

Targeted consultation on supervisory convergence and the single rulebook

Taking stock of the framework for supervising European capital markets, banks, insurers and pension funds

Fields marked with * are mandatory.

Introduction

There has been considerable progress on both supervisory convergence and the single rulebook since the three [European Supervisory Authorities \(ESAs\)](#) were created in 2011. Nevertheless, both require continued and appropriately targeted efforts to make further progress. In this context, the [Commission's capital markets union \(CMU\) action plan published on 24 September 2020](#) includes the following action:

CMU action plan - Action 16: *The Commission will work towards an enhanced single rulebook for capital markets by assessing the need for further harmonisation of EU rules and monitoring progress towards supervisory convergence. It will take stock of what has been achieved in Q4 2021 and consider proposing measures for stronger supervisory coordination or direct supervision by the European Supervisory Authorities.*

The Commission will also carefully assess the implications of the *Wirecard* case for the regulation and supervision of EU capital markets and act to address any shortcomings that are identified in the EU legal framework.

The [CMU](#) is the EU's plan to create a truly single market for capital across the EU. It aims to get investment and savings flowing to the companies and projects that need them across all Member States, benefitting citizens, investors and companies, regardless of where they are located. The CMU provides new sources of funding for businesses, helps increase options for savers and makes the economy more resilient.

Without well-developed and integrated capital markets, there can be no economic prosperity. And without supervision, capital markets could not contribute to economic prosperity. Supervision is an essential condition for a well-functioning CMU. This will be particularly relevant in a post-Brexit world with multiple financial centres across the EU. Gradual progress towards more integrated capital markets supervision will be indispensable.

It is essential for people and firms to have confidence in the financial system and also for the providers of financial services to operate in a stable and fair environment. Supervision should ensure that divergences in outcomes of supervisory practices in Member States do not undermine confidence, stability, investor protection and fairness in the

Single Market. The three European Supervisory Authorities (ESAs) are mandated to ensure the convergence of supervisory practices among the national competent authorities (Within the [banking union](#), the [single supervisory mechanism](#) ensures uniform supervision of banks. For banking resolution, the [single resolution board](#) is directly responsible for resolution planning and decisions for all significant banks and cross-border ones). In addition, the [European Securities Markets Authority](#), is responsible for direct supervision of some market activities and market operators. However, supervisory convergence reaches its limits where the national rules that supervisors have to apply and enforce differ between Member States or where the common European rules leave room for interpretation or too much discretion to Member States for its transposition, application and enforcement. The ambition for a European single rulebook therefore seeks to reduce differences between national laws and to provide more detailed rules where it is important for stability and fairness in the Single Market. Taken together, supervisory convergence and the single rulebook provide the framework for effective and efficient supervision.

The input to this consultation, which seeks to take stock of what has been achieved so far, will feed into the preparation of the report required by the CMU action plan which will cover the review required under the ESAs founding Regulations as well (Article 81 of the [ESAs founding Regulations](#) requires the Commission to review the functioning of the ESAs every 3 years, and next time by end 2021). This consultation seeks targeted views on certain aspects related to the 2019 ESAs review (The ESAs founding regulations were amended in 2019. These recent legislative changes entered into force in January 2020: [Regulation \(EU\) 2019/2175](#), which reviews the powers, governance and funding of the ESAs, [EBA Regulation consolidated version of 1 January 2020](#), [EIOPA Regulation consolidated version of 1 January 2020](#), and [ESMA Regulation consolidated version of 1 January 2020](#)) and contributes to a wider debate on supervisory convergence and the single rulebook.

Please note that not all questions are relevant for all stakeholders and that you are not expected to reply to each question. Please indicate the ESA for which the reply is intended.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-esas-review@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [the European system of financial supervision](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech

- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Anastasios

* Surname

Pavlos

* Email (this won't be published)

anastasios.pavlos@pensionseurope.eu

* Are you a member of an ESA Stakeholder Group?

- Yes
- No
- Don't know / no opinion / not applicable

* Please specify which ESA Stakeholder Group you are a member of:

- EIOPA Insurance & Reinsurance Stakeholder Group or Occupational Pensions Stakeholder Group
- ESMA Securities and Markets Stakeholder Group
- EBA Banking Stakeholder Group

* Organisation name

255 character(s) maximum

PensionsEurope

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

5199259747-21

* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan

- Belgium
- Belize
- Benin
- Bermuda
- Bhutan

- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Cambodia

- Cameroon

- Canada
- Cape Verde
- Cayman Islands

- Germany
- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

- Haiti
- Heard Island and McDonald Islands

- Honduras
- Hong Kong

- Hungary

- Iceland

- India
- Indonesia
- Iran

- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue

- Norfolk Island
- Northern Mariana Islands
- North Korea

- North Macedonia
- Norway
- Oman
- Pakistan

- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Trinidad and Tobago
- Tunisia

- Turkey
- Turkmenistan
- Turks and Caicos Islands

- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* Field of activity or sector (if applicable):

- Accounting
- Auditing
- Banking
- Credit rating agencies
- Insurance
- Pension provision
- Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- Social entrepreneurship
- Other
- Not applicable

The Commission will publish all contributions to this consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

ESA(s) you want to focus on

* About which ESA(s) will you be providing responses in this questionnaire?

Please select the ESA that you know best. You can select one, two or the three ESAs. In case you choose more than one ESA you will be asked, in certain questions, to provide answers for each ESA.

at least 1 choice(s)

- About the European Banking Authority (EBA)
- About the European Securities and Markets Authority (ESMA)
- About the European Insurance and Occupational Pensions Authority (EIOPA)

A. Questions for the assessment of the European Supervisory Authorities (ESAs) and the recent changes in their founding Regulations

Please click on next to respond to the questions.

General questions

Question I. ESMA: How do you assess the impact of each ESMA's activities on the following aspects?

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|--|--------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|--|
| The financial system as a whole | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial stability | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The functioning of the internal market | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The quality and consistency of supervision | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The enforcement of EU rules on supervision | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Strengthening international supervisory coordination | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Consumer and investor protection | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Financial innovation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Sustainable finance | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

Please explain your answer to question I on ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Since its inception, the mandate of ESMA has been expanded significantly, particularly in areas with strong financial stability or cross-border aspects. Pension Funds have supported the strengthening of this mandate. As cross-border investors, pension funds rely on stable international financial markets and properly supervised foreign (both EU and third-country) financial entities such as banks, asset managers and market infrastructure.

The level of cross-border market integration should determine the level of European regulatory involvement and direct supervisory powers. As such, the impact of ESMA has been significant. However, in light of the cross-border nature of many of the financial entities and activities within its regulatory and supervisory mandate, the impact could be considered only moderate.

However, ESMA faces challenges due to the EU framework's persistently poor design:

- Confusions, conflicts and uncertainties too often arise between level 1 (legislation), level 2 (implementation) and level 3 (guidance) – while level 4 (quality check) is weak.
- Implementation deadlines set at level 1 frequently disregard the amount of work ESMA needs to carry out to have a proper assessment of legal options and how to reconcile them with the ambitions of the Capital Markets Union.
- National authorities do not implement EU rules consistently, resulting in diverging treatment of market players and consumers depending on the Member States.
- Decision-making within ESMA can be either very slow due to conflicting interests between national authorities, or overtaken by one national

This would entail a stronger dialogue between ESMA and supervised entities, as well as other stakeholders that are indirectly affected by their direct supervision. NCAs usually have very direct communication lines with supervised entities. This type of dialogue should be replicated at the European level, if there would be more direct European supervision.

Question I. EIOPA: How do you assess the impact of each EIOPA's activities on the following aspects?

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|--|--------------------------------|----------------------------------|-----------------------|----------------------------------|----------------------------------|--|
| The financial system as a whole | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial stability | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The functioning of the internal market | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The quality and consistency of supervision | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The enforcement of EU rules on supervision | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Strengthening international supervisory coordination | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Consumer and investor protection | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial innovation | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Sustainable finance | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

Please explain your answer to question I on EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Over the past decade, the EU has had a significant impact on the regulation and supervision of occupational pension funds. The revision of the IORP Directive in 2016 has been the most notable cause, but more recently the legislative framework has developed towards horizontal regulations that apply to the entire financial sector, such as the Sustainable Finance Disclosure Regulation and the Digital Operational Resilience Act.

Under the IORP Directive, EIOPA's role in developing the regulatory framework is not comparable to its role under the Solvency II framework. This was a conscious choice of the co-legislators. Occupational pensions are still very divergent across member states, both in terms of their prevalence and design. They are closely linked to first pillar pensions, as well as social and labour law more broadly. Importantly, the strong link between occupational pensions and national tax and labour law has resulted so far in relatively limited cross-border activities of IORPs. For these reasons, the rationale for a bigger regulatory or supervisory role for EIOPA on IORPs is absent. Moreover, for IORPs the principle of "minimum harmonization" (recital 3 of Directive (EU) 2016/2341) should ideally limit the room for far-reaching regulatory measures compared to other financial institutions for which the relevant Directive(s) allow for a full harmonization.

Nonetheless, we have seen a clear impact of EIOPA on the regulatory framework. Both EIOPA's own Opinions and its work on Level 2 in the area of insurance have a significant impact on the supervisory activities of National competent Committees across Europe.

Finally, we believe that financial innovation is mainly a market-driven process. However, we note that the ESAs are taking a bigger interest in this area, in particular concerning open data initiatives (e.g. open insurance). In cases where sharing data cross-border makes sense, an active role of EIOPA and the ESAs can be foreseen.

Question II. ESMA: In your view, do ESMA's mandate cover all necessary tasks and powers to contribute to the stability and to the well-functioning of the financial system?

- Yes
- No
- Don't know / no opinion / not relevant

If you think that there are elements which should be added or removed from ESMA's mandate, please provide a substantiated answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We would welcome a reevaluation of ESMA's powers by the European Commission. We believe this assessment should be based on the level of cross-border market integration, the interconnectedness and systemic relevance of the activity in question. Overall, we believe that ESMA has got all the necessary powers and tools to contribute to financial stability. If anything, ESMA should use all the ones it already has to their full potential, before a proper assessment can be made.

However, when it comes to the well-functioning of the financial system, we feel that ESMA's mandate is not fit to address the emerging, long-term challenges that the EU faces.

Firstly, due to Brexit, the financing of Europe's economy risks losing efficiency – unless market players and investors are treated similarly across the Union, thanks to further supervisory convergence and consistent supervisory practices. In addition, Brexit means increased competition with other global financial centres through regulatory means. This will require stronger EU home-grown players and ecosystems that can compete on the global scene. Yet, unlike the UK Financial Competition Authority or the US Securities and Exchange Commission, ESMA's mandate does not include competitiveness – and looking at ESMA's deliverables over the past 10 years, EU competitiveness is not part of its culture. In that sense, ESMA's mandate should include competitiveness.

Secondly, the transition to a low-carbon economy will require immense data sets to analyse all three E, S and G aspects across all economic activities. This will further strengthen the market power of non-EU data providers whose methodologies, market practices and analyses will determine when and where capital will go. Ultimately, they will dictate the shape of the Union's ESG transition. Yet, ESMA has got no powers at all to address this oligopoly or even to question said methodologies and analyses. In that sense, ESMA's mandate should include direct supervision of systemic third-country data providers.

Question II. EIOPA: In your view, do EIOPA's mandate cover all necessary tasks and powers to contribute to the stability and to the well-functioning of the financial system?

- Yes
- No
- Don't know / no opinion / not relevant

Question III. ESMA: In your view, does ESMA face any obstacles in delivering on their mandates?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain what you consider to be the main obstacles for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

ESMA faces challenges due to the EU framework's persistently poor design:

- Confusions, conflicts and uncertainties too often arise between level 1 (legislation), level 2 (implementation) and level 3 (guidance) – while level 4 (quality check) is weak
- Implementation deadlines set at level 1 frequently disregard the amount of work ESMA needs to carry out to have a proper assessment of legal options and how to reconcile them with the ambitions of the Capital Markets Union.
- National authorities do not implement EU rules consistently, resulting in diverging treatment of market players and consumers depending on the Member States. For instance, ESMA's reports on UCITS sanctions in 2016 and 2017 show that the French regulator's fines amounted to over 90% of all sanctions by national regulators, while over 50% of Member States did not sanction any entity.
- Decision-making within ESMA can be either very slow due to conflicting interests between national authorities, or overtaken by one national authority that aims to export its own ill-designed policy so that other markets are not better off.

From this perspective, making ESMA fit for the future requires having a more efficient decision-making process that leads to more than just neutralising opposing forces within its Board.

Moreover, in many cases, the available time that the relevant stakeholders have in order to participate in crucial consultations is very limited. For this reason, more time should be available for each consultation.

Question III. EIOPA: In your view, does EIOPA face any obstacles in delivering on their mandates?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain what you consider to be the main obstacles for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Pension funds are concerned that the decision-making in EIOPA is not always sufficiently based on pensions expertise. We observe that nearly all individuals in the Board of Supervisors have a background in insurance supervision. This is amongst others due to the absence of a significant second pillar in many European countries. Moreover, EIOPA's workload on insurance regulation has far outpaced its involvement in occupational pensions. This is not surprising because of the difference in scale, the large amount of delegated law making under insurance regulation and the fact that cross-border insurance business is common-place whereas only a small number of IORPs operate across borders. EIOPA's expertise has developed accordingly, and it is likely to continue to do so. As a result, we are concerned that the decision-making processes insufficiently take into account the idiosyncrasies of occupational pensions, stemming from the strong relationship with social and labour law.

The Capital Markets Union Action Plan calls for more funded pensions in the European Union. As it is the intention that the second pillar gains in importance, the governance of EIOPA should be equipped to deliver decisions tailored to both sectors within its remit: insurance and occupational pensions. Currently, there are no provisions in the EIOPA regulation specifically requiring a comprehensive coverage in expertise of both sectors in selection procedures of individuals on the decision-making bodies: the Chair, Executive Director, Board of Supervisors and Management

1. The supervisory convergence tasks of the ESAs

1.1 Common supervisory culture/supervisory convergence

Question 1.1.1 ESMA: To what extent does ESMA contribute to promoting a common supervisory culture and consistent supervisory practices?

- 1 - the less significant contribution
- 2
- 3
- 4
- 5 - the most significant contribution
- Don't know / no opinion / not relevant

Please explain your answer to question 1.1.1 for ESMA and indicate if there are any areas for improvement:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

National authorities still have very different supervisory practices and cultures, resulting in diverging treatment of market players and consumers depending on the Member States. For instance, ESMA's reports on UCITS sanctions in 2016 and 2017 show that the French regulator's fines amounted to over 90% of all sanctions by national regulators, while over 50% of Member States did not sanction any entity. The recent Wirecard case shows that ESMA can go beyond the status quo. However, this is restricted to very specific cases when this should be a standard across many more ESMA deliverables.

Question 1.1.1 EIOPA: To what extent does EIOPA contribute to promoting a common supervisory culture and consistent supervisory practices?

- 1 - the less significant contribution
- 2
- 3
- 4
- 5 - the most significant contribution
- Don't know / no opinion / not relevant

Please explain your answer to question 1.1.1 for EIOPA and indicate if there are any areas for improvement:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We observe an increasing alignment of views between national supervisors and the ESAs. At the national level, we see a tendency of national supervisors to accept the positions and views of EIOPA and other ESAs, even if there is no obligation to do so.

Nonetheless, we question the need for supervisory convergence in the area of occupational pensions. It is important that the rulebook for financial entities is implemented consistently across Europe. Pension funds want to be sure that counterparties such as banks are supervised to the same level everywhere. However, supervisory convergence only makes sense when there is a single rulebook to converge around.

The divergence in the European pensions landscape should naturally lead to diverging supervisory practices tailored to the respective characteristics of occupational pension systems. For example, in some MS, the supervision of pension funds is much more intensive than in most other Member States. We observe far more supervisory surveys, data requests and detailed regulation (e.g. on fit and proper, cybersecurity, sustainable finance). To some extent, this is a logical consequence of the relevance and size of the relevant IORP sectors.

For IORPs the promotion of a common supervisory culture and consistent supervisory practices is limited according to the requirements and the scope of the IORP II Directive and cannot be the same as for other financial institutions covered by different mandates. With a view of EIOPA's activities during the last decade, we have sometimes noticed that EIOPA does not always respect these limitations.

PensionsEurope is concerned that in practice EIOPA would use any new tools for supervisory convergence to achieve convergence towards what it believes should be the homogeneous prudential framework for pension funds, thereby undermining the decision of the co-legislators in the IORP2 Directive not to harmonize prudential rules at the European level.

Question 1.1.2 ESMA: To what extent the following tasks undertaken by ESMA have effectively contributed to building a common supervisory culture and consistent supervisory practices in the EU?

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|---------------------------------|--------------------------------------|--|
| Providing opinions to competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Promoting bilateral and multilateral exchanges of information between competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Contributing to developing high quality and uniform supervisory standards | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Contributing to developing high quality and uniform reporting standards | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Developing and reviewing the application of technical standards | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Contributing to the development of sectoral legislation by providing advice to the Commission | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Establishing (cross)sectoral training programmes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Producing reports relating to their field of activities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Conducting peer reviews between competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

| | | | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------------|
| Determining new Union strategic supervisory priorities | <input type="radio"/> | <input checked="" type="radio"/> |
| Establishing coordination groups | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing Union supervisory handbooks | <input type="radio"/> | <input checked="" type="radio"/> |
| Monitoring and assessing environmental, social and governance-related risks | <input type="radio"/> | <input checked="" type="radio"/> |
| Adopting measures using emergency powers | <input type="radio"/> | <input checked="" type="radio"/> |
| Investigating breaches of Union law | <input type="radio"/> | <input checked="" type="radio"/> |
| Coordinating actions of competent authorities in emergency situations (e.g. Covid-19 crisis) | <input type="radio"/> | <input checked="" type="radio"/> |
| Mediating between competent authorities | <input type="radio"/> | <input checked="" type="radio"/> |
| Monitoring the work of supervisory and resolution colleges | <input type="radio"/> | <input checked="" type="radio"/> |
| Publishing on their website information relating to their field of activities | <input type="radio"/> | <input checked="" type="radio"/> |
| Monitoring market developments | <input type="radio"/> | <input checked="" type="radio"/> |
| Initiating and coordinating Union-wide stress tests of financial institutions | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing guidelines and recommendations | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing Q&As | <input type="radio"/> | <input checked="" type="radio"/> |

| | | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------------|
| Contributing to the establishment of a common Union financial data strategy | <input type="radio"/> | <input checked="" type="radio"/> |
| Providing supervisory statements | <input type="radio"/> | <input checked="" type="radio"/> |
| Other instruments and tools to promote supervisory convergence | <input type="radio"/> | <input checked="" type="radio"/> |

Please add any qualitative comments you may wish to explain your reasoning when answering question 1.1.2 on ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Most powers of ESMA do not directly affect pension funds. However, the statement of ESMA on the expiration of the EMIR clearing exemption for Pension Scheme Arrangements in July 2018 was effective. The exemption was about to expire, yet the co-legislators were close to finding an agreement to extend the exemption. The statement of ESMA was effective in avoiding the undesirable situation that pension funds would be forced to centrally clear new contracts until EMIR Refit was published in the Official Journal.

Question 1.1.2 EIOPA: To what extent the following tasks undertaken by EIOPA have effectively contributed to building a common supervisory culture and consistent supervisory practices in the EU?

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|----------------------------------|--------------------------------------|--|
| Providing opinions to competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Promoting bilateral and multilateral exchanges of information between competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Contributing to developing high quality and uniform supervisory standards | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Contributing to developing high quality and uniform reporting standards | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Developing and reviewing the application of technical standards | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Contributing to the development of sectoral legislation by providing advice to the Commission | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Establishing (cross)sectoral training programmes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Producing reports relating to their field of activities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Conducting peer reviews between competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | |
|--|----------------------------------|----------------------------------|-----------------------|----------------------------------|----------------------------------|----------------------------------|
| Determining new Union strategic supervisory priorities | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Establishing coordination groups | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing Union supervisory handbooks | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Monitoring and assessing environmental, social and governance-related risks | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Adopting measures using emergency powers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Investigating breaches of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Coordinating actions of competent authorities in emergency situations (e.g. Covid-19 crisis) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Mediating between competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Monitoring the work of supervisory and resolution colleges | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Publishing on their website information relating to their field of activities | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Monitoring market developments | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Initiating and coordinating Union-wide stress tests of financial institutions | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Developing guidelines and recommendations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Developing Q&As | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | |
|---|-----------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|----------------------------------|
| Contributing to the establishment of a common Union financial data strategy | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Providing supervisory statements | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other instruments and tools to promote supervisory convergence | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please add any qualitative comments you may wish to explain your reasoning when answering question 1.1.2 on EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA has advocated the European Institutions strongly for a more harmonised regulatory framework for occupational pensions. Its position was often opposed to that of the co-legislators. Consequently, EIOPA has delivered a significant number of Opinions and as such has attempted to impose a joint supervisory culture in an area where national rules diverge significantly. Moreover, we feel that EIOPA has a significant influence on the views held by NCAs through non-binding communication channels (e.g. opinions, reports, peer reviews, exchange of views at expert level).

Accordingly, for IORPs the promotion of a common supervisory culture and consistent supervisory practices should be limited according to the requirements and to the scope of the IORP II Directive and cannot be the same as for other financial institutions covered by different mandates. With a view of EIOPA's activities during the last decade, we have sometimes noticed that EIOPA does not always respect these limitations. The ESAs were ineffective in providing proper guidance to the financial sector in the implementation of the SFDR and in particular on the delay of the RTS. It should be recognized that the problems were mostly caused by extremely challenging timelines for delivering the RTS and implementation thereof, as well as vague definitions (e.g. 'promotion' in Article 8) and regulation. Nevertheless, the ESAs could have provided more guidance to NCAs, by advising to delay the enforcement of the SFDR until the RTS are published and implemented.

Question 1.1.3 ESMA: One of the roles of ESMA is to promote and facilitate the functioning of supervisory colleges, where established by sector legislation, and foster the consistency of the application of Union law among them .

Please rate ESMA's contribution to the objectives below:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|--|--------------------------------------|--|-----------------------|---------------------------------|--------------------------------------|--|
| Promote the effective and efficient functioning of colleges of supervisors | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Foster consistency in the application of Union law among colleges | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Promote converging supervisory practices among colleges | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your reasoning when answering question 1.1.3 on ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.1.3 EIOPA: One of the roles of EIOPA is to promote and facilitate the functioning of supervisory colleges, where established by sector legislation, and foster the consistency of the application of Union law among them .

Please rate EIOPA's contribution to the objectives below:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|--|--------------------------------------|--|-----------------------|----------------------------------|--------------------------------------|--|
| Promote the effective and efficient functioning of colleges of supervisors | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Foster consistency in the application of Union law among colleges | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Promote converging supervisory practices among colleges | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your reasoning when answering question 1.1.3 on EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Pension funds are not directly affected by the supervisory colleges

In the framework of the 2019 ESAs review:

Question 1.1.4 How do you assess the new process for questions and answers (Article 16b)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

For ESMA the 2019 review did not change anything: so far, ESMA has not put in practice the new processes for Q&A (eg public consultations on sensitive Q&A where outcomes are massive for market players) and the procedures that lead to the issuance of Q&A is still fully opaque.

In principle, the addition of Article 16b to the Regulation has provided a clearer and more transparent basis for the previously existing practice of "questions and answers." As for IORPs, most Q&As published by EIOPA were related to reporting requirements. However, there are no experiences beyond these Q&As which makes a general assessment impossible.

Question 1.1.5 In your view, does the new process for questions and answers allow for an efficient process for answering questions and for promoting supervisory convergence?

- Yes
- No
- Don't know / no opinion / not relevant

Please identify areas for improvement and explain your answer to question 1.1.5:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The 2019 review did not change anything: so far, ESMA has not put in practice the new processes for Q&A (eg public consultations on sensitive Q&A where outcomes are massive for market players) and the procedures that lead to the issuance of Q&A is still fully opaque including spaces and line breaks, i.e. stricter than the MS Word characters counting method

1.2 No action letters

In the framework of the 2019 ESAs review:

Question 1.2.1 In your view, is the new mechanism of no action letters (Article 9a of the ESMA/EIOPA Regulations and Article 9c EBA Regulation) fit for its intended purpose?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.2.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The no action letter was specifically intended for situations where Level 2 measures are missing. However, the scope is limited to Level 2 measures of Regulations or Directives mentioned in the EIOPA regulation. Given the fact that more horizontal legislation is coming into place (SFDR, DORA), the no action letter should also be available there. The double implementation process of the SFDR (first based on Level 1, then later with Level 2) has led to a lot of uncertainty, diverging interpretation of the rules and unnecessary costs.

Question 1.2.2 How does the new mechanism, in your view, compare with “no action letters” in other jurisdictions?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.2.3 ESMA: Could you provide examples where the use of no action letters would have been useful or could be useful in the future?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The SFDR is a relevant example

Question 1.2.3 EIOPA: Could you provide examples where the use of no action letters would have been useful or could be useful in the future?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The SFDR is a relevant example

1.3 Peer reviews

Question 1.3.1 To what extent peer reviews organised by the ESAs have contributed to the convergence outcomes listed below ?

Please distinguishing between the situation before the 2019 review and afterwards:

Situation before the 2019 ESAs review for ESMA:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|---------------------------------|--------------------------------------|--|
| Convergence in the application of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Convergence in supervisory practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| More wide spread application of best practices developed by other competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Convergence in the enforcement of provisions adopted in the implementation of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Further harmonisation of Union rules | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Situation after the 2019 ESAs review for ESMA:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|---------------------------------|--------------------------------------|--|
| Convergence in the application of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Convergence in supervisory practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| More wide spread application of best practices developed by other competent authorities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Convergence in the enforcement of provisions adopted in the implementation of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Further harmonisation of Union rules | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your reasoning when answering question 1.3.1 for ESMA and give examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Situation before the 2019 ESAs review for EIOPA:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|----------------------------------|--------------------------------------|--|
| Convergence in the application of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Convergence in supervisory practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| More wide spread application of best practices developed by other competent authorities | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Convergence in the enforcement of provisions adopted in the implementation of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Further harmonisation of Union rules | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Situation after the 2019 ESAs review for EIOPA:

| | 1 (less significant contribution) | 2 (not so significant contribution) | 3 (neutral) | 4 (significant contribution) | 5 (most significant contribution) | Don't know - No opinion - Not applicable |
|---|--------------------------------------|--|-----------------------|----------------------------------|--------------------------------------|--|
| Convergence in the application of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Convergence in supervisory practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| More wide spread application of best practices developed by other competent authorities | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Convergence in the enforcement of provisions adopted in the implementation of Union law | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Further harmonisation of Union rules | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your reasoning when answering question 1.3.1 for EIOPA and give examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We note that, before as well as after the 2019 ESAs review, EIOPA plays an active role in trying to build a common Union supervisory culture and consistent supervisory practices, ensuring uniform procedures and consistent approaches throughout the Union, sometimes and even trying to foster supervisory convergence between IORPs and insurers. We do not believe such convergence in the application of Union law (and consequently in supervisory powers) is needed for IORPs. As mentioned above, the legal and supervisory framework in which they operate is diverse, as it is set by the minimum-harmonization provisions of the IORP II Directive and by the different applicable national social, labour and tax laws. This odds with EIOPA setting as strategic objective the increment of supervisory convergence also in relation with IORPs. We believe EIOPA should focus more on the exchange of best practices than providing non-binding opinions and guidance setting expectations on the national supervisory authorities and on IORPs beyond what required in the level-1 Directive, and monitoring the national implementation of such opinions and guidance. Below you can find examples of the recent EIOPA's work on IORPs. Just considering their work from 2019 on, there is an extensive number of opinions, reports and guidelines for the implementation of the IORP II Directive e.g. in the areas of investment rules, governance, risk assessment and information provision to members and beneficiaries under IORP II. All in all we fear that, if all these opinions and guidance were to be followed, they would entail an important administrative burden without necessarily bringing any visible benefit to members and beneficiaries. The risk is to render the administration and management much more complex, leading to further additional costs.

- Published a Supervisory Statement on EIOPA supervisory statement on practices within the registration or authorisation process of IORPs (2020)
- Published an Opinion on the use of governance and risk assessment documents in the supervision of IORPs (2019) – See also PensionsEurope press release
- Published an Opinion on the practical implementation of the common framework for risk assessment and transparency of IORPs (2019) – See also PensionsEurope press release
- Published an Opinion on the supervision of the management of environmental, social and governance risks faced by IORPs (2019) – See also PensionsEurope press release
- Published an Opinion on the supervision of the management of operational risks faced by IORPs (2019) – See also PensionsEurope press release
- Created two model Pension Benefit Statements to provide guidance on how to implement the annual information document IORPs are required to send to their members (2020)
- Adopted a Report on Other Information to be provided to Prospective and Current Members: Guidance and Principles based on Current Practices (2019)

We have indicated in the table above as 'non-relevant' EIOPA's work on the convergence in the enforcement of provisions adopted in the implementation of Union law, as the IORP Directive does not include any delegated acts. In fact, the EU co-legislators considered that the IORP II Directive does not need uniform conditions for its implementation. However, EIOPA puts pressure on national supervisory authorities by providing detailed guidance, monitoring and following up on implementation. We fear that this will lead to supervisory authorities following the opinions, even when this would not be adequate for their national contexts.

Instead of focusing on implementing the provisions of the IORP II in greater details, we believe EIOPA could focus more on the collection of information on implementing rules adopted at the national level, thus taking stock of what is done and reporting on it. Furthermore, EIOPA could work more on collecting and spread best practices among competent authorities.

Finally, we note that EIOPA has intensively worked on the level-2 measures for the Pan-European Personal Pension Product (PEPP). However, we believe it is too soon to evaluate the results of this work, as the PEPP Regulation will entry into application only in March 2022.

Question 1.3.2 How do you assess the impact of each of the changes below introduced by 2019 ESAs review in the peer review process?

| | 1 (least effective) | 2 (rather not effective) | 3 (neutral) | 4 (rather effective) | 5 (most effective) | Don't know - No opinion - Not applicable |
|--|------------------------|-----------------------------|-----------------------|-------------------------|-----------------------|--|
| Ad-hoc Peer Review Committees (PRC) composed of ESAs' and NCAs' staff and chaired by the ESA are responsible for preparing peer review reports and follow-ups. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The peer review report is now adopted by written procedure on non-objection basis by the BoS. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Transparency provisions: if the PRC main findings differ from those published in the report, dissenting views should be transmitted to the three European Institutions. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| PRC findings may result in recommendations to NCAs under Article 16 of the ESAs Regulations that are now distinguished from guidelines, addressed to all NCAs. The use of this type of individual recommendations entails the application of the "comply or explain" mechanism and allows a close follow-up. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Mandatory follow-up to peer reviews within two years after the adoption of the peer review report. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The possibility to carry out additional peer reviews in case of urgency or unforeseen events (fast track peer reviews). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

The Management Board is consulted in order to maintain consistency with other peer reviews reports and to ensure a level playing field.



Please explain your reasoning when answering question 1.3.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.3.3 ESMA: Do you think mandatory recurring peer reviews, covering also enforcement aspects, could be introduced in some sectoral legislation?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.3.3 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It seems better to decide on peer reviews on an ad-hoc basis. The ESAs are in a better position to assess when on which topics peer reviews are useful than the co-legislators.

Question 1.3.3 EIOPA: Do you think mandatory recurring peer reviews, covering also enforcement aspects, could be introduced in some sectoral legislation?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.3.3 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It seems better to decide on peer reviews on an ad-hoc basis. The ESAs are in a better position to assess when on which topics peer reviews are useful than the co-legislators

Question 1.3.4 Are there improvements that could be made to the peer review process?

- Yes
- No
- Don't know / no opinion / not relevant

1.4 Other tasks and powers

Question 1.4.1 ESMA: In your view, is the collection of information regime (Art 35 ESAs Regulations) effective?

- Yes
- No
- Don't know / no opinion / not relevant

If you identify areas for improvement for ESMA, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.4.1 EIOPA: In your view, is the collection of information regime (Art 35 ESAs Regulations) effective?

- Yes
- No
- Don't know / no opinion / not relevant

If you identify areas for improvement for EIOPA, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Article 35 plays a huge role in the context of reporting duties that entails an enormous workload for IORPs. The effects and benefits are unclear for us

Question 1.4.2 In the framework of the 2019 ESAs review, in your view, are the new Union strategic supervisory priorities an effective tool to ensure more focused convergence priorities and more coherent coordination (Article 29a ESAs Regulations)?

- Yes
- No
- Don't know / no opinion / not relevant

If you identify any areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

NCA's should be able to prioritize issues that matter most in their home market. Those issues - both for retail products and for occupational pensions - tend to diverge. There are different types of occupational pensions: DB/DC, with and without choice in accumulation and decumulation, with and without insurance against biometric risks, with and without survivor pensions. A stronger top-down approach to supervisory priorities could take focus away from the most relevant issues. characters counting method.

Question 1.4.3 ESMA: Do you think there is the need to amend or add a tool to the toolkit of the ESAs for achieving supervisory convergence?

- Yes
- No
- Don't know / no opinion / not relevant

If you think there is the need to amend or add a tool to the toolkit of ESMA, please specify which one(s):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Overall, we believe that ESMA has got all the necessary powers and tools to promote supervisory convergence. However, what truly matters now is that ESMA and national authorities must embark on a transformative process that will bring supervisory culture where it can match the ambitions of the Capital Markets Union.

Question 1.4.3 EIOPA: Do you think there is the need to amend or add a tool to the toolkit of the ESAs for achieving supervisory convergence?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.4.4 Please assess the significance of the new ESAs' task of fostering and monitoring the supervisory independence of national competent authorities:

- 1 - Not significant at all
- 2 - Rather not significant
- 3 - Neutral
- 4 - Rather significant
- 5 - Very significant
- Don't know / no opinion / not relevant

Please explain your answer to question 1.4.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not think it is necessary for the ESAs to assess the independence of the MS supervisors.

Question 1.4.5 What criteria would be the most relevant, in your view, for the ESAs to perform effectively their new task of fostering and monitoring supervisory independence of national competent authorities?

| | 1 (irrelevant) | 2 (rather not relevant) | 3 (neutral) | 4 (rather relevant) | 5 (fully relevant) | Don't know - No opinion - Not applicable |
|--|-----------------------|----------------------------|----------------------------------|------------------------|-----------------------|--|
| Operational independence | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial independence | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Appointment and dismissal of governing body | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Accountability and transparency | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Adequacy of powers and ability to apply them | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your answers to question 1.4.5:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PensionsEurope does not see any independence deficit of the supervisors vis-à-vis ministries, central banks and supervised institutions. In many MS, supervisor authorities can be a subordinate authority of the Ministry of Finance or Central bank, however we are not aware about any independence deficit towards supervision of IORPs.

Question 1.4.6 ESMA: What are, in your view, the main remaining obstacle(s) to allow for a more effective supervisory convergence?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

ESMA faces challenges due to the EU framework's persistently poor design:

- Confusions, conflicts and uncertainties too often arise between level 1 (legislation), level 2 (implementation) and level 3 (guidance) – while level 4 (quality check) is weak.
- Implementation deadlines set at level 1 frequently disregard the amount of work ESMA needs to carry out to have a proper assessment of legal options and how to reconcile them with the ambitions of the Capital Markets Union.
- National authorities do not implement EU rules consistently, resulting in diverging treatment of market players and consumers depending on the Member States. For instance, ESMA's reports on UCITS sanctions in 2016 and 2017 show that the French regulator's fines amounted to over 90% of all sanctions by national regulators, while over 50% of Member States did not sanction any entity.
- Decision-making within ESMA can be either very slow due to conflicting interests between national authorities, or overtaken by one national authority that aims to export its own ill-designed policy so that other markets are not better off.

Question 1.4.6 EIOPA: What are, in your view, the main remaining obstacle(s) to allow for a more effective supervisory convergence?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not believe that supervisory convergence should be a strategic objective of EIOPA in the area of occupational pensions, as occupational pension systems are still very different and there is little cross-border activity. It should be assessed where more effective supervisory convergence is needed. As the IORP II Directive is explicitly not a full harmonisation Directive and pays appropriate respect to the embeddedness of occupational pensions in social, labour, and tax law, we don't think that more supervisory convergence is needed

Question 1.4.7 ESMA: Do you consider that ESMA ensures that enough information on their activities and on financial institutions is available?

- Yes
- No
- Don't know / no opinion / not relevant

Please specify what changes should be made in this area for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

ESMA's Work Programmes and Strategic Supervisory Priorities have been helpful to understand the overall direction of travel of ESMA's activities. However, as the trade body for over 650 firms in France, 70% of which have less than 20 employees, none of these documents can give firms the visibility they need to plan according to expected dates of issuance of ESMA deliverables and related compliance deadlines.

Question 1.4.7 EIOPA: Do you consider that EIOPA ensures that enough information on their activities and on financial institutions is available?

- Yes
- No
- Don't know / no opinion / not relevant

Please specify what changes should be made in this area for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The new reporting requirement put EIOPA in the right position for ensuring that enough information on IORPs and their activities is available.

However, we believe that the way in which such information is disclosed by EIOPA could be improved. Generally, we think that occupational and personal pensions should be addressed as separate items by EIOPA when delivering information on IORPs and personal pensions' providers and should not be included in the same reports of insurance-based products. Three examples below:

First, as for IORPs, we regret that EIOPA has discontinued the publication of the IORPs market development report, as we considered very valuable the information included on IORPs and their cross-border activities.

Second, the Consumer trends report of EIOPA includes occupational and personal pensions consider in its scope, thus considering "consumers" the members of works-based plans. It has long been established that works-based pension provision is a form of deferred pay and is not a 'product' that the employee can select from a range of different providers. It is akin to referring to an employee of a given employer as a 'consumer' in relation to an employment product. Against that backdrop, the 'consumer protection issues' can be more properly consider to be 'member protection issues'.

Third, EIOPA "Cost and past performance" report includes (very limited) information on IORPs under the chapter on PPPs. Again, we think information on IORPs and on their activities should be provided separately.

Question 1.4.8 Do you consider that the purpose and outcome of inquiries under Article 22.4 is clear?

- Yes
- No
- Don't know / no opinion / not relevant

Please indicate what role such inquiries should play:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.4.9 In your view, is there the need to add any tools or tasks in order to enhance supervisory convergence towards digital finance?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.4.10 Please assess the effectiveness of supervisory convergence tools developed by the ESAs (e.g. common supervisory actions, real case discussions, etc.) for achieving supervisory convergence:

- 1 - Least effective
- 2 - Rather not effective
- 3 - Neutral
- 4 - Rather effective
- 5 - Very effective
- Don't know / no opinion / not relevant

Please explain your answer to question 1.4.10:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

1.5 Breach of Union law and dispute settlement

Question 1.5.1 Do you think that the ESAs' powers in relation to breaches of Union law (Article 17 ESAs' Regulations) and binding mediation (Article 19 ESAs' Regulations) are effective?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.5.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.2 ESMA: Do you think that the use of the breach of Union law procedure by ESMA is adequate?

| | Yes | No | N.A. |
|--------------------------|-----------------------|-----------------------|----------------------------------|
| Before 2019 ESAs' review | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| After 2019 ESAs' review | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answer to question 1.5.2 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.2 EIOPA: Do you think that the use of the breach of Union law procedure by EIOPA is adequate?

| | Yes | No | N.A. |
|--|-----------------------|-----------------------|-----------------------|
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | |
|--------------------------|----------------------------------|----------------------------------|-----------------------|
| Before 2019 ESAs' review | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| After 2019 ESAs' review | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

Please explain your answer to question 1.5.2 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The power of EIOPA to direct decisions at financial institutions, overruling decisions taken by NCA, seems to infringe the principle of subsidiarity. Nevertheless, we are not aware of any such decisions so far.

Question 1.5.3 Should there be other instruments available to the ESAs to address instances of non-application or incorrect application of Union law amounting to a breach ex-post?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.5.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.4 Do you think that the new written non-objection procedure by the BoS and the new independent panels for the decisions on breaches of Union law and dispute settlements introduced in the 2019 ESAs' review have improved these decision making processes?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.5.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.5 ESMA: Do you think that ESMA has always acted, where needed, under Article 17 and Article 19 of the ESAs' Regulations?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.5.5 EIOPA: Do you think that EIOPA has always acted, where needed, under Article 17 and Article 19 of the ESAs' Regulations?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.5.6 ESMA: Could you provide concrete examples where the introduction of further binding mediation provisions in sectoral legislation would be useful?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.6 EIOPA: Could you provide concrete examples where the introduction of further binding mediation provisions in sectoral legislation would be useful?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Some PensionsEurope members have doubts that binding mediation in the case of the IORP2 Directive is desirable or needed. Host and home Member States are responsible for parts of supervision: home Member States are responsible for prudential supervision, while the host Member State oversees the application of tax, social and labour law.

Question 1.5.7 ESMA: Why do you think the use of these ESMA's powers has been limited?

Please explain how these processes could be improved:

5000 character(s) maximum

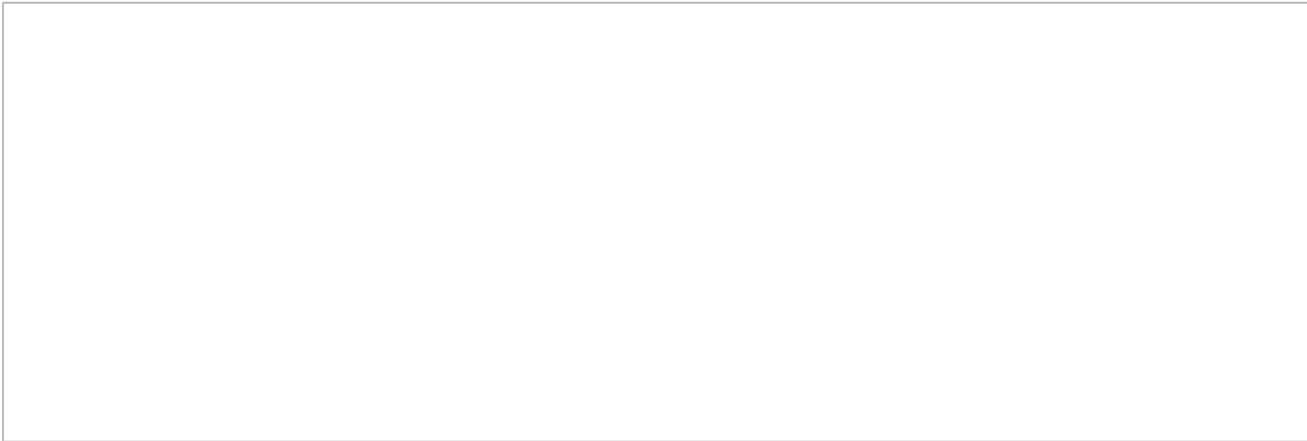
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.5.7 EIOPA: Why do you think the use of these EIOPA's powers has been limited?

Please explain how these processes could be improved:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.



1.6 Emergency situations and response to COVID-19 crisis

Question 1.6.1 ESMA: Please rate the impact of ESMA's response in the context of the COVID-19 crisis:

- 1 - the less significant impact
- 2
- 3
- 4
- 5 - the most significant impact
- Don't know / no opinion / not relevant

Please explain your answer to question 1.6.1 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

ESMA's recommendations and decisions in 2020 were helpful to clarify regulatory expectations for authorities and businesses.

However, despite the obvious challenges to our businesses, ESMA (as well as the European Commission and the ESAs) kept laying the groundwork for regulatory changes in 2020 and beyond that significantly affected asset managers. These changes required:

- Dedicating heavily pressured staff resources to respond to public consultations, although the deadlines were sometimes pushed back. While our industry is keen to contribute to EU policymaking, collecting input from our firms' top experts was becoming increasingly difficult because they must prioritise client servicing – and rightly so. This jeopardised quality input in the EU regulatory process and results in less anticipation of upcoming changes by firms.
- Preparing for increasing costs in various areas (eg compliance, IT, distribution, internal governance, operational risk) due to new initiatives or level-2 implementation, although the EU economy was set to contract by 7.5% in 2020.

This strong disconnect between the EU's unchanged regulatory pipeline and the new business context resulted in a significantly lower input by our firms in the consultation process, and yet the same expected costs to comply with the new rules.

Question 1.6.1 EIOPA: Please rate the impact of EIOPA's response in the context of the COVID-19 crisis:

- 1 - the less significant impact
- 2
- 3
- 4
- 5 - the most significant impact
- Don't know / no opinion / not relevant

Please explain your answer to question 1.6.1 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We applaud that EIOPA tried to reduce the administrative burden of reporting requirements on IORPs during the COVID crisis. The most important issues relating to the COVID crisis were operational continuity and the continued collection of premiums from particularly hard-hit sectors (hospitality, tourism). These issues were mainly dealt with in cooperation with national bodies and supervisors. Moreover, EIOPA has extended the deadlines for the reporting requirements. We welcomed this decision

Question 1.6.2 Please rate the effectiveness of the ESAs' follow-up actions on the European Systemic Risk Board (ESRB) recommendations below in the context of the COVID-19 crisis:

| | 1 (least effective) | 2 (rather not effective) | 3 (neutral) | 4 (rather effective) | 5 (most effective) | Don't know - No opinion - Not applicable |
|---|------------------------|-----------------------------|-----------------------|-------------------------|-----------------------|--|
| Market illiquidity and implications for asset managers and insurers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Impact of large scale downgrades of corporate bonds on markets and entities across the financial system | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| System-wide restraints on dividend payments, share buybacks and other pay-outs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Liquidity risks arising from margin calls | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answer to question 1.6.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.6.3 ESMA: Do you think the coordinating activities carried out by ESMA has successfully contributed to address the challenges posed by the COVID-19 crisis?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.6.3 EIOPA: Do you think the coordinating activities carried out by EIOPA has successfully contributed to address the challenges posed by the COVID-19 crisis?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.6.3 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support the content of the EIOPA Statement of Principles on the impact of the COVID crisis on IORPs. It highlighted the relevant issues and gave the right signal to NCAs while recognising the stabilising role IORPs can play in financial markets. Apart from guiding NCAs, we did not expect any further action from EIOPA

Question 1.6.4 ESMA: Do you think that ESMA has always acted effectively, where needed, in the context of the COVID-19 crisis?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.6.4 EIOPA: Do you think that EIOPA has always acted effectively, where needed, in the context of the COVID-19 crisis?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.6.5 Do you think Article 18.2 of the ESAs Regulation (declaration of an emergency situation) is fit for its intended purpose?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.6.5:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.6.6 In case you identified areas for improvement in the ESAs' powers in emergency situations, do you have any suggestions on how to address them?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

1.7 Coordination function (Art 31 ESAs' Regulations)

Question 1.7.1 ESMA: Do you think the coordination role of ESMA is effective?

- Yes
 - No
 - Don't know / no opinion / not relevant
-

Question 1.7.1 EIOPA: Do you think the coordination role of EIOPA is effective?

- Yes
 - No
 - Don't know / no opinion / not relevant
-

Question 1.7.2 ESMA: Do you see a need for greater coordination between ESMA and/or with other EU and national authorities as regards developing data requirements, data collection and data sharing?

- Yes
- No
- Don't know / no opinion / not relevant

If you do see a need for greater coordination for ESMA, please explain your answer to question 1.7.2 and indicate what changes you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PensionsEurope supports a role for ESMA in the upcoming ESAP initiative

Question 1.7.2 EIOPA: Do you see a need for greater coordination between EIOPA and/or with other EU and national authorities as regards developing data requirements, data collection and data sharing?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.7.3 In the framework of 2019 ESAs' review, please rate the effectiveness, in your view, of the tools below in order to fulfil the new coordination role of the ESAs facilitating the entry into the market of actors or products relying on technological innovation:

| | 1 (least effective) | 2 (rather not effective) | 3 (neutral) | 4 (rather effective) | 5 (most effective) | Don't know - No opinion - Not applicable |
|--|------------------------|-----------------------------|----------------------------------|-------------------------|-----------------------|--|
| Exchange of information and best practices | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Adopt guidelines | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Adopt recommendations | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your reasoning when answering question 1.7.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.7.3.1 In the framework of 2019 ESAs' review, do you think ESMA's new coordination function (Article 31b ESMA Regulation) in relation to orders, transactions and activities that give rise to suspicions of market abuses and have cross-border implications for the integrity of financial markets or financial stability in the EU is an effective tool?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.7.4 In the framework of 2019 ESAs' review, do you think the new coordination groups (Article 45b of the ESAs Regulations) are effective tools to coordinate competent authorities regarding specific market developments?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.7.5 ESMA: In your view, does the coordination function of ESMA, ensuring that the competent authorities effectively supervise outsourcing, delegation and risk transfer arrangements in third countries, work in a satisfactory way?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.7.5 EIOPA: In your view, does the coordination function of EIOPA, ensuring that the competent authorities effectively supervise outsourcing, delegation and risk transfer arrangements in third countries, work in a satisfactory way?

- Yes
- No
- Don't know / no opinion / not relevant

1.8. Tasks related to consumer protection and financial activities

Question 1.8.1 ESMA: What are, in your view, ESMA's main achievements in the consumer and investor protection area?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No opinion

Question 1.8.1 EIOPA: What are, in your view, EIOPA's main achievements in the consumer and investor protection area?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA is devoting much attention to the protection of consumers and investors. It does, however, increasingly play a role in regulating the communication between IORPs and their participants.

We think that EIOPA played a supportive role for Member States that had to start from scratch when implementing the Pension Benefit Statement (PBS) as a result of the IORP2 Directive. However, we are concerned that the EIOPA's work (at the EU's work more broadly) on pension communication is heading in the wrong direction, for the following reasons:

- It is not based on insights from behavioral science. More information does not necessarily lead to a better understanding. Information should be tailored to the information needs of participants and an overflow of information turns individuals off. Individuals only truly engage with information if they have the sense that there is an 'action perspective', i.e. that they feel they are able or should act on information.
- Information requirements can be too legalistic or complicated. The SFDR RTS templates, for example,

require the use of concepts that are not clear even to practitioners (e.g. the difference between Article 8 or Article 9 products) or concepts that average pension funds participants do not understand ('derivative'). Moreover, EIOPA has successfully and extensively worked on the level-2 measures on PEPP, reaching the achievement of adopting them in due time, notwithstanding the pandemic. The PEPP delegated acts introduce strong consumer protection rules and we hope the introduction of a PEPP will meet the needs of people wishing to save for retirement and will represents a valuable investment opportunity for pension providers. If properly designed, the PEPP could contribute to the enhancement of complementary retirement savings in the EU, especially in those countries with less developed occupational pensions

Question 1.8.2 ESMA: Please assess the impact of ESMA's work on analysis of consumer trends, reviewing market conduct, developing indicators, contributing to level playing field, financial literacy and follow up to work in this area:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---------------------------------------|--------------------------------|----------------------------------|-----------------------|---------------------------|--------------------------------|--|
| Analysis of consumer trends | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Reviewing market conduct | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing indicators | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Contributing to a level playing field | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Financial literacy | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Follow up to work in this area | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answer to question 1.8.2 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.2 EIOPA: Please assess the impact of EIOPA's work on analysis of consumer trends, reviewing market conduct, developing indicators, contributing to level playing field, financial literacy and follow up to work in this area:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---------------------------------------|--------------------------------|----------------------------------|-----------------------|----------------------------------|--------------------------------|--|
| Analysis of consumer trends | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Reviewing market conduct | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Developing indicators | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Contributing to a level playing field | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Financial literacy | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Follow up to work in this area | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answer to question 1.8.2 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The work carried out by EIOPA on the PEPP RTS had a significant impact on the development of indicators, particularly on the development of the summary risk indicator.

EIOPA analysis of consumer trends report in the field of pensions is very limited and pensions represent a minor chapter of this annual publication. As mentioned above, we do not believe pensions should be included in this report but should be treated separately from insurance-based products.

EIOPA work on financial literacy is very limited.

Question 1.8.3 In the framework of 2019 ESAs' review, the ESAs can now, where sectoral legislation enables them, use their product intervention powers for practices and products that cause consumer harm and after two prolongations of six months, an automatic one-year prolongation of the prohibition is possible (Article 9.5).

In your view, are these powers effective for their intended purpose?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.8.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.4 Would you consider it useful if the ESAs could adopt acts of general application in cases other than those referred to in Article 9(5) of the ESAs Regulations?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.8.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.5 ESMA: Could you provide concrete examples where enabling the use of the product intervention powers in sectoral legislation would be useful?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No relevant

Question 1.8.5 EIOPA: Could you provide concrete examples where enabling the use of the product intervention powers in sectoral legislation would be useful?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No relevant

Question 1.8.6 ESMA: In the framework of 2019 ESAs' review, please rate the new ESMA's task to coordinate mystery shopping activities of competent authorities, if applicable, according to its relevance to promote consumer protection at EU level:

- 1 - irrelevant
- 2 - rather irrelevant
- 3 - neutral
- 4 - rather relevant
- 5 - fully relevant
- Don't know / no opinion / not relevant

Please explain your answer for ESMA and indicate whether you consider enhancing national competencies for conduct supervision may be beneficial for the overall coordination of mystery shopping activities:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.6 EIOPA: In the framework of 2019 ESAs' review, please rate the new EIOPA's task to coordinate mystery shopping activities of competent authorities, if applicable, according to its relevance to promote consumer protection at EU level:

- 1 - irrelevant
- 2 - rather irrelevant
- 3 - neutral
- 4 - rather relevant
- 5 - fully relevant
- Don't know / no opinion / not relevant

Please explain your answer for EIOPA and indicate whether you consider enhancing national competencies for conduct supervision may be beneficial for the overall coordination of mystery shopping activities:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.7 ESMA: What are, in your view, the main strengths and weaknesses of the current framework on consumer protection (Article 9 ESAs Regulations) and what would you suggest to address any possible shortcomings?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.7 EIOPA: What are, in your view, the main strengths and weaknesses of the current framework on consumer protection (Article 9 ESAs Regulations) and what would you suggest to address any possible shortcomings?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PensionsEurope would like to mention that IORPs “should not be treated as purely financial service providers” as recognized in recital 32 of the IORP II Directive. Their social function and the triangular relationship between the employee, the employer and the IORP should be adequately acknowledged. As a result, the consumer protection concept doesn’t fit

Question 1.8.8 ESMA: Are there areas for improvement in the toolkit of ESMA when it comes to coordinating supervisors in the area of consumer protection?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.8.8 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.8.8 EIOPA: Are there areas for improvement in the toolkit of EIOPA when it comes to coordinating supervisors in the area of consumer protection?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.8.8 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

1.9 International relations

Question 1.9.1 ESMA: How do you assess the role and competences of ESMA in the field of international relations?

Are there additional international fora in which ESMA should be active?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.9.1 EIOPA: How do you assess the role and competences of EIOPA in the field of international relations?

Are there additional international fora in which EIOPA should be active?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The activities of IORPs are strongly influenced by national labour and social law. Cross-border activities of IORPs within the EU play a minor role and this is even more true internationally. Although we are aware of the IOPS activities we suppose that the international work of EIOPA on occupational pensions is limited

Question 1.9.2 ESMA: In the framework of 2019 ESAs' review, how do you assess the new ESMA's role in monitoring the regulatory and supervisory developments, enforcement practices and market developments in third countries for which equivalence decisions have been adopted by the Commission?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.9.2 EIOPA: In the framework of 2019 ESAs' review, how do you assess the new EIOPA's role in monitoring the regulatory and supervisory developments, enforcement practices and market developments in third countries for which equivalence decisions have been adopted by the Commission?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.9.3 ESMA: Are the powers and competences in the field of international relations as set out in Article 33 of the ESAs' Regulations adequate in light of the tasks conferred on ESMA?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.9.3 EIOPA: Are the powers and competences in the field of international relations as set out in Article 33 of the ESAs' Regulations adequate in light of the tasks conferred on EIOPA?

- Yes
- No
- Don't know / no opinion / not relevant

Question 1.9.4 ESMA: How do you assess the role of ESMA in the development of model administrative arrangements between national

competent authorities and third-country authorities? Should this role be further specified?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.9.4 EIOPA: How do you assess the role of EIOPA in the development of model administrative arrangements between national competent authorities and third-country authorities? Should this role be further specified?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

1.10 The role of the ESAs as enforcement actors/enforcers

Under Articles 17 (breach of Union law), 18 (action in emergency situations) and 19 (settlement of disagreements between NCAs in cross-border situations/binding mediation), in case a competent authority fails to ensure that a market participant or financial institution complies with requirements directly applicable to it, the ESAs have the power to investigate the alleged breach or non-application of Union law and, following a specified procedure and under certain conditions, adopt an individual decision towards the market participant or financial institution requiring it to comply with EU law.

Question 1.10.1 ESMA: How do you assess the role of ESMA under these articles of the founding Regulations?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.10.1 EIOPA: How do you assess the role of EIOPA under these articles of the founding Regulations?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.10.2 ESMA: Do you see room for improvement in the way ESMA could ensure that competent authorities enforce more effectively EU rules towards market participants/financial institutions?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.10.2 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.10.2 EIOPA: Do you see room for improvement in the way EIOPA could ensure that competent authorities enforce more effectively EU rules towards market participants/financial institutions?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.10.2 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We think that a more direct role of EIOPA in the supervision of IORPs would infringe the principle of minimum harmonization as laid down in the IOPR2 Directive. As already mentioned above the weight of ESA's enforcement and interventions should be appropriate for the respective regulatory context and the aims of the underlying directive, e.g. a mere minimum harmonization in the context of the IORP II Directive. Furthermore, IORPs are subject to the NCA's supervision, there is no direct EIOPA supervision

Question 1.10.3 In your view, are the powers of the ESAs to enforce EU rules towards market participants/financial institutions under Articles 17, 18 and 19 ESAs Regulations well balanced, adequate and effective?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.10.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.10.4 Do you think the respective roles of the ESAs and of the Commission are clearly defined in Article 17, 18 and 19 ESAs Regulations?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.10.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.10.5 ESMA: Do you think the use of sanctions laid down in the EU acquis by competent authorities in case of non-compliance of market participants/financial institutions with EU rules is, in practice for ESMA, sufficiently dissuasive or disproportionate?

- Sufficiently dissuasive
- Disproportionate
- Other
- Don't know / no opinion / not relevant

What role could sectoral legislation and ESMA play in improving the situation? Please substantiate your answer and give examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

National authorities do not implement EU rules consistently, resulting in diverging treatment of market players and consumers depending on the Member States. For instance, ESMA's reports on UCITS sanctions in 2016 and 2017 show that the French regulator's fines amounted to over 90% of all sanctions by national regulators, while over 50% of Member States did not sanction any entity.

Question 1.10.5 EIOPA: Do you think the use of sanctions laid down in the EU acquis by competent authorities in case of non-compliance of market participants/financial institutions with EU rules is, in practice for EIOPA, sufficiently dissuasive or disproportionate?

- Sufficiently dissuasive
- Disproportionate
- Other
- Don't know / no opinion / not relevant

2. Governance of the ESAs

2.1 General governance issues

Question 2.1.1 Does the ESAs' governance allow them to ensure objectivity, independence and efficiency in their work/decision making?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.1.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.1.1.1 If you consider that there should be differences in governance between different types of tasks, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.1.2 In the framework of 2019 ESAs' review, in your view, has the new provision in Article 42 of the ESAs' Regulations according to which the Board of Supervisors members must abstain from participating in the discussion and voting in relation to any items of the agenda for which they have an interest that might be considered prejudicial to their independence, improved the decision making process?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 1.2.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.1.3 In the framework of 2019 ESAs’ review, do you think the requirements in Articles 3 and 43a of the ESAs’ Regulations are sufficient to ensure accountability and transparency?

- Yes
- No
- Don’t know / no opinion / not relevant

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Article 43a strengthened the role of the EP, which as a matter of principle, has been welcomed. Moreover, we welcome the publication of the BoS minutes. An overview of the upcoming BoS and OPSG meetings would be helpful. Overall, EIOPA should convey more information in a timely way on the OPSG meetings and increase its transparency

Question 2.1.4 In the framework of 2019 ESAs’ review, to what extent the recent enhancements in the role of Chairperson improve the decision making process?

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|--------------------------------|----------------------------------|----------------------------------|---------------------------|--------------------------------|--|
| Request to the Board to establish internal committees for specific tasks | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Set the agenda to be adopted by the Board and table items for decision | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Call a vote at any time | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Propose the composition of independent panels for breach of Union law investigations and dispute settlements | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Propose the composition of peer review committees for peer reviews | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Propose a decision to launch an inquiry and convene an independent panel for the purposes of Article 22 (4) ESAs Regulation | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Vote in the Board of Supervisors (except on matters that are decided on the basis of qualified majority voting) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your answers to question 2.1.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.1.5 Should the role of the Chairperson be strengthened in other areas?

- Yes
- No
- Don't know / no opinion / not relevant

2.2 Decision-making bodies and preparatory bodies

Question 2.2.1 Does the current composition of the Board of Supervisors (BoS) and of the Management Board (MB) ensure that decisions are taken efficiently and independently?

- Yes
- No
- Don't know / no opinion / not relevant

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Pension funds are concerned that the decision-making in EIOPA is not always sufficiently based on the a thorough understanding of the particularities of pension funds. While the EIOPA staff in the pensions team has build up a strong expertise, we observe that nearly all individuals in the Board of Supervisors have a background in insurance supervision. This is amongst others due to the absence of a significant second pillar in many European countries. Moreover, EIOPA's workload on insurance regulation has far outpaced its involvement in occupational pensions. This is not surprising because of the difference in scale, the large amount of delegated lawmaking under insurance regulation and the fact that cross-border insurance business is common-place whereas only a small number of IORPs operate across borders. EIOPA's expertise has developed accordingly, and it is likely to continue to do so. As a result, we are concerned that the decision-making processes insufficiently take into account the idiosyncrasies of occupational pensions, stemming from the strong relationship with social and labour law.

The Capital Markets Union Action Plan calls for more funded pensions in the European Union. As it is the intention that the second pillar gains in importance, the governance of EIOPA should be equipped to deliver decisions tailored to both sectors within its remit: insurance and occupational pensions. Currently, there are

no provisions in the EIOPA regulation specifically requiring a comprehensive coverage in expertise of both sectors in selection procedures of individuals on the decision-making bodies: the Chair, Executive Director, Board of Supervisors and Management Board

Question 2.2.2 Do the current voting modalities (e.g. simple majority, qualified majority...) of the BoS ensure efficient decision making?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.2.2 and indicate how voting modalities could be streamlined:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.2.3 Does the current allocation of tasks between the BoS and the MB ensure that the ESAs are run effectively and perform the tasks conferred on them?

- Yes
- No
- Don't know / no opinion / not relevant

Question 2.2.4 In the framework of 2019 ESAs' review, to what extent the enhanced role of the Management Board has improved the decision making process?

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|----------------------------------|----------------------------------|-----------------------|---------------------------|--------------------------------|--|
| The MB can give opinions on all matters to be decided by the Board of Supervisors | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The MB ensures the consistent use of a methodology for all peer reviews conducted | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The MB proposes a peer review work plan every two years. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The MB can set up coordination groups on its own initiative | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your answers to question 2.2.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.2.5 Should the role of the Management Board be strengthened in other areas?

- Yes
- No
- Don't know / no opinion / not relevant

Question 2.2.6 In the framework of 2019 ESAs' review, do you think the written non-objection procedure for core convergence tools (breaches of Union law, dispute settlements and peer reviews) is effective for achieving its objective?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.2.6:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.2.7 Do you think ad hoc committees composed of staff of the ESAs and members from the competent authorities (e.g. peer review committees) are effective tools to improve the decision making process?

- Yes
- No
- Don't know / no opinion / not relevant

Question 2.2.8 Do you think the functioning of preparatory/supporting bodies of the ESAs (e.g. technical working groups, standing committees, task forces etc.) is effective and efficient?

- Yes
- No
- Don't know / no opinion / not relevant

Question 2.2.9 ESMA: Please assess the impact of the work undertaken by preparatory/supporting bodies of ESMA (e.g. technical working groups, standing committees, task forces etc.) on ESMA’s overall work and achievements:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|--------------------------------|----------------------------------|-----------------------|---------------------------|--------------------------------|--|
| Standing committees and other permanent committees | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Other preparatory bodies (e.g. technical working groups) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Committee on consumer protection and financial innovation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Proportionality Committee | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify any shortcomings for ESMA please specify how these could be addressed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.2.9 EIOPA: Please assess the impact of the work undertaken by preparatory/supporting bodies of EIOPA (e.g. technical working groups, standing committees, task forces etc.) on the EIOPA’s overall work and achievements:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|--------------------------------|----------------------------------|-----------------------|---------------------------|--------------------------------|--|
| Standing committees and other permanent committees | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Other preparatory bodies (e.g. technical working groups) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Committee on consumer protection and financial innovation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Proportionality Committee | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify any shortcomings for EIOPA please specify how these could be addressed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.2.9.1 ESMA: Should there be a different governance in case of direct supervisory decisions in ESMA (for example, similar to the new governance for CCPs)?

- Yes
- No
- Don't know / no opinion / not relevant

2.3 Financing and resources

Question 2.3.1 Do you consider the provisions on financing and resources for the general activities of the ESAs appropriate to ensure sufficiently funded and well-staffed ESAs taking into account budgetary constraints at both EU level and the level of Member States?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.3.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As pension funds are not directly supervised by EIOPA, they feel they should not pay industry fees to EIOPA. We understand the need for some degree of flexibility in the ESAs' funding arrangements to deal with changes to the volume of work that is delegated to them. However, we strongly prefer that the solution for this problem is found within the current funding system based on contributions by NCAs and the Union budget. One solution could be to fully fund EIOPA through the Union budget.

The provision on the financing of ESMA is appropriate. The current system with a 40% contribution by the general budget of the European Union and a 60% contribution by NCAs, largely funded by industry in most countries, is well-balanced and should not be changed. In the absence of direct supervision from ESMA, there is no reason to change the funding arrangement to a direct (full or partial) contribution from the industry

Question 2.3.2 Do you think that the ESAs have sufficient resources to perform their tasks?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.3.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

From an IORP perspective, EIOPA is currently adequately funded for the tasks given, especially as long as EIOPA stay within the scope of the competencies and do not expand

Question 2.3.3 Do you think there are enough checks and balances for how the ESAs spend their budget?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.3.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA should carry out cost-benefit analysis before starting to work on new opinions and guidance for IORPs

2.4 Involvement and role of relevant stakeholders

Question 2.4.1 In your view, are stakeholders sufficiently consulted or, on the contrary, are there too many consultations?

- Yes
- No
- Too many consultations
- Don't know / no opinion / not relevant

Please explain your answer to question 2.4.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA should keep consulting key stakeholders, not only through the OPSG and the IRSG, but also through public consultations. Stakeholders need enough time to be able to answer these consultations consultations shorter than 3 months should be exceptional.

Concerning ESMA, our consultation responses are not well taken into account in ESMA's work because of the timing pressure that ESMA is under due to unrealistic deadlines set in level-1 legislation. Also, ESMA does not seek frequent, direct and meaningful engagement with stakeholders and instead relies on a very administrative process that does not enable ESMA staff to realise what is at stake from a business point of view, especially in terms of proportionality.

Despite our commitment to contribute, ESMA does not provide a clear schedule for upcoming consultations, and we are not consulted on important level-3 (eg Q&A) that affect significantly our business model.

Furthermore, ESMA launches data collection exercises through national authorities (eg CSA on costs in UCITS), without any consideration for ongoing or upcoming consultations and upcoming implementation deadlines. Big firms and small firms alike struggle to allocate resources properly

Question 2.4.2 ESMA: Please assess the quality, in your view, of the consultations launched by ESMA:

| | 1 (lowest quality) | 2 | 3 | 4 | 5 (highest quality) | Don't know - No opinion - Not applicable |
|---|-----------------------|-----------------------|-----------------------|----------------------------------|------------------------|--|
| General consultations launched by ESMA | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Specific consultations when developing data collection requirements | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answer to question 2.4.2 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our consultation responses are not well taken into account in ESMA's work because of the timing pressure that ESMA is under due to unrealistic deadlines set in level-1 legislation. Also, ESMA does not seek frequent, direct and meaningful engagement with stakeholders and instead relies on a very administrative

process that does not enable ESMA staff to realise what is at stake from a business point of view, especially in terms of proportionality.

Despite our commitment to contribute, ESMA does not provide a clear schedule for upcoming consultations, and we are not consulted on important level-3 (eg Q&A) that affect significantly our business model.

Furthermore, ESMA launches data collection exercises through national authorities (eg CSA on costs in UCITS), without any consideration for ongoing or upcoming consultations and upcoming implementation deadlines. Big firms and small firms alike struggle to allocate resources properly

Question 2.4.2 EIOPA: Please assess the quality, in your view, of the consultations launched by EIOPA:

| | 1 (lowest quality) | 2 | 3 | 4 | 5 (highest quality) | Don't know - No opinion - Not applicable |
|---|-----------------------|-----------------------|-----------------------|----------------------------------|------------------------|--|
| General consultations launched by EIOPA | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Specific consultations when developing data collection requirements | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please explain your answer to question 2.4.2 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are rather satisfied with the consultation procedure but less satisfied with the way answers are being dealt with. Generally, we appreciate the opportunity to contribute to consultations. It is also very welcome that EIOPA seeks informal input in the form of workshops during the preparatory phase of discussion papers and consultations. This also gives stakeholders more time to consider the policy options and develop their views.

At the same time, sometimes consultations focus on the details of a policy option that has already been chosen, rather than providing a range of wider options. It is clear that EIOPA has already a specific outcome in mind and the consultation is only aimed at collecting feedback that will help to tweak this option. Given that mandates for Level 2 measures in Level 1 can be very wide, we believe that in the consultation phase the outcome should not be presupposed

As for data collection requirements, a notable problem for IORPs is data collection requirements by both

EIOPA and the ECB that are highly similar. However, this is a question of EU legislation. A task should only be given to one EU institution, thus avoiding double requirements for IOPRs.

Question 2.4.3 ESMA: Is ESMA sufficiently transparent and accessible for stakeholders to ensure effective and efficient interaction?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.4.3 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

ESMA does not seek direct engagement with stakeholders and instead relies on a very administrative process that does not enable ESMA staff to realise what is at stake from a business point of view, especially in terms of proportionality.
There is not sufficient information about upcoming ESMA activities that would enable firms to allocate resources properly and to seek interaction with ESMA accordingly

Question 2.4.3 EIOPA: Is EIOPA sufficiently transparent and accessible for stakeholders to ensure effective and efficient interaction?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.4.3 for EIOPA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Transparency towards the general public could be improved

Question 2.4.4 Please rate the impact of stakeholders groups within the ESAs on the overall work and achievements of the ESAs:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|--------------------------------|----------------------------------|----------------------------------|---------------------------|--------------------------------|--|
| EIOPA Insurance & Reinsurance Stakeholder Group | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| EIOPA Occupational Pensions Stakeholder Group | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| ESMA Securities and Markets Stakeholder Group | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| EBA Banking Stakeholder Group | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answers to question 2.4.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We strongly support the fact that EIOPA continues to have a separate stakeholder group on occupational pensions. We also support the stronger role that was given to the stakeholder groups in the last review, such as the possibility to provide input in the development of Level 2 measures.

Question 2.4.5 In the framework of 2019 ESAs’ review, please assess the significance of the recent changes in the composition, selection, term of office and advice of the stakeholders groups (Article 37 ESAs Regulations)?

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|--|--------------------------------|----------------------------------|-----------------------|----------------------------------|----------------------------------|--|
| Composition of stakeholders groups | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Selection of members | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Term of office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| A third of its members can issue a separate advice | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

Please explain your answers to question 2.4.5:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Geographical representation requirements are not fit for IORPs. IORPs have a significant role in occupational pensions in only a few Member States and many OPSG members come from other member states.

Question 2.4.6 Does the composition of stakeholders groups ensure a sufficiently balanced representation of stakeholders in the relevant sectors?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 2.4.6:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As for IORPs, their social function and the triangular relationship between the employee, the employer and the IORP should be adequately acknowledged and supported as guiding principles. Social partners and employers (not only SME) should be represented as well

Question 2.4.7 In your experience, are the ESAs' stakeholders groups sufficiently accessible and transparent in their work?

- Yes
- No
- Don't know / no opinion / not relevant

Please indicate the areas where the transparency could be improved:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In general, the minutes and the positions are published but not in a timely manner. Not all the presentations are available as well. Moreover, the members are obliged to maintain confidentiality

2.5 Joint bodies of the ESAs

Question 2.5.1 Please assess the aspects described below regarding the Board of Appeal (BoA) of the ESAs:

| | 1 (least effective) | 2 (not so effective) | 3 (neutral) | 4 (rather effective) | 5 (most effective) | Don't know - No opinion - Not applicable |
|--|------------------------|-------------------------|-----------------------|-------------------------|-----------------------|--|
| Organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Functioning and time limits | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| One joint Board of Appeal for the 3 ESAs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The composition of the BoA | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.5.2 Please assess the aspects described below regarding the Joint Committee of the ESAs:

| | 1 (least effective) | 2 (not so effective) | 3 (neutral) | 4 (rather effective) | 5 (most effective) | Don't know - No opinion - Not applicable |
|--|----------------------------------|-------------------------|-----------------------|-------------------------|-----------------------|--|
| Functioning | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Working methods | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Ensuring cross-sectoral cooperation | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Ensuring consistent approaches | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Decision making process | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| The legal structure (no legal personality) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The Joint Committee pays insufficient attention to the idiosyncrasies of different sectors. Investment products, insurance products and occupational pensions are fundamentally different products. Occupational pensions are quasi-mandatory in some MS without any choice for pension participants. This means that the participant has a completely different 'consumer' experience than a retail client proactively looking for a third pillar product. Cross-sectoral harmonisation of consumer protection rules, therefore, is undesirable and leads 'one-size-fits-all at the end fits no one. It should not be an objective to be able to compare an occupational pension scheme with an ETF or a unit-linked insurance product since they have fundamentally different characteristics

Question 2.5.3 Please assess the work of the Joint Committee of the ESAs in the areas below:

| | 1 (less significant impact) | 2 (not so significant impact) | 3 (neutral) | 4 (significant impact) | 5 (most significant impact) | Don't know - No opinion - Not applicable |
|---|----------------------------------|----------------------------------|-----------------------|---------------------------|--------------------------------|--|
| Consumer Protection and Financial Innovation | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Coordination and cooperation for bi-annual Joint Risk Reports, published in spring and autumn | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Financial Conglomerates | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Securitisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| European Forum of Financial Innovators | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3. Direct supervisory powers

Question 3.1 Please assess ESMA’s direct supervisory powers in the field of:

| | 1 (lowest rate) | 2 | 3 | 4 | 5 (highest rate) | Don't know - No opinion - Not applicable |
|-----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--|
| Credit Rating Agencies | <input type="radio"/> | <input checked="" type="radio"/> |
| Trade Repositories under EMIR | <input type="radio"/> | <input checked="" type="radio"/> |
| Trade Repositories under SFTR | <input type="radio"/> | <input checked="" type="radio"/> |
| Securitisation Repositories (STS) | <input type="radio"/> | <input checked="" type="radio"/> |

Please explain your answers to question 3.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 3.2 Please assess ESMA’s performance as a direct supervisor of the entities below:

| | 1 (lowest rate) | 2 | 3 | 4 | 5 (highest rate) | Don't know - No opinion - Not applicable |
|-----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--|
| Credit Rating Agencies | <input type="radio"/> | <input checked="" type="radio"/> |
| Trade Repositories under EMIR | <input type="radio"/> | <input checked="" type="radio"/> |
| Trade Repositories under SFTR | <input type="radio"/> | <input checked="" type="radio"/> |
| Securitisation Repositories (STS) | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 3.3 How do you envisage the future scope of direct supervisory powers of ESMA or any other ESA?

What principles should govern the decision to grant direct supervision to the ESAs?

If you see room for improvement, please provide evidence where you see weaknesses of the current set-up:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We think that the scope of direct supervisory powers of ESMA could be enlarged. The areas should be assessed on the criteria of degree of cross-border activity, interconnectedness and systemic relevance

Question 3.4 Have you identified any areas where supervision at EU level should be considered?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 3.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The transition to a low-carbon economy will require immense data sets to analyse all three E, S and G aspects across all economic activities. This will further strengthen the market power of non-EU data providers whose methodologies, market practices and analyses will determine when and where capital will go. Ultimately, they will dictate the shape of the Union's ESG transition. Yet, ESMA has got no powers at all to address this oligopoly or even to question said methodologies and analyses. In that sense, ESMA's mandate should include direct supervision of systemic third-country data providers.

4. The role of the ESAs as regards systemic risk

Question 4.1 ESMA: Please assess the aspects described below regarding the role of ESMA as regards systemic risk:

| | 1 (lowest rate) | 2 | 3 | 4 | 5 (highest rate) | Don't know No opinion Not applicable |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--|
| The quality of the analysis of market developments | <input type="radio"/> | <input checked="" type="radio"/> |
| | | | | | | |

| | | | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------------|
| The quality of the stress test and transparency exercises that were initiated and coordinated by the ESAs | <input type="radio"/> | <input checked="" type="radio"/> |
| The interaction between the ESRB and ESAs on the development of a common set of quantitative and qualitative indicators to identify and measure systemic risk | <input type="radio"/> | <input checked="" type="radio"/> |
| The cooperation within the European System of Financial Supervision (ESFS) to monitor the interconnectedness of the various subsectors of the financial system they are overseeing | <input type="radio"/> | <input checked="" type="radio"/> |
| The broader cooperation between the ESRB and the ESAs within the ESFS | <input type="radio"/> | <input checked="" type="radio"/> |
| The contribution of the ESAs to facilitating the dialogue between micro- and macro-supervisors | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify room for improvement for ESMA, please specify how this could be addressed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 4.1 EIOPA: Please assess the aspects described below regarding the role of EIOPA as regards systemic risk:

| | 1 (lowest rate) | 2 | 3 | 4 | 5 (highest rate) | Don't know No opinion Not applicable |
|---|-----------------------|----------------------------------|----------------------------------|----------------------------------|-----------------------|--|
| The quality of the analysis of market developments | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The quality of the stress test and transparency exercises that were initiated and coordinated by the ESAs | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The interaction between the ESRB and ESAs on the development of a common set of quantitative and qualitative indicators to identify and measure systemic risk | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The cooperation within the European System of Financial Supervision (ESFS) to monitor the interconnectedness | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

| | | | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------------|
| of the various subsectors of the financial system they are overseeing | | | | | | |
| The broader cooperation between the ESRB and the ESAs within the ESFS | <input type="radio"/> | <input checked="" type="radio"/> |
| The contribution of the ESAs to facilitating the dialogue between micro- and macro-supervisors | <input type="radio"/> | <input checked="" type="radio"/> |

If you identify room for improvement for EIOPA, please specify how this could be addressed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the continuing trend from DB to DC pensions, we recommend EIOPA to use methods that allow for comparability between the two types. We believe that cash flow analysis is more suitable than the holistic balance sheet.

We are also concerned with the communication of the results of the stress test. In the past, we felt that the nuanced analysis in the actual report was lost in the press release. The communication style seemed based on the desire to deliver a political message about the necessity for more harmonization of the prudential framework for pension funds, rather than the content of the analysis

B. Questions on the single rulebook

Please click on next to respond to the questions.

5. The ESAs work towards achieving a rulebook

Question 5.1 ESMA: Do you consider that the technical standards and guidelines/recommendations developed by ESMA have contributed sufficiently to further harmonise a core set of standards (the single rulebook)?



- Yes
- No
- Other
- Don't know / no opinion / not relevant

Please explain your answer to question 5.1 for ESMA:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Confusions, conflicts and uncertainties too often arise between level 1 (legislation), level 2 (implementation) and level 3 (guidance) – while level 4 (quality check) is weak. Despite technical standards and guidelines, national authorities do not implement EU rules consistently, resulting in diverging treatment of market players and consumers depending on the Member States. What truly matters now is that ESMA and national authorities must embark on a transformative process that will bring supervisory culture where it can match the ambitions of the Capital Markets Union.

Question 5.1 EIOPA: Do you consider that the technical standards and guidelines/recommendations developed by EIOPA have contributed sufficiently to further harmonise a core set of standards (the single rulebook)?

- Yes
- No
- Other
- Don't know / no opinion / not relevant

If you have identified areas for improvement for EIOPA, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA's work on the implementation on the IORP II Directive, and in particular the several opinions and the other non-binding communication published in the attempt of building a joint supervisory culture in the field of pensions have contributed more than sufficiently to harmonise the supervisory culture and supervisory practices across member states. The IORP II Directive adopted a minimum-harmonization approach to leave enough leeway to member states to adapt its provisions to the characteristics of their occupational pensions. Therefore, the IORP-II directive provides no legal basis for technical standards and we do not believe that further guidance and recommendations to harmonise standards are needed in the field of pensions. Governance is another reason why cross-sectoral harmonization does not deliver the right outcomes. Pension funds in some MS are managed by social partners and are not-for-profit. Pension fund participants are represented on the board and through accountability bodies. There is no incentive for the pension fund to raise costs, unlike in the case of for-profit organisations running second or third pillar pensions. This means that the starting point from which to design the rulebook is different. National and sector rules can take this into account, a true single rulebook cannot.

Question 5.2 Do you assess the procedure for the development of draft technical standards as foreseen in the ESA Regulations effective and efficient in view of the objective to ensure high quality and timely deliverables?

- Yes
- No
- Other
- Don't know / no opinion / not relevant

If you have identified areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Many times, financial entities do not have sufficient time to comply with the new requirements. Compressed timetable and lack of reliable information, at least in the first stage, are alarming for all financial entities, especially for IORPs. Occupational pension schemes are usually small entities that rely on a very restricted staff and small budgets, therefore the compliance to the RTS in a squeezed time would be too burdensome. Concerning ESMA, our consultation responses are not well taken into account in ESMA's work because of the timing pressure that ESMA is under due to unrealistic deadlines set in level-1 legislation. Also, ESMA does not seek frequent, direct and meaningful engagement with stakeholders and instead relies on a very administrative process that does not enable ESMA staff to realize what is at stake from a business point of view, especially in terms of proportionality. Under the principle of minimum harmonization, the IORP-II directive provides no legal basis for technical standards and guidelines in the context of IORPs

Question 5.3 When several ESAs need to amend joint technical standards (e. g. PRIIPs RTS) and there is a blocking minority at the Board of Supervisors of one of the ESAs, what would you propose as solution to ensure that the amendment process runs smoothly?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 5.4 In particular, are stakeholders sufficiently consulted and any potential impacts sufficiently assessed?

- Yes
- No
- Other
- Don't know / no opinion / not relevant

If you have identified areas for improvement, please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our consultation responses are not well taken into account in ESMA's work because of the timing pressure that ESMA is under due to unrealistic deadlines set in level-1 legislation. Also, ESMA does not seek frequent, direct and meaningful engagement with stakeholders and instead relies on a very administrative process that does not enable ESMA staff to realise what is at stake from a business point of view, especially in terms of proportionality

Question 5.5 Can you provide examples where guidelines and recommendations issued by the ESAs have particularly contributed to the establishment of consistent, converging, efficient and effective supervisory practices and to ensuring the common, uniform and consistent application of Union law?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 5.6 Would you consider it useful if the ESAs could adopt guidelines in areas that do not fall under the scope of legislation listed in Article 1 (2) of the ESAs founding Regulations and are not necessary to ensure the effective and consistent application of that legislation?

- Yes
- No
- Don't know / no opinion / not relevant

Question 5.6.1 If you think of the Wirecard case as an example, how could supervision be improved in the field of auditing and financial reporting?

- Including [Regulation \(EC\) No 1606/2002 \(IAS Regulation\)](#) and [Directive 2013/34/EU \(Accounting Directive\)](#) in Article 1(2) of the ESMA Regulation
- Other
- No improvements are needed
- Don't know / no opinion / not relevant

Question 5.7 Do you think that the role of ESMA with regard to [Directive 2004/109/EC \(Transparency Directive\)](#) could be strengthened?

For example, by including a mandate for ESMA to draft RTS in order to further harmonise enforcement of financial (and non-financial) information:

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 5.7:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Any new ESG workstream should be carefully considered, due to the number of initiatives in this field which already risk fragmentation.

Question 5.8 Do you think that [Directive 2004/109/EC \(Transparency Directive\)](#) should require ESMA to annually report on the supervision and enforcement of financial and non-financial information in the EU on the basis of data provided by the national competent authorities regarding their supervisory and enforcement activities?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 5.8:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 5.9 Do you think that ESMA could have a role with regard to [Regulation \(EC\) No 1606/2002 \(IAS Regulation\)](#) and [Regulation 537/2014/EU \(Audit Regulation\)](#)?

- Yes
- No
- Don't know / no opinion / not relevant

Question 5.10 ESMA: What is your assessment of the work undertaken by ESMA regarding opinions and technical advice?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our consultation responses are not well taken into account in ESMA's work because of the timing pressure that ESMA is under due to unrealistic deadlines set in level-1 legislation. Also, ESMA does not seek frequent, direct and meaningful engagement with stakeholders and instead relies on a very administrative process that does not enable ESMA staff to properly consider what is at stake from a business point of view, especially in terms of proportionality

Question 5.10 EIOPA: What is your assessment of the work undertaken by EIOPA regarding opinions and technical advice?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EIOPA is playing an active role in trying to build a common Union supervisory culture and consistent supervisory practices in the field of pensions, trying to ensure uniform procedures and consistent approaches throughout the Union. Even though EIOPA's work does not consist of legally binding legislation, the national implementation of EIOPA's opinions and guidance is monitored by the European authority. EIOPA's work on IORPs has been focussing on delivering opinions, reports and guidelines for the implementation of the IORP II Directive e.g. in the areas of investment rules, governance, risk assessment and information provision to members and beneficiaries under IORP II. Although non-legally binding, these acts put certain pressure on NCAs, and we fear that they could bring to increasing administrative burdens without bringing any visible benefit to members and beneficiaries. Moreover, this also makes the administration and management of IORPs much more complex, leading to further additional costs. As mentioned throughout our responses, we do not believe that supervisory convergence is needed in the field

of pensions and, therefore, we advocate for the EIOPA to conduct more specific cost-benefit analysis before drafting new opinions.

6. General questions on the single rulebook

Question 6.1 Which are the areas where you would consider maximum harmonisation desirable or a higher degree of harmonisation than presently (rather than minimum harmonisation)?

Please give your reasons for each:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Consistent EU regulation in the EU financial area is important. This includes taking into account that IORPs are on the demand side of the capital market. Equal regulation for all sectors (including IORPs) with the argument "level playing field" is inappropriate.

While we do not propose any specific areas ourselves, we invite the European Commission to assess the need for maximum harmonisation based on the level of cross-border activity, the interconnectedness of the sector and the implications on financial stability.

Question 6.2 Which are the areas where you consider that national rules going beyond the minimum requirements of a Directive (known as "gold-plating") are particularly detrimental to a single market?

Please select as many answers as you like

- Banking
- Insurance
- Asset management
- Market infrastructure (CCPs, CSDs)
- Market organisation (MiFID, MIFIR, MAR)
- Other

Other

Please specify to what other legislative area(s) you refer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please identify the relevant sectoral legislation in this/these other area(s) for which national rules going beyond its minimum requirements and explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please provide examples of gold plating in the area of this/these other area(s) and explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6.3 Do you consider that the single rulebook needs to be further enhanced to reach the uniform application of Union law or rules implementing Union law and efficient convergent supervisory outcomes?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 6.3 and, where appropriate, support your response with examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

6.4 Questions regarding the appropriate level of regulation

Question 6.4.1 In your view, are there circumstances in existing EU legislation where level 1 is too granular, or for other reasons, would rather be preferable to have a mandate for level 2, or guidance at level 3?

- Yes
- No
- Don't know / no opinion / not relevant

Question 6.4.2 On the other hand, in your view, could **reducing divergences in rules** at level 1 (legislation agreed by the co-legislators), as well as rules regarding delegated acts (regulatory technical standards) or implementation at level 2, (implementing acts and implementing technical standards) and/or level 3 ('comply or explain guidance' by ESAs) further enhance the single rulebook?

- Yes
- No
- Don't know / no opinion / not relevant

Question 6.4.2.1 Which of the three levels and/or a combination thereof are more effective in building the single rulebook?

Please select as many answers as you like

- Level 1 (legislation agreed by the co-legislators)
- Level 2 (e.g. delegated acts and technical standards)
- Level 3 ('comply or explain guidance' by ESAs)

Please explain your answer to question 6.4.2 and 6.4.2.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6.5 Generally speaking, which level of regulation should be enhanced/tightened in order to ensure uniform application of the single rulebook?

Please select as many answers as you like

- Level 1 (legislation agreed by the co-legislators)
- Level 2 (e.g. delegated acts and technical standards)
- Level 3 ('comply or explain guidance' by ESAs)

Please explain your answer to question 6.5 and substantiate with examples, where possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6.6 In your view, what, if anything and considering legal limitations, should be improved in terms of determining application dates and sequencing of level 1, level 2 and level 3?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6.7 Please indicate whether the following factors should be considered when deciding on the need for further harmonisation in rules:

| | 1 (unimportant) | 2 (rather not important) | 3 (neutral) | 4 (rather important) | 5 (fully important) | Don't know - No opinion - Not applicable |
|---|----------------------------------|----------------------------------|-----------------------|----------------------------------|------------------------|--|
| Strong interlinkages with areas of law which remain non-harmonised (e.g. CRIM-MAD and national criminal law) | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Broad discretion left to national authorities and frequent use of that discretion by these national authorities | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| High level of gold plating by national rules | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| High degree to which supervision of the same type of actors and /or activities render divergent outcomes across Member States | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| All of the above | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| None of the above | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Other aspects | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Question 6.8 As part of the Commission's work on enhancing the single rulebook under the Capital Markets Union project, do you consider that certain EU legislative acts (level 1) should, in the course of a review, become more detailed and contain a higher degree of harmonisation? Would any of those legal frameworks currently contained in Directives, or any part therein, benefit from being directly applicable in Member States instead of requiring national transposition?

- Yes
- No
- Don't know / no opinion / not relevant

Please select the legislative sector(s) of the specific piece(s) of legislation you have in mind:

Please select as many answers as you like

- Banking
- Insurance
- Asset management
- Market infrastructure (CCPs, CSDs)
- Market organisation (MiFID, MIFIR, MAR)
- Other

Question 6.9 Do you consider that on the basis of existing mandates, additional/more detailed rules at level 2 should be introduced to provide the supervised entities and their supervisors with more detailed and clearer guidance?

- Yes
- No
- Don't know / no opinion / not relevant

Question 6.10 Against the objective of establishing the single rulebook for financial services, how would you increase the degree of harmonisation of EU financial legislation?

Please select as many answers as you like

- Across the board (e.g., via an Omnibus act which amends multiple sectoral acts at the same time)

- In a targeted manner through individual sectoral reviews

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

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