the three ESAs on a rotating basis, typically attracts around 300 participants across the banking, securities, insurance and pensions sectors. It is arguably the leading forum on these issues in the EU.

The programme of the conference each year is structured around topical subjects of cross-sectoral importance, such as PRIIPs, intervention powers, conduct risks, the next decade in the financial services, or the impact of the digitalisation on financial services.



© ESMA

European Securities and Markets Authority (ESMA)

b. Financial stability

Over the last five years, the Joint Committee has substantially improved its capabilities to effectively monitor, analyse and report on key risks and vulnerabilities to the EU financial system. It is currently producing bi-annual cross-sectoral reports. These reports provide an overview of the main cross-sectoral risks identified in the EU financial system and recommend concrete policy actions to mitigate them. In addition, the Joint Committee regularly briefs the Economic and Financial Committee of the Council and the ESRB, ensuring informing these bodies on cross-sectoral developments and threats to financial stability. This work is especially pertinent given the economic growth outlook in the EU remaining weak and heterogeneous with some countries particularly struggling to recover from the financial and sovereign debt crisis.

The Risk and Vulnerabilities Report published in spring 2016 highlighted risks concerning the low profitability of financial entities in a low yield environment, the increasing interconnectedness of bank and non-bank entities and the potential contagion from China and other emerging markets. While risks noted by the Joint Committee in these reports may impact the financial sectors in different ways, the Joint Committee is in a unique position to analyse the cross-sectoral impact and drivers of these risks, drawing on the expertise of each ESA. Key to the Joint Committee's proposed cross-sectoral responses to these risks is a forward-looking supervisory approach when scrutinising the sustainability of business models and the promotion of supervisory convergence, especially when it comes to the monitoring of risks, cross border exposures and regulatory arbitrage.

Drawing on data and expertise from the various sectors, the Joint Committee's previous risk reports were also able to offer a detailed analysis of the interconnectedness within the financial system. In this way, empirical evidence from network analysis suggesting a change in the character of interconnectedness between the 60 largest listed financial companies in the EU. Until 2012, the performance of banks appeared to be able to predetermine the subsequent performance of insurers and fund managers. However, since 2012 this pattern reversed. In this study, asset managers emerged as the group impacting on the performance of firms within the two other sectors, highlighting why the close connections between the various parts of the financial sector requires consistent supervisory practices across sectors and an institutional framework for cross sectoral risks as manifested in the Joint Committee.

In addition to the recurring reports and presentations, the Joint Committee has proven to be a valuable forum for ad-hoc analysis and knowledge-building on key cross-sectoral topics in relation to financial stability. Such topics have included cross-sectoral use of credit default swaps and the consistency between banking and insurance legislation.

c. Financial conglomerates

Financial conglomerates are typically large financial groups active in at least two different financial sectors, in banking, securities or insurance and often act across borders. Their interconnectedness and complexity requires supplementary supervision. Financial Conglomerates are often, due to their interconnectedness and size, of systemic importance. The Joint Committee's work has supported the development of an effective supervision of financial conglomerates.



Gabriel Bernardino, Chairman of EIOPA

The Joint Committee submitted their response to the European Commission's Call for advice on the fundamental review of the Financial Conglomerates Directive in October 2012. The advice provided recommendations in particular with regard to the scope of the Conglomerates Directive, on internal governance requirements and sanctions, and on supervisory empowerments.

In July 2013 the Joint Committee further submitted to the European Commission their first joint draft RTS on the uniform conditions of application of the calculation methods of own funds of the Financial Conglomerates Directive (FICOD). The draft RTS put forward rules in order to ensure that institutions that are

part of a financial conglomerate apply the appropriate calculation methods for the determination of required capital at the level of the conglomerate.

In December 2014 the Joint Committee published its first Joint Guidelines on the consistency of supervisory practices for financial conglomerates. These Guidelines aim at clarifying and enhancing the cooperation between national competent authorities in order to achieve a supplementary level of supervision of financial conglomerates. The areas covered by the Joint Guidelines include topics like the mapping of the financial conglomerate structure; the coordination of information exchange, together with supervisory planning and coordination of supervisory activities in going concern and emergency situations.

The Joint Committee submitted to the European Commission in December 2014 its Joint draft RTS on risk concentration and intra-group transactions. The draft RTS aim at clarifying which risk concentration and intra-group transactions are to be considered significant. They provide clarification on what coordinators and other relevant competent authorities have to take into account when defining thresholds for setting quantitative limits with regard to risk concentration, and provide a list of supervisory measures to be taken into account.

Each year the Joint Committee publishes its annual update of the list of identified Financial Conglomerates. The most recent list, published in October 2015, identifies 78 financial conglomerates with the head office of the group in an EU/EEA country as of end 2014.

d. Accounting and auditing

Based on their respective founding Regulations, the three ESAs have an explicit obligation to actively promote a common supervisory culture, which entails contributing to developing high quality and uniform supervisory standards, including regulatory reporting standards, and to act in the areas of auditing and financial reporting with a particular focus on international accounting standards.

Building on these individual obligations, the Joint Committee is tasked with facilitating close cooperation between the three ESAs to ensure cross-sectoral consistency regarding accounting and auditing. There is a unique process for implementing international accounting standards into EU law, which has been further refined by the 2014 Maystadt reform³. Herein the three ESAs (and the European Central Bank) have a pivotal role in assessing international accounting standards in terms of fitting their respective sectors and their impact on financial stability.

The joint activities can be summarised as follows:

- Support to develop high quality International Financial Reporting Standards (IFRS): providing input to the International Accounting Standards Board (IASB) and, where appropriate, to the European Financial Reporting Advisory Group's (EFRAG) own initiative work.
- Active involvement in the EU endorsement process of IFRSs: participation in Accounting Regulatory Committee meetings, EFRAG's preparatory work – more recently as official observers to EFRAG's Board and Technical Expert Group – and direct interaction with the European Commission.
- Cross-sectoral consistency in applying IFRSs: exchange of views in relation to use of IFRSs in the context of Solvency II, Capital Requirements Regulation and Directive (no. IV) and ESMA's enforcement activities.

³ See Joint letter to Commissioner Barnier: *Maystadt Report – Should IFRS standards be more European?*, ESA-2014-001, 24 January 2014.

Most recently the three ESAs have been heavily involved in the European discussion about the endorsement of IFRS 9 *Financial Instruments* and its interaction with the current IFRS 4 *Insurance Contracts*. The three ESAs presented a unified approach acting in the best interest of their sectors and investors, adding significant value to the development of an endorsement advice at EFRAG.

Also the role of statutory auditors in the financial crisis has been contested at global level. In Europe, the audit rules have been significantly reformed, resulting in a new Audit Directive, an Audit

Regulation for the statutory audit of public-interest entities and the establishment of a new committee, the Committee of European Auditing Oversight Bodies, which includes ESMA as a member and EBA and EIOPA as observers.

In line with the Audit Regulation, the EBA and EIOPA together in close cooperation, have been developing Guidelines on facilitating an effective dialogue between supervisors and statutory auditors.

Within their first five years the three ESAs have contributed using their expert technical knowledge to the promotion of high quality accounting standards in Europe and have played a prominent role in European financial reporting and its assurance by statutory auditors.



© ESMA

Steven Majoor, Chairman of ESMA

e. Anti-money laundering and counter-terrorist financing

The Joint Committee's work on Anti-Money Laundering and Counter Financing of Terrorism (AMLC) brings together anti-money laundering and counter-terrorist financing supervisors of institutions across all three sectors. It facilitates the exchange of information and best practices in relation to anti-money laundering and counter-terrorist financing supervision, fosters supervisory cooperation and supports the ESAs in fulfilling their mandates from relevant EU legal acts. Over the last five years, the AMLC's work included:

- Reports on the application of relevant provisions in the third anti-money laundering Directive (3AMLD), for example on Simplified Due Diligence, Beneficial Ownership and the anti-money laundering and counter-terrorist financing supervision of electronic money issuers. These reports highlighted differences in the interpretation and application of Union law provisions, which had the potential to undermine the effectiveness of Europe's money-laundering and terrorist financing defences. The reports also served to inform the Commission's proposal for amendments to the 3AMLD;
- Work to harmonise supervisory practices, for example a report on risk-based anti-money laundering and countering the financing of terrorism supervision, which set out the guiding principles of a more proportionate and effective approach to anti-money laundering and counter-terrorist financing supervision and associated workshops;
- Work to foster the cooperation of home and host supervisors, for example a protocol to facilitate the effective anti-money laundering and counter-



© EBA

Andrea Enria, Chairman of EBA

terrorist financing supervision of payment institutions that operate on a cross-border basis;

- A consultation on two Joint Committee Guidelines under 4AMLD, which foster a common understanding by supervisors and institutions of the risk-based approach to anti-money laundering and counter-terrorist financing, and how it should be applied. The Risk-Based Supervision Guidelines set out, what competent authorities should do to ensure, that their allocation of supervisory resources is commensurate to the level of money laundering and terrorist financing risk associated with credit and financial institutions in their sector. The Risk Factors Guidelines provide credit and financial institutions with the tools they need to make informed, risk-based and proportionate decisions on the effective management of individual business relationships and occasional transactions. Moreover, these Guidelines help competent authorities assess whether the ML/TF risk assessment and management systems and controls of EU credit and financial institutions are adequate. Both Guidelines are central to the European anti-money laundering and counter-terrorist financing regime and form part of the ESAs' far-reaching mandates under the relevant legal framework, with work on the remaining mandates currently underway.

In order to increase the visibility of the Joint Committee, a specific Joint Committee website⁴ has been created and went live on 1 June 2016. The website presents information and news about the cross-sectoral work of the three ESAs. Consumers and other interested parties will be able to find relevant joint news, publications and public consultations on this centralised website.

⁴ <https://esas-joint-committee.europa.eu/>

III. Strategic outlook

Given its fields of competence, the Joint Committee presents a broad outlook to possible future activities it may wish to pursue. Orientation as to future work will be based on the market situation, developments in distribution channels and disclosure practises, new financial innovation and legislative empowerments from the EU legislators, amongst others. More concretely, the Joint Committee establishes annual work programmes, which are subject to the approval of the Board of Supervisors of the three ESAs. In that sense, the considerations and aspects below should be read as fields of interest and/or concern, rather than specific deliverables that will figure out in future work programmes.

The ultimate goal in establishing the ESFS, and thereby also the three ESAs, joined up in the Joint Committee, was to build a common supervisory culture for the whole of the EU financial sector. As exemplified above, during the first years of the ESAs existence, the focus was in particular on regulatory rather than supervisory tasks undertaken both in Joint Committee and by the ESAs individually. Going forward, **supervisory convergence** will be the focus in point.

Supervisory convergence achieves three fundamental objectives:

- First, to ensure the application of EU regulation;
- Second, to guarantee a level playing field and prevent regulatory arbitrage in the internal market;
- Third, to safeguard a similar level of protection to all EU consumers.

Today, national supervisory cultures and practices differ widely between Member States, for which reason the main focus of the Joint Committee and the ESAs, going forward, will be to increase convergence towards a European supervisory culture. Such a joint European supervisory culture aims to ensure enhanced supervision, which is based on a forward-looking approach to risks. Moreover, it needs to prioritise the dialogue with market participants to better understand their business models, strategies and underlying risks. Finally, it will promote early enough awareness and supervisory action, where necessary, in order to protect consumers and mitigate possible disruptions in the market.

One of the priorities of the Joint Committee in establishing a European supervisory culture is consumer protection. Following the publication of the RTS on PRIIPs, further work will be carried out to support convergent implementation in practice across the EU of the new PRIIPs legislation. As a

first step, guidance material aimed at firms and other stakeholders, setting out details on the practical application of the methodologies for calculating the risk, performance and costs. Secondly, the Joint Committee may consider whether further steps are needed, for instance sharing some example KIDs, or working on information for consumers on how to use the information in the KID. The PRIIPs Regulation itself foresees a review of the Regulation by the end of 2018, a process the Joint Committee stands ready to contribute to in the form of review work and monitoring the KID and its impact.

When looking forward, the past is also of importance to understand the future areas of attention. In the aftermath of the financial crisis, the financial sector has been faced with a low interest rate scenario, expected for the longer term, while at the same time EU capital markets seem to continue to underperform. This necessitates new innovative thinking from industry in terms of product development and product offerings. Innovation can of course drive benefit for both consumers and industry. At the same time, from a conduct of business perspective, the Joint Committee will monitor developments with a view to ensuring that such financial innovation does not have consequences to the detriment of consumers.

One of the ongoing developments in distribution of financial products is continued digitalisation allowing new approaches to marketing and selling via the internet. Rapid IT development is reshaping the financial services, creating the conditions for new kinds of products, lower costs, and new types of distribution. This leads to new opportunities for and empowerment of consumers but, at the same time, possibly also new types of risks. In this respect, the Joint Committee has launched a Discussion Paper on automated financial advice via the internet, where human interaction between consumers and financial institutions increasingly is replaced by algorithms that provide advice or other forms of recommendations. The aim of the document is to assess the benefits and risks and subsequently consider which, if any, regulatory and/or supervisory measures need to be taken.

Another aspect of the environment with changing business models is the so-called FinTech – the financial technology industry. FinTechs are a specific part of the financial sector, where firms are focussed on using new technologies, often by challenging more traditional firms that are less advanced in terms of their IT strategies and use of new data and marketing resources. The Joint Committee will monitor these developments with interest and already has noticed the enhanced competition they bring. From a supervisory perspective this is welcomed, as long as a level playing field is ensured together with a prevention of regulatory arbitrage in the internal market. Overall, the ambition is to ensure effective consumer protection framework without at the same time stifling financial innovation.

Likewise the use by the financial sector of big data is also of increasing importance, which is revolutionising the way products and services are designed and marketed, creating opportunities and challenges for financial institutions and regulators. Big Data enables consumers to be more accurately profiled, with patterns of consumption identified and targeted offers made to the benefit of individual consumers. It also can allow for increasingly effective risk management by firms. At the same time, it leads to data privacy problems, where the consumer loses control of their own data, and may also hold risks that not all consumers will have access to the financial products they need. Areas for future work which the Joint Committee may look into include whether the sectoral regulatory frameworks are adequate to address the challenges raised by big data.

In the area of **Financial Stability**, going forward, the close cooperation of the ESAs on identifying key risks and vulnerabilities will continue to grow in importance, in line with the outcome of the first European System of Financial Supervisors review in 2014.

Continued effort is required to build consistency from a supervisory perspective across the financial markets, and the Joint Committee is unique in its position and ability to ensure this. It also needs to lead the development of sound and prudent regulation for cross-sectoral matters.

This unique role will not only require the Joint Committee to continue its current commitments to inform the public and European organisations on cross sectoral risks, but also expand on its ability to monitor, analyse and outline how to respond to these threats. The Joint Committee intends to improve its ability to serve as a forum, in which the ESAs cooperate regularly and closely by strengthening its abilities to carry out micro-prudential analyses of cross-sectoral developments, risks and vulnerabilities for financial stability.

Key to improving the monitoring and analysis of cross sectoral risks would be an enhanced framework for data sharing between the three ESAs under the umbrella of the Joint Committee. Each of the three ESAs maintains unique and valuable databases on markets, banks, insurers and pension funds. Improving the ability of the ESAs to work jointly on selected parts of these data sources would vastly increase the efficiency and capabilities of the Joint Committee, whilst any such sharing of data would continuously be subject to the highest security and protection of the safety of the data.

In the short run, however, the monitoring and analysis of risks will also be improved as the ESAs further develop their techniques and tools to better make use of the available information to inform decision-making on emerging developments and risks in the markets. In this role, the Joint Committee will continue to support financial supervision and ensure key decision makers have

a comprehensive overview of risks and vulnerabilities. In the current economic climate, this would entail a particular focus on the low interest rate environment and changing business models in financial markets.

The regulatory and supervisory frameworks with regard to the sectoral provisions for credit institutions, insurance undertakings and investment firms, has evolved and has been significantly amended and updated over the recent years, while the **Financial Conglomerates Directive** (2002/87/EC), FICOD has not. The European Commission published in April 2016 its roadmap on an evaluation of the FICOD, which will be conducted as part of the Commission's Regulatory Fitness and Performance programme. The purpose of this evaluation is to assess the performance of the FICOD in terms of effectiveness, efficiency, relevance and EU added value. The Commission has published a consultation paper on the evaluation of FICOD and the Joint Committee is prepared to support the EC review work. Furthermore, the establishment of the Banking Union with the establishment of the Single Supervisory Mechanism and the Single Resolution Board has significantly impacted the supervisory framework also for conglomerates. All these changes deserve proper analysis and the assessment of their impact on conglomerates in order to ensure effective supplementary supervision of conglomerates with a focus on the specific risk of contagion, risk of concentration and complexity. At the same time, from a regulatory perspective, additional layers of supervision need to be avoided where the sectoral framework already addresses the types of risk that may arise in such a financial group.

In the area of **accounting and auditing**, the three ESAs' role specifically in the European accounting framework will be further promoted in the near future by the upcoming endorsement advice on important international accounting standards like International Financial Reporting Standard 16 Leases and a future accounting standard on insurance contracts. In particular for insurance and reinsurance undertakings these developments will be a crucial step forwards to adequately presenting their business activities to the financial markets.

It can be expected that after a number of years of developing new accounting standards, the focus of the three ESAs may shift to implementation and herewith may emphasize the Joint Committee's role of enabling cross-sectoral consistency in application of accounting standards.

Furthermore, with the Audit Regulation coming into force, the Joint Committee's work will be enriched by an interesting new aspect to the work of the three ESAs in connection with the Committee of European Auditing Oversight Bodies.

More integration in the EU internal market does not only foster economic development, growth and prosperity. It also creates opportunities for **money laundering or terrorist financing**. It is therefore important, that European

financial institutions put in place robust anti-money laundering and counter-terrorist financing systems and controls to comply effectively with a coherent set of anti-money laundering and counter-terrorist financing rules and standards, that NCAs adopt a consistent approach to supervising financial institutions' compliance with these obligations and that they cooperate effectively in relation to the anti-money laundering and counter-terrorist financing supervision of financial institutions that operate on a cross-border basis.

Since the 4th Anti-Money Laundering Directive introduced a risk-based approach to the fight against money laundering and terrorist financing, the ESAs' work to foster a common understanding of that risk-based approach, what it entails and how it should be applied, becomes even more important.

The implementation of the risk-based approach to anti-money laundering and countering the financing of terrorism by competent authorities and financial institutions is therefore actively supported by guidance and advice from the three ESAs via the Joint Committee.

As part of this, NCAs must continue to improve their cooperation in order to identify emerging risks and adapt their supervisory responses accordingly. For example, in the area of anti-money laundering and counter terrorist financing, the recent terrorist attacks in Paris and Brussels have thrown into sharp relief the importance of acting together to prevent financial crime. The European Commission's 'Action plan to strengthen the fight against terrorist financing' of February 2016 and proposals for amendments to the 4th Anti-Money Laundering Directive of July 2016 outline the scope of measures and decisions to be taken by political decision makers in this regard. It gives an immediate outlook to what the European AML/CFT regulators and supervisors will have on their agenda in the next few years.

Furthermore, following the widely reported leak of sensitive documents relating to customers of a Panamanian law firm, financial services supervisors must decide on how to respond to allegations that European financial institutions and their customers are using offshore companies for financial crime purposes. Clarifying supervisory expectations in relation to anti-money laundering controls and taking corrective action where necessary will form an important part of wider supervisory and political measures to fight tax evasion and fraud.



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

EI-01-16-679-EN-N



Publications Office