

MEMO# 30759

June 30, 2017

EU Commission Consultation on the Operation of the European Supervisory Authorities - ICI Global Response

[30759]

June 29, 2017 TO: ICI Global EU Capital Markets Union Task Force
ICI Global Regulated Funds Committee
International Operations Advisory Committee
International Operations Working Group RE: EU Commission Consultation on the Operation of the European Supervisory Authorities - ICI Global Response

As previously advised,[\[1\]](#) on 21 March the European Commission (“Commission”) published a consultation paper (“CP”) on the operation of the European Supervisory Authorities (ESAs).

ICI Global’s response to the CP is attached. The response takes account of member comments on the draft response. We make the following key points in our response to the European Commission:

- ESMA should make more use of its existing tools to remove or otherwise resolve cross-border cases, such as barriers to the cross-border provision of services. For instance, to enhance the cross-border distribution of regulated funds in the EU, we recommend the development of a single central UCITS notification hub and repository through which cross-border marketing notifications could automatically be submitted and updates to UCITS documentation (e.g., key investor information) could be filed;
- ESMA should make more use of its supervisory convergence tools (e.g. guidelines, opinions and Q&A) to harmonise the authorisation and notification process for UCITS (e.g. developing a single “pre-marketing” and “marketing” definition) and develop a more common framework among Member States for distribution (e.g. a common approach to “marketing communications”);
- All draft and proposed guidelines, recommendations and Q&A from the ESAs (i.e. Level 3) should be subject to consultation, for public comment, accompanied by:
 - supporting policy rationales as well as detailed impact analysis of policy options, including extraterritorial effects;
 - justification of how proposed policy options align with adopted legislation (i.e. Level 1) and implementing measures (i.e. Level 2) and are justified by cost/benefit analysis; and

- the opinion of the Securities and Markets Stakeholder Group and Consultative Working Groups;
- ESMA should enhance the role it plays as a central repository for consumer and investor information, including by working with Member State authorities to identify and develop a system for a wider distribution of relevant alerts and other information for EU investors. For example, some national authorities may have information that would benefit investors in other Member States;
- The ESAs should continue to develop and support investor education and financial literacy across the EU, including examining work done at international level by IOSCO and the OECD, and by other financial regulators and governments to identify and benchmark how the ESAs can support Member State initiatives in this area;
- ESMA's finite resources should be appropriately allocated to ensure sufficient focus on its core EU competencies within the European System of Financial Supervision (ESFS), rather than on the assessment and monitoring of third country regulations which is more appropriately informed by existing international assessments (e.g. the International Monetary Fund's Financial Sector Assessment Program) and the work of global standard setting bodies such as IOSCO;
- ESMA should promote more harmonisation and consistency in regulatory reporting obligations to limit the burden of duplicative regulatory reporting obligations for regulated funds and their managers thereby reducing costs for fund investors and likely improving the quality of reported data;
- ESMA should play an important role in ensuring the appropriate and timely availability of comprehensive trading data to support the development of more integrated, efficient and well-functioning financial markets for market participants, including the buy-side, when trading in these markets (e.g. including initiatives to develop a pan-European consolidated tape);
- ESMA's stakeholder groups should represent, in balanced proportions, financial market participants and other types of stakeholders covered by ESMA's work, including greater representation of the asset management industry in such stakeholder groups, to accurately reflect the growing significance of the industry in ESMA's work;
- Any changes made to the ESFS should not dilute or limit the expert role played by regulators overseeing capital markets; and
- The ESAs have an important role to play, alongside national regulators, to strive for a "robust" financial system that offers and promotes diversity, encourages innovation and experimentation, and is adaptable.

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[Attachment](#)

endnotes

[1] Memo 30697, Re: EU Commission Consultation on the Operation of the European Supervisory Authorities – Draft ICI Global Response, dated 10 May 2017, available from <https://www.iciglobal.org/iciglobal/pubs/memos/memo30697>

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