Frankfurt am Main,
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BVI's position on the Commission's proposal for reforming the European System of Financial Supervision

Against the backdrop of progressing financial integration in the EU which is further facilitated by the ongoing CMU initiative, effective supervisory coordination is needed. By promoting supervisory convergence and providing solutions to cross-border issues, the ESAs are at the heart of further endeavours to deepen integration of the financial markets. BVI[1] is thus glad to contribute to the current EU debate on the future evolvement of the European System of Financial Supervision and the role and responsibilities of the ESAs.

Key issues of concern:

- **Direct supervision of investment funds by ESMA would bring no benefits to the Single Market:** Providing ESMA with direct supervisory powers for EuSEFs, EuVECAs, ELTIFs and for any other type of investment funds would entail additional complexity due to the interaction with national legislation and duplication of supervisory scrutiny leading to inefficiencies and higher costs for investors. Authorisation and supervision of investment funds and any other investment products should remain with the NCAs who can take due regard of the specificities of the local investment markets.

- **Intervention in delegation arrangements by the ESAs would be disproportionate:** We see no justification for direct involvement of the ESAs in the authorisation or registration processes of market participants. Further coherence of supervisory approaches relating to delegation of functions can be achieved by means of opinions and other Level 3 measures which are already broadly used for these purposes.

- **Fixed proportion of the EU contribution to the ESAs' budgets needed:** We advocate retaining an annual contribution from the EU budget to the ESAs' financing which should be fixed at least at 40% of the estimated revenues of each authority. This stake appears commensurate to cover financing needs in terms of regulatory activities of the ESAs and tasks related to identification and mitigation of systemic risk.

- **Control of guidelines and recommendations should be less burdensome:** Stakeholder Groups of the ESAs should be able to adopt a reasoned opinion on a transgression of competences at the ESA level by a simple majority of votes. In order to enhance practical use of the guidance provided in opinions and Q&As, the NCAs should be entitled to consult with the national stakeholders before adoption of such Level 3 measures by the ESAs.

[1] BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Fund companies act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's over 100 members manage assets of nearly 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

BVI
Bundesverband Investment
und Asset Management e.V.

Contact
Phone +49 69 15 40 90 0
www.bvi.de

BVI Berlin
Unter den Linden 42
10117 Berlin

BVI Brussels
Rue du Trône 14–16
1000 Bruxelles

BVI Frankfurt
Bockenheimer Anlage 15
60322 Frankfurt am Main

Detailed comments:

While being committed to building the CMU, we must caution against detrimental or premature transfers of tasks and responsibilities to the ESAs and degenerating the NCAs to mere executing units. Fully integrated areas of capital markets are rather exceptions than the rule, with heterogeneous structures of local markets still prevailing and wide variations of products and services offered at national level. Differences in the national frameworks governing local markets are the compelling result of the principle of subsidiarity enshrined in Article 5 of the TFEU, stipulating that EU action is only appropriate if it is more effective than action taken at national, regional or local level. EU legislators have deliberately allowed for these divergences by striving for minimum rather than full harmonisation in many areas of financial regulation, and we fail to see substantial problems arising from this approach.

The proposal for reforming the European supervision as submitted by the EU Commission partially disregards those legitimate divergences and as a consequence, might undermine the success of other elements of the CMU initiative. Furthermore, it does not satisfy the principle of subsidiarity enshrined in Article 5 TFEU. European integration should not be an end in itself, but must be justified by objectives which cannot be sufficiently achieved at national level. There is, however, no observable market failure nor malfunctioning of national supervision which could justify the need for action by the EU. Further expansion of the ESAs' role can thus only be appropriate if bundling of competences at the EU level is supposed to enhance efficiency of supervision and does not involve additional costs for market participants who are supposed to bear substantial contributions to the ESAs' budget. Nonetheless, on the basis of the Commission's proposal, it is highly likely that the overall costs of supervision will significantly increase, since the necessary coordination on different matters will involve a rise in payrolls at both the ESA and the NCA level. The general approach to the ESA reform appears not fully mature in this regard.

In the same vein, another potential for new remits of the ESAs remains unexploited under the current proposal. Some obstacles to the Single Market result from the lack of information available to market participants regarding national specificities of the implementation of EU rules. For instance, under the Transparency Directive Member States can take a stricter approach to notification of major shareholdings by imposing notification duties below the initial 5% threshold[2] or regarding the minimum sanctions and measures[3] foreseen at the EU level. The relevant national rules are difficult to establish for investors and other market participants operating cross-border. Similar difficulties arise also under other EU frameworks.[4] The ESAs could facilitate EU-wide market activities by collecting information on the applicable national requirements in publicly accessible databases. The role of the ESAs as evidence centres on matters left to the discretion of national legislators would also fully respect the principles of subsidiarity and proportionality which should guide the current reform.

In order to address these points, we suggest modifications in the following areas:

[2] Cf. Article 9(1) of Directive 2004/109/EC.
[3] Cf. Article 28a and 28b of Directive 2004/109/EC.
[4] Cf. the thresholds for mandatory takeover offers according to Art. 5 para. 3 of Directive 2004/25/EC or details of the sanctions under Directive 2014/57/EU.

1. Direct supervision of investment funds by ESMA would bring no benefits to the Single Market

Providing ESMA with direct supervisory powers for EuSEFs, EuVECAs, ELTIFs and indeed for any other type of investment funds would entail additional complexity due to the interaction with national legislation and duplication of supervisory scrutiny leading to inefficiencies and higher costs for investors. Authorisation and supervision of investment funds and any other investment products should remain with the NCAs who can take due regard of the specificities of the local investment markets.

The proposed establishment of ESMA as a single supervisory body for EuSEFs, EuVECAs and ELTIFs is being justified by the expectation of consistent application of the legal requirements which shall lower costs and administrative efforts.[5] However, these views have apparently been formed without due consideration of the implications for designing such vehicles stemming from national corporate laws. The EU Regulations for EuSEFs, EuVECAs and ELTIFs contain no provisions regarding the possible legal structure of fund vehicles which means in principle that the national rules for eligible fund structures apply to any EuSEF, EuVECA or ELTIF established in a given Member State. To date such rules are closely linked to the general corporate law at the national level and not at all subject to EU harmonisation. By way of example, the German Capital Investment Code foresees the possibility to use five different vehicles for launching investment funds in Germany with specific features stipulated in the national law. We expect similar diversity of legal structures in other Member States.

Against this background, ESMA as a supervisory body for EuSEFs, EuVECAs and ELTIFs would either need to be acquainted and deal on a daily basis with up to 27 different national regimes governing the eligible fund structures or revert to the respective NCA in the course of a fund notification in order to seek assistance on these matters. Either way appears rather counterproductive in terms of effectiveness of supervision or lowering costs for investors. Moreover, even more complex issues arise from the specificities of national taxation which also may impact the choice of a fund vehicle and its fund rules.

An additional layer of complexity would be created for authorised AIFMs seeking to launch a fund subject to direct supervision by ESMA. Even though AIFMs are authorised by the NCA of their respective home Member State, ESMA shall be responsible for supervising an AIFM's compliance with the relevant requirements of the AIFMD in respect of the qualifying fund.[6] This means that ESMA would have the competence to intervene in the manager's general organisational set-up e.g. in terms of liquidity and risk management, valuation procedures or delegation, even though these organisational arrangements have been deemed appropriate by the NCA with respect to all asset classes covered by the AIFM's license. Such duplication of supervisory competences will render the supervisory process more expensive and inefficient. In case of ELTIFs where scrutiny of AIFMD compliance shall even be part of each fund authorisation, it will inevitably delay the authorisation process in case of conflicting views between ESMA and the NCA. This increased bureaucracy would obviously not meet the declared regulatory goals and in addition, impair the competitiveness of the affected fund vehicles as well as their attractiveness for fund providers and investors.

[5] Cf. Explanatory memorandum to the Commission's proposal, page 6-7.
[6] Cf. Commission's proposal for Article 18(3) first paragraph of the EuVECA Regulation and Article 19(3) first paragraph of the EuSEF Regulation. For managers of ELTIF, scrutiny of their compliance with the AIFMD in respect of the ELTIFs they intend to manage shall even be part of the fund authorisation process, cf. Commission's proposal for Article 6(3)(b) of the ELTIF Regulation.

Further problems relate to documents submitted to ESMA in different languages and general communication with stakeholders. Especially EuSEFs and EuVECAs are often small-volume vehicles and in many cases not distributed cross-border. Hence, it is rather natural for those funds to prepare fund documents, including investor information and annual reports, in the language of the respective home Member State. Submitting such documents to ESMA would be probably not possible without providing for an English translation. The same applies to the registration documents and indeed, to the entire communication process with the authority. Such high translation workload would drive up costs involved in the administration of EuSEFs, EuVECAs and ELTIFs and might further discourage fund managers from launching those vehicles especially in combination with the bureaucratic process depicted above. This outcome would be clearly contrary to the declared goal of the CMU to enhance commercial success of EuSEFs, EuVECAs and ELTIFs, and would undermine the recent reforms of the relevant EU frameworks.

Lastly, direct supervision of certain fund vehicles by ESMA would move the supervisory authority away from the local markets and make it less susceptible for their specific challenges and vulnerabilities. From the investor protection perspective, it is of crucial importance that a supervisor has profound knowledge of the prevailing distribution models and practices. A supervisory authority detached from the concerns and need of local investors and markets would be either substantially weakened or not properly targeted it its reactions to abusive market practices. This is a serious risk which we are very concerned about given our to date experience with the work of ESMA and especially ESMA’s persisting reluctance to enter into exchange of views with market participants or to find pragmatic solutions for meeting regulatory requirements. Currently, it is not even possible to approach ESMA with a query or concern on specific issues due to the lack of detailed org chart information and the very formal approach to stakeholder contacts. This supervisory culture and self-understanding of ESMA will be very difficult to change following the assignment of direct supervisory powers.

2. Intervention in delegation arrangements by the ESAs would be disproportionate

We see no justification for direct involvement of the ESAs in the authorisation or registration processes of market participants. Further coherence of supervisory approaches relating to delegation of functions can be achieved by means of opinions and other Level 3 measures which are already broadly used for these purposes. Since the ESAs’ powers in this regard are already provided for by the ESA Regulations, Article 31a should be deleted altogether.

While appreciating the general coordination role of the ESAs as regards delegation and outsourcing of activities, we believe that the ESAs are already assigned with the general competence for promoting supervisory convergence in these areas. On the other hand, we see no case for a direct involvement of the ESAs in the authorisation or registration of market participants.

In our opinion, the general empowerment of the ESAs under Articles 8(1)(b), 16 and 29 of the ESA Regulations already covers a sufficient range of coordinating measures for enhancing supervisory convergence in the area of delegation. Recently, ESMA has made extensive use of these powers by issuing an opinion on general principles for supervisory approach to relocations from the UK[7] and three sector-specific opinions taking into account regulatory standards on delegation under the MiFID II/MiFIR regime, UCITS Directive and AIFMD.

Against this background, we do not see the need for introducing further competences as regards general supervisory coordination in relation to outsourcing of activities as proposed by the Commission for all three ESAs under the proposed Article 31a(1) of the ESA Regulations. In any case, direct involvement of the ESAs in the authorisation or registration process of market participants as foreseen under Article 31a(2) would be grossly disproportionate. The NCA dealing with a specific authorisation or registration request should have sufficient guidance under the applicable EU frameworks and further opinions as issued by ESMA in order to decide in its own capacity whether or not delegation of a material part of activities or any of the key functions shall be considered legitimate and a market participant whose business model involves such extensive delegation should be authorised.

To our knowledge, there have been no incidents in the supervisory practice which would indicate that NCAs have not been rigorous enough when authorising business models based on delegation. On the contrary, effective delegation of functions is crucial to achieve economies of scale and indispensable in order to enable European firms to offer best quality services to investors. The success of UCITS, for example, would not have been possible without UCITS managers being able to delegate portfolio management activities to specialised teams around the globe. In this context, it is also important to acknowledge that outsourcing of functions into third countries has already been practiced on a large scale by both European providers active outside the EU (e.g. management companies offering funds with investment focus on global/US/emerging markets) and third-country firms establishing business presence in the Union. The Brexit scenario will thus not entail material new challenges for supervisors in the area of delegation.

Specifically with regard to fund and asset management regulation, the notification procedure foreseen in Article 31a(2) appears entirely superfluous. AIFMD, but also the UCITS Directive and MiFID II, foresee detailed provisions concerning delegation of functions, including specific conditions for delegation of functions into third countries.[8] Fund managers under AIFMD are required to present to the NCA objective reasons justifying the overall delegation structure and prohibited from delegating to the extent rendering them “letter box entities” based on a set of objective criteria. The NCAs dealing with an authorisation request involving delegation will decide about the legitimacy of specific delegation arrangements on the basis of regulatory requirements for delegation applicable under AIFMD, UCITS Directive or MiFID II. Any opinion to be given by the ESAs under the proposed Article 31a(2) would also need to be based on, and respect, the applicable conditions for delegation under the EU frameworks. Conceptually, it would therefore not bring additional insights, but only delay the overall authorisation process.

[7] General principles to support supervisory convergence in the context of the United Kingdom withdrawing from the EU, ESMA Opinion from 31 May 2017 (ESMA42-110-433).
[8] Cf. Article 20 AIFMD in conjunction with Articles 75 to 82 Delegated Regulation (EU) 231/2013, Article 13 UCITS Directive, Article 16(5) MiFID II in conjunction with Articles 30 to 32 Delegated Regulation (EU) 2017/565.

3. Fixed proportion of the EU contribution to the ESAs' budgets needed

We advocate retaining an annual contribution from the EU budget to the ESAs' financing which should be fixed at least at 40% of the estimated revenues of each authority. This stake appears commensurate to cover financing needs in terms of regulatory activities of the ESAs and tasks related to identification and mitigation of systemic risk.

We welcome the clear commitment by the Commission to a mixed financing system whereby contributions from financial market participants are considered only one among several elements of the ESAs' financing. The German fund industry is already contributing to ESMA's budget by indirect levies paid from the budget of BaFin and we indeed see the case for such levies being consistently assigned to market participants across the Union.

However, a fair financing system should be based upon a clear and reasonable allocation of the financing burden among the relevant stakeholders. In particular, only a balancing contribution from the Union which shall be subject to a ceiling of 40% would not be commensurate in view of the substantial workload of the ESAs dedicated to regulatory rather than supervisory functions. Specifically, in working on technical advice to delegated acts, RTS or ITS drafts the ESAs actually perform tasks that are generally assigned to the European Commission under Articles 290 and 291 of the TFEU and thus must be financed from the EU budget. The same applies for any actions undertaken within the ESAs' remit of preventing and mitigating financial stability risk in the EU in collaboration with the ESRB. Moreover, by retaining a material financing stake from the EU budget as well as its approval by the EU Parliament and the Council, the EU institutions would have the power to prioritise the ESAs' tasks and to exercise influence over future activities by the ESAs. Proportional EU funding would thus help to ensure that national interests do not prevail over the ESAs' commitment to European interests and furthering the Single Market.
Furthermore, a new funding model foreseeing only a balancing contribution from the EU budget would be detrimental to the ESAs' budgetary discipline. Introduction of a fully industry funded system makes adherence to a strict budgetary discipline more difficult. While in general financing stakeholders should be represented in the authority or body in charge of the budgetary control, it proves intrinsically difficult for market participants to control the budget of authorities responsible for their supervision. On the other hand, EU institutions would have no genuine interest in enforcing budgetary discipline upon the ESAs if financial contribution from the EU budget is negligible with basically the entire financing burden being shouldered by market participants. In Germany, BaFin's budget increased significantly after the change to full industry funding was put into place in 2002.

4. NCAs should have direct access to data over local markets

Regulatory reporting by market participants should be directed to the NCAs. Remaining inefficiencies could be addressed by further standardisation of data formats. There is no reason for further data collection and storage powers for the ESAs.

We believe that the ESAs should play a crucial role in standardising regulatory reporting. Regulatory reporting is increasingly burdensome for market participants especially due to the various layers of competing reporting requirements partially covering the same data points, but developed independently and in an inconsistent manner under different pieces of EU law.

As emphasised on many occasions, we would welcome a stronger and more efficient integration of regulatory reporting obligations relating to both transaction and position data while retaining the NCAs' responsibility for collecting the data from market participants subject to their respective supervision. In our view, the Commission should in the first place develop a regulatory approach to streamlining of the reporting requirements. In parallel to this ambitious regulatory remit, however, we think that certain targeted improvements can be achieved by a stronger coordination at the ESA level. This pertains in particular to the standardisation of data contents and formats in order to enable consolidation and processing of the reports at the European level with due consideration of the work on identifying potential data gaps currently conducted by IOSCO. Such a consolidated tape is in our view a necessary precondition for providing the authorities with consistent and comparable data sets which should allow them to detect potential cross-border or cross-sectoral risk in the EU financial system. Our experience shows that further standardisation efforts are especially needed in relation to the regulatory reporting under AIFMD. We would also welcome standardisation of the UCITS reporting on the use of derivatives which is currently subject to fragmented national requirements.

As regards the Commission's proposal for an Omnibus Directive, the following two aspects are for us of particular concern:

- <u>Data storage facility foreseen under Article 31b of ESMA Regulation:</u> The new Article 31b creates an empowerment for ESMA to collect and store data subject to entirely unclear conditions. The requirements for initiating an investigation and collecting data are phrased in a very flexible manner by using undefined legal terms such as "reasonable grounds to suspect" or "significant cross-border effect". Since the scope of the intended coordination function is otherwise very wide and may concern orders, transactions or any other activities, we fear that the undefined legal terms will be used as it suits for a specific purpose and hence may justify data collection on a broader scale without the need for specific evidence. However, administrative measures and collection of market data on the basis of general suspicions would be contrary to the rule of law. Moreover, ESMA will already receive relevant data from transaction reports under Article 26 MiFIR and information on admissions of financial instruments to regulated markets, MTF and OTF according to Article 4 MAR. Thus, for the sake of efficiency, ESMA should first gather experience with and evaluate the new data flows and utilise the newly created facilities for the purpose of identifying e.g. transactions with potentially destabilising effects. Introducing an additional data storage facility specifically for the purpose of Article 31b would to a significant extent amount to a duplication of arrangements and appears not justified at the current point of time.

- <u>Direct competence of ESMA to receive transaction reports under Article 26 MiFIR:</u> While supporting the general intention of fully aligning data standards and formats for the purpose of transaction reporting, we disagree with the sweeping proposal to direct all reports to ESMA. In our view, the NCA should have direct access to data concerning the respective local market in order to be able to react immediately in case of any conspicuities and to make quality checks. Therefore, the current system where transaction reports are received by the NCAs and transmitted to ESMA should remain in principle. If need be, we could envisage a solution allowing for voluntary transfer of responsibilities for transaction reporting to ESMA by any NCA which does not have the resources or for any other reason is not willing to receive reports under Article 26.

5. Product intervention powers for UCITS and AIFs already provided for in the fund frameworks

There is no regulatory gap and no need to extend product intervention powers under MiFIR to managers of UCITS or AIFs. The rules already in place under the EU fund frameworks should be taken into account in order to avoid regulatory duplication.

Under the Commission's proposal for a new Article 1(5a) MiFIR, product intervention powers shall also apply in relation to marketing, sale or distribution activities performed by UCITS or AIF managers. We disagree with this proposal since there is already a set of rules in place for AIFMs and UCITS management companies which provides for equivalent intervention powers for NCAs and ESMA. In particular:

AIFM Directive provides inter alia for the following powers for NCAs and ESMA:

- NCAs have all supervisory and investigatory powers that are necessary for the exercise of their functions including the right to suspend the issuance of shares/units (Art. 45 and 46)
- NCAs approve the marketing notification of AIFs (see e.g. Art. 31(3), Art. 32(3))
- ESMA has the power to request intervention by NCAs (Art. 47(4))
- ESMA has its own intervention powers (Art. 47(5)) similar to MiFIR

UCITS Directive provides inter alia for the following powers for NCAs and ESMA:

- NCAs have all supervisory and investigatory powers that are necessary for the exercise of their functions including the right to suspend the issuance of shares/units (Art. 98 UCITS Directive),
- NCAs have to authorise UCITS (Art. 5(1) UCITS Directive),
- Product regulation regarding UCITS prohibits that a condition for intervention under MiFIR such as significant investor protection concerns arises in the first place.

Furthermore, Art. 17(6) and Art. 19(4) of the Regulation No 1095/2010 also grant direct intervention powers to ESMA which are also referred to in the AIFM and UCITS Directives, see e.g. Art. 21(5)(b) or Art. 108(8) of the UCITS Directive.

6. Control of guidelines and recommendations should be less burdensome

Stakeholder Groups of the ESAs should be able to adopt a reasoned opinion on a transgression of competences at the ESA level by a simple majority of votes. In order to enhance practical use of the guidance provided in opinions and Q&As, the NCAs should be entitled to consult with the national stakeholders before adoption of such Level 3 measures by the ESAs.

We welcome the clearly formulated obligation for the ESAs to conduct public consultations regarding guidelines and recommendations, and to analyse the related potential costs and benefits. In the same vein, however, we see the need for an involvement of stakeholders in the coordination process on opinions and Q&As, since any indications made by the ESAs by using those instruments are usually immediately relevant for the supervisory practice at national level. Currently, NCAs are not able to involve national industry representatives in the debates on opinions and Q&As, or even to inform them which questions are under discussion by the ESAs due to very strict confidentiality rules applicable to the ESAs' internal work. As a result, some Q&As are ambiguous and very difficult to apply in practice, others are simply wrong by disregarding other areas of EU law which might not have fallen under the remit of a relevant ESA committee.[9] **Thus, it would be very helpful for enhancing practical use of the guidance provided in the opinions and Q&As if the NCAs were entitled to consult with the national stakeholders alongside the coordination process at the ESA level.**

Moreover, we appreciate the Commission's intention to introduce a mechanism for ex-post control of guidelines and recommendations under Article 16(5) of ESA Regulations and to vest the relevant Stakeholder Group with the initiative right in this regard. The possibility to retrospectively evaluate the legitimacy of ESAs' actions by way of guidelines and recommendations as "quasi-legislative" tools is an important supplement to the system of checks and balances in the EU rule-making. However, the requirement of a qualified voting majority representing two third of a Stakeholder Group's members for adopting a reasoned opinion on transgression of competences appears too onerous. Composition of the ESAs' Stakeholder Groups is widely diversified with regard to the professional background, nationality, representation of certain interest groups and areas of interest which means that agreement among a qualified majority is difficult to achieve. A qualified majority vote is also not necessary since the Stakeholder Groups shall only be put in the position to send the reasoned opinion to the EU Commission. It will be up to the Commission to undertake further steps at its discretion after having heard the reasoning from the relevant ESA. **Therefore, it should be possible for the Stakeholder Groups of the ESAs to adopt a reasoned opinion on a transgression of competences by a simple majority of votes.**

Having regard to the growing role of the ESA Stakeholder Groups, we also see the need to make the member selection process more transparent and to put the appointment decisions on a broader basis e.g. by a stronger involvement of the Commission.

7. No need for substantial overhaul of the ESAs' governance

The introduction of Executive Committees as a new managerial body of the ESAs does not appear justified. In any case, Executive Committees should not have the power to adopt a strategic supervisory plan for the NCAs without proper involvement of the relevant Board of Supervisors. Excessive red tape in the implementation of the strategic supervisory plan involving higher cost for market participants must be avoided by any means.

In light of our comments made so far, the remit and competences of the ESAs should not be materially extended under the current reform. Hence, we do not see the necessity for a substantial change of the present governance structure of the ESAs and especially, for the introduction of an Executive Committee as a new main managerial body. Presuming that the ESAs' tasks and responsibilities will not materially change, an Executive Committee composed of 3 (or 5 in the case of ESMA) highly skilled full-time professional managers plus the Chairman appears not justified from the cost-benefit perspective. It is clear that remuneration of Executive Committee members would bear upon the ESAs' budgets and thus contribute to material increases of contributions to be paid

[9] The recently issued PRIIPs Q&As contain several statements of inferior legal quality. The answer to Q27 is simply wrong by disregarding the requirements for collateralisation of derivative positions or securities financing transactions applicable under the UCITS framework. The answer to Q50 which relates to a cost calculation item for investment funds provides an explanation for the insurance sector. In addition, some statements in the PRIIPs Q&As quite clearly disregard the rules at Level 2, so for example Q&A 11 on calculation of market risk indicator for funds with insufficient price history or Q&A 36 on presentation of performance scenarios for fixed-maturity products.

largely by market participants. In any case, we see no justification for expanding the Executive Committee of ESMA to five members bearing in mind that the CCP Executive Session foreseen under the EMIR review shall comprise further three senior managers who shall complement the Executive Committee in case of any decisions relating to CCPs. Clearly, a management board composed of nine highly paid professionals would be excessive for an authority whose remit is limited to the securities sector.

Furthermore, and provided that Executive Committees will be introduced at the ESAs, we strongly advise against attributing those with the power to adopt the new strategic supervisory plan under the proposed Article 29a of the ESA Regulations without submitting it to the Board of Supervisors for final decision. As foreseen in the Commission's proposal, the strategic supervisory plan shall define strategic objectives and priorities for the supervisory work of the NCAs who shall be bound to reflect those objectives and priorities in their respective work programmes and to report on their implementation. Vesting such pivotal strategic competence with the Executive Committee would dramatically change the general concept of the ESAs from member-driven organisations to a more centralistic structure with NCAs degenerating to mere executing units.

Another critical point relating to Article 29a of the ESA Regulation is the bureaucratic expenditure entailed by the proposed strategic supervisory plan. It seems that new human resources would not only be needed at the ESA level but, to a quite larger extent, at each NCA in order to work on alignment of the national work programmes with the strategic supervisory plan, to prepare annual reports on their implementation and to react to potential requests and inquiries. This concept puts into question the general commitment to keep the costs for stakeholders at a minimum and the goal of the reform to enhance effectiveness and efficiency of the ESAs' work.