

IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

RESPONSE ON THE EUROPEAN COMMISSION'S
TARGETED CONSULTATION ON THE SUPERVISORY
CONVERGENCE AND THE SINGLE RULE BOOK

IRSG-21-29
21 May 2021

CONTENTS

A. QUESTIONS FOR THE ASSESSMENT OF THE EUROPEAN SUPERVISORY AUTHORITIES (ESAs) AND THE RECENT CHANGES IN THEIR FOUNDING REGULATIONS	2
1. The supervisory convergence tasks of the ESAs	5
1.1. Common supervisory culture/supervisory convergence:	5
1.2. No action letters	11
1.3. Peer reviews	12
1.4. Other tasks and powers	16
1.5. Breach of Union law and dispute settlement	21
1.6. Emergency situations and response to COVID-19 crisis	23
1.7. Coordination function (Art 31 ESAs' Regulations)	26
1.8. Tasks related to consumer protection and financial activities.	28
1.9. International relations.	31
1.10. The role of the ESAs as enforcement actors/enforcers.	32
2. Governance of the ESAs.	35
2.1. General governance issues	35
2.2. Decision-making bodies and preparatory bodies	37
2.3. Financing and resources.	40
2.4. Involvement and role of relevant stakeholders	41
2.5. Joint bodies of the ESAs	45
3. Direct supervisory powers.	48
4. The role of the ESAs as regards systemic risk.	49
B. QUESTIONS ON THE SINGLE RULEBOOK	51
5. The ESAs work towards achieving a rulebook	52
6. General questions on the single rulebook	56

A. QUESTIONS FOR THE ASSESSMENT OF THE EUROPEAN SUPERVISORY AUTHORITIES (ESAs) AND THE RECENT CHANGES IN THEIR FOUNDING REGULATIONS

I. How do you assess the impact of each ESA's activities on the aspects below? Please rate the ESAs impact on each aspect from 1 to 5, 1 standing for "less significant impact" and 5 for "most significant impact" or "No opinion".

	1,2,3,4,5,no opinion
The financial system as a whole	No opinion
Financial stability	3
The functioning of the internal market	No opinion
The quality and consistency of supervision	4
The enforcement of EU rules on supervision	No opinion
Strengthening international supervisory coordination	No opinion
Consumer and investor protection	4
Financial innovation	No opinion
Sustainable finance	No opinion

IRSG's Answer:

The IRSG is very supportive of EIOPA's mandate and believes its current powers are adequate.

Regarding financial stability, the low score has been attributed based on EIOPA's actual impact, and not on the actual level of trust and stability of the sector. The European insurance sector is very robust as proven by the current COVID-19 crisis and as stated by EIOPA itself in its 17 March 2020 statement: *"recent stress tests have shown that the sector is well capitalised and able to withhold severe but plausible shocks to the system"*.

Therefore, although EIOPA's role to ensure that financial stability is preserved is important— e.g. with the design of stress tests, its impact is in practice limited since the insurance sector poses very limited risks in this respect. Anyway we find that EIOPA could play a more key role in ensuring common supervisory responses, for example during extraordinary situations. We do not see insurers as potential sources of systemic risks, for reasons the industry has exposed several times. Insurers have business models very different from the banking sector, they are not exposed to structural liquidity risk, they have an inverted business cycle and hold provisions to meet their liabilities. Where technical provisions are well assessed and secured together with own funds commensurate to their individual risk profiles, insurers will not be a source of financial instability. On the contrary, their business model and long term stance serve by nature financial stability (irrespective of the role of EIOPA here unless EIOPA becomes a barrier): insurers are facilitators of the functioning of the economy by ensuring the risks of citizens and of the wider society and are facilitators of the functioning of financial markets by their ability to act countercyclical through their resilience. They are also not part of the monetary system either. So, on financial stability, there is not such an influence of EIOPA as it may seem. The businesses are under control first and foremost where micro supervision is well exercised. Beyond that it seems that the actions undertaken under the financial stability have more a value in terms of communication than anything else.

With respect to quality and consistency of supervision, EIOPA should focus on ensuring financial stability and consumer protection, the development of a common supervisory culture and facilitate the single market. The initiative of policy making which may have impacts on market developments should remain the role of policymakers. Care should be taken that EIOPA does not take initiatives that create barriers and unnecessary costs deterring insurers' capacity to offer guarantees and play their role in financing the economy.

Where new areas emerge, EIOPA should be given the mandate and resources they need to ensure both financial stability and consumer protection are ensured. anyway, for aspects beyond its mandate such as financial innovation and sustainable finance, EIOPA's role should be limited to facilitating and avoiding barriers.

On customer protection we see several limitations and contradictions in the way customer protection is supervised. For instance, there is maybe an exaggerated focus on price without looking at the broader picture of the services attached to a contract. There is a streak towards too much standardisation of approaches which does not do justice to the different business models and products. The different dimensions of protection should be taken into account, including the performance not just the risks. There might also be different expectations of protection according the national or local cultures and environment. Europe has to be safe against any risk of abuses but freedom of choice for customers can't be compromised. Supervision for consumer protection must be respectful of the different expectations of different customers and should refrain from standardizing citizens into one unique European consumer, defined by EIOPA. A customer might praise different values, such as proximity, reliability and convenience, that are difficult to factor in an equation.

Although the impact of EIOPA can be deemed high, it does not tell whether this impact is positive or negative. For instance, EIOPA's intervention is detrimental to long term businesses and long term investments, and that can work against consumer's advantage and even protection if product offers are restricted and/or less rewarding.

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

YES

III. In your view, do the ESAs face any obstacles in delivering on their mandates?

DON'T KNOW / NO OPINION / NOT RELEVANT

1. THE SUPERVISORY CONVERGENCE TASKS OF THE ESAS

1.1. COMMON SUPERVISORY CULTURE/SUPERVISORY CONVERGENCE:

1.1.1. *To what extent the ESAs do contribute to promoting a common supervisory culture and consistent supervisory practices? Please rate in a scale from 1 to 5 (“5” being the most significant contribution and “1” the less significant contribution). Please explain your answer and indicate if there are any areas for improvement.*

	1,2,3,4,5,no opinion
Promote a common supervisory culture and consistent supervisory practices	NO OPINION

IRSG’s Answer:

The IRSG is of the opinion, that by its unique position and attributions EIOPA surely contributes a great deal to promoting a common supervisory culture and consistent supervisory practices.

Yet this influence is only beneficial if, for a same risk there is indeed one consistent approach promoted without the temptation to overlook, simplify or impede the variety of business models in order to alleviate the work of supervision and streamline the task of adapting the rules to the different risk profiles and business cases. In other words, consistency should only be sought if business models are similar and consistent regulation would serve the business models, not the contrary.

On question II (written input):

The IRSG believes that EIOPA’s powers are sufficient to achieve its objectives. The last ESAs review is very recent, and it is very early to assess any need for change without enough time to observe any remaining flaws.

While some concerns have been highlighted with respect to the supervision of cross border activities, the IRSG expressed support of EIOPA's advice in the context of the current Solvency II review aiming at intensifying collaboration between the authorities of the home member state and the host state while supervising insurers operating cross-border, provided these do not undermine the "home principle". There is therefore no need for additional changes in this area.

On question III (written input):

The IRSG believes that challenges such as the need to promote a common supervisory culture and avoid national gold plating exist, however these can be addressed with the current provisions in EIOPA regulation.

The mandate of EIOPA should not be to replace local supervision in accordance with the subsidiarity principle but rather to foster good supervision by adequate guidance issuing, transparent monitoring and reporting. There is also a need of training and adaptation of EIOPA to the different national and business models specificities.

Some of the members of the IRSG believes that it is important that some minimum common baseline would be established at EU level and specific national level/ business models should not undermine this baseline or be used as an excuse to reduce it.

EIOPA could have better co-operation with NSA's and specially work more to ensure a certain ground level of supervisory convergence, how the existing legislation is being supervised in all the member states. Some of the members of the IRSG believes that there might be an implicit conflict of interest of NSAs being the decision takers at EIOPA - this makes it hard for EIOPA to enact some of its powers and mandate. Limited resources may also constitute an obstacle for the ESAs more generally.

We would also bring out that regarding Article 1 EIOPA Regulation: Following the legal framework as laid down in primary EU law, Article 1 of Regulation 1094/2010 (EIOPA Regulation) should clarify that any of EIOPA's actions is without prejudice to the interpretation of relevant Union law by the Court of Justice of the European Union (CJEU).

References to earlier IRSG advices where aspects relating to this subject have been brought out: https://www.eiopa.europa.eu/content/irsg-advice-solvency-ii-2020-review_en and <https://register.eiopa.europa.eu/Publications/Stakeholder%20Opinions/Joint%20SGs%20letter%20to%20EC%20on%20ESAs%20Review%20010618.pdf>

1.1.2. To what extent the following tasks undertaken by the ESA(s) have effectively contributed to building a common supervisory culture and consistent supervisory practices in the EU. Please rate each task from 1 to 5, 1 standing for "less significant contribution" and 5 for "most significant contribution":

Providing opinions to competent authorities	1,2,3,4,5,no opinion
Promoting bilateral and multilateral exchanges of information between competent authorities	NO OPINION
Contributing to developing high quality and uniform supervisory standards	NO OPINION
Contributing to developing high quality and uniform reporting standards	NO OPINION
Developing and reviewing the application of technical standards	NO OPINION
Contributing to the development of sectoral legislation by providing advice to the Commission	NO OPINION
Establishing (cross)sectoral training programmes	NO OPINION
Producing reports relating to their field of activities	NO OPINION
Conducting peer reviews between competent authorities	NO OPINION
Determining new Union strategic supervisory priorities	NO OPINION
Establishing coordination groups	NO OPINION
Developing Union supervisory handbooks	NO OPINION

Monitoring and assessing environmental, social and governance-related risks	NO OPINION
Adopting measures using emergency powers	NO OPINION
Investigating breaches of Union law	NO OPINION
Coordinating actions of competent authorities in emergency situations (e.g. Covid-19 crisis)	NO OPINION
Mediating between competent authorities	NO OPINION
Monitoring the work of supervisory and resolution colleges	NO OPINION
Publishing on their website information relating to their field of activities	NO OPINION
Monitoring market developments	NO OPINION
(Only for the EBA) Monitoring liquidity risks in financial institutions	NO OPINION
(Only the EBA) Monitoring of own funds and eligible liabilities instruments issued by institutions	NO OPINION
Initiating and coordinating Union-wide stress tests of financial institutions	NO OPINION
Developing guidelines and recommendations	NO OPINION
Developing Q&As	NO OPINION
Contributing to the establishment of a common Union financial data strategy	NO OPINION
Providing supervisory statements	NO OPINION

Other instruments and tools to promote supervisory convergence, please indicate	NO OPINION
---	------------

IRSG's Answer:

The IRSG find that the number and nature of the different tools used by EIOPA: RTS, opinions, reports, guidelines, recommendations, statements and Q&A is confusing for insurance undertakings and further complicates the legal framework applicable to insurance activities. The regulatory framework for financial markets has overall reached a remarkably high complexity and is thereby very difficult to overview. It is highly important that the different tools are used with caution and that whatever is stated must clearly fall within EIOPA's mandate. If the complexity of any legal framework becomes too high, there is a risk for loss of legal certainty and acceptance. Such a development would not only affect insurance undertakings but also supervision and consumers. EIOPA should focus on adjusting the content of the different tools towards simplification and actively reduce the number of rules and recommendations. This would be a good contribution towards "better regulation" (REFIT and EC Better Regulation Agenda) and enhancing proportionality in the legislative process.

EIOPA should focus on the common application of the rules rather than acting as a quasi-regulator and implementing new rules or tightening the regulatory framework.

EIOPA's tasks can contribute a great deal to promoting a common supervisory culture and consistent supervisory practices. Yet this influence is only adequate and worthy if the common and consistent approach is doing justice to and is respectful of the variety of business models and is not tempted to destroy diversity in the name of simplicity or because grasping the ins and outs of the different risk profiles and business cases implies broader knowledge and training and is time consuming. In other words, consistency should only be sought if business models are similar and consistent regulation would serve the business models, not the contrary.

1.1.3. One of the roles of the ESAs 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 the ESAs' contribution to the objectives below from 1 to 5, 1 standing for "less significant contribution" and 5 for "most significant contribution". Please explain your reasoning.

	1,2,3,4,5,no opinion
Promote the effective and efficient functioning of colleges of supervisors	NO OPINION
Foster consistency in the application of Union law among colleges	NO OPINION
Promote converging supervisory practices among colleges.	NO OPINION

IRSG's Answer:

We find that, a college of supervisors can play a key role to ensure consistency in the application of the legislation.

Yet again, this should only be taking place where the rules are suited to the business models supervised and EIOPA's should be mindful of the situations where it should refrain from fostering identical applications according to the "one suit does not fit all". Anyway It is also equally important to monitor carefully possible cases where rule changes in other sectors such as banking which could lead to leakages of systemic risk into other sectors.- EIOPA can also have an important role here as part of the Joint ESAs Committee.

1.1.4. In the framework of the 2019 ESAs review. How do you assess the new process for questions and answers (Article 16b)?

IRSG's Answer:

The IRSG is of the opinion that the regulation provides that Q&As should only respond to questions relating to the practical application or implementation of the provisions of legislative acts, associated delegated and implementing acts, and guidelines and recommendations, adopted pursuant to those legislative acts.

The IRSG has recently voiced concerns on the use of Q&As to impose additional capital requirements (this occurred in March 2020 via a change in EIOPA's response to Q&A 1788).

The lack of transparency regarding the process of such a change has also been highlighted, and EIOPA has not yet responded to these concerns at the moment of this consultation.

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?

NO

IRSG's Answer:

We believe that the new process for Q&A does not reduce the volume of the Q&A which is already high and add another layer to the complexity of the legislative framework. The volume of Q&A should be reduced and there should be a restrictive practice when new Q&As are created.

We would also like to draw attention to the poor quality of access to Q&A files not adequately sorted out by themes and streamlined for obsoletes or duplicates.

1.2. NO ACTION LETTERS

1.2.1. In the framework of the 2019 ESAs review. 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? Please justify your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.2.2. In the framework of the 2019 ESAs review. How does the new mechanism, in your view, compare with "no action letters" in other jurisdictions?

IRSG's Answer:

NO OPINION

1.2.3. In the framework of the 2019 ESAs review. Could you provide examples where the use of no action letters would have been useful or could be useful in the future?

IRSG's Answer:

NO OPINION

1.3. PEER REVIEWS

1.3.1. Please specify to what extent peer reviews organised by the ESAs have contributed to the convergence outcomes listed below.

Please distinguish between the situation before the 2019 review and afterwards. Please rate each outcome from 1 to 5, 1 standing for "less significant contribution" and 5 for "most significant contribution":

Situation before the 2019 ESAs review

	1,2,3,4,5,no opinion
Convergence in the application of Union law	NO OPINION
Convergence in supervisory practices	NO OPINION

More wide spread application of best practices developed by other competent authorities	NO OPINION
Convergence in the enforcement of provisions adopted in the implementation of Union law	NO OPINION
Further harmonization of Union rules	NO OPINION
Other, please indicate	NO OPINION

Situation after the 2019 ESAs review

	1,2,3,4,5,no opinion
Convergence in the application of Union law	NO OPINION
Convergence in supervisory practices	NO OPINION
More wide spread application of best practices developed by other competent authorities	NO OPINION
Convergence in the enforcement of provisions adopted in the implementation of Union law	NO OPINION
Further harmonization of Union rules	NO OPINION
Other, please indicate	NO OPINION

IRSG's Answer:

We would like to bring out that peer reviews in the concept can be very useful tools to investigate how legislation is indeed and practically implemented and foster convergence. It should also be a very useful way of taking stock of specific situations and gauging whether legislation is fit for purpose or whether

amendments/revisions/complements are needed. It should indeed work both ways that it can foster convergence and common approaches where suited and needed and precisely refrain from doing so where not appropriate to the situations, business models and risk profiles under supervision. One concern about peer reviews could be that there is an implicit issue with supervisors assessing each other, which might end in a gentleman's agreement not to act too harshly against each other. EIOPA's role in the organisation of peer reviews should aim at avoiding that this limits the potential of this approach and trust in its conclusions.

Peer review can make a positive impact on harmonizing the supervisory activities and might also help ensuring the level playing field when it comes to similar supervisory actions to similar cases in the insurance sector (e.g. interventions, additional requirements, interpretations on non-compliance etc.). Anyway peer-reviews should be as transparent as possible and results should be publicly available always when possible.

Finally, we would bring out that it is too early to evaluate how the 2019 review has effected the different aspects of convergence.

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? Please rate each change from 1 to 5, 1 standing for "less effective" and 5 for "most effective"

	1,2,3,4,5,no opinion
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.	NO OPINION
The peer review report is now adopted by written procedure on non-objection basis by the Board of Supervisors.	NO OPINION

Transparency provisions: if the PRC main findings differ from those published in the report, dissenting views should be transmitted to the three European Institutions.	NO OPINION
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.	NO OPINION
Mandatory follow-up to peer reviews within two years after the adoption of the peer review report.	NO OPINION
The possibility to carry out additional peer reviews in case of urgency or unforeseen events (fast track peer reviews).	NO OPINION
The Management Board is consulted in order to maintain consistency with other peer reviews reports and to ensure a level playing field.	NO OPINION
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.	NO OPINION

IRSG’s Answer:

The IRSG believes that the ability for EIOPA and NSAs to consider dissenting views in the reports is important. The necessity to ensure consent might have limited the provision of critical views and diverging opinions. The provision allowing EIOPA to conduct ad-hoc and follow-up peer reviews is also important. Also, the new tools seem to improve the framework for supervisory peer reviews.

Considering the Article 16 of the EIOPA Regulation we would bring three points; (1) Considering the key features of “Recommendations” and “Opinions” these tools appear interchangeable. Therefore, the EIOPA Regulation should either maintain only one of these tools or at least clarify their functional differences. (2) As there is no

direct supervision of financial institutions by EIOPA and consequently as a matter of consistency it should be clarified that any guidelines and recommendations pursuant to Article 16 EIOPA Regulation shall solely be addressed to national competent authorities (NCAs). (3) To guarantee the rule of law - as one of the fundamental values of the European Union - it should be a precondition for the issuance of guidelines or recommendations by EIOPA that both, the power of issuance as well as the exact subject matter have been explicitly delegated to EIOPA by the EU legislator (European Parliament and the Council of the European Union) in the legislative acts referred to in Article 1(2) EIOPA Regulation.

1.3.3. Do you think mandatory recurring peer reviews, covering also enforcement aspects, could be introduced in some sectoral legislation? If the answer is yes, please specify the piece of legislation and concrete provision under which mandatory peer reviews could be introduced.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.3.4. Are there improvements that could be made to the peer review process? Please specify which ones.

YES

IRSG's Answer:

See answers to 1.3.1 & 1.3.3 where we have expressed our thinking around this already. Also we find that a potential role for the stakeholder groups could be to suggest areas for peer reviews.

1.4. OTHER TASKS AND POWERS

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

DON'T KNOW / NO OPINION / NOT RELEVANT

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)? If you identify any areas for improvement, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

The IRSG believes that for the ESAs, in general having the full picture is one key way to ensure trust in the industry, while a lack of proportionality can be observed in the collection of information in many instances.

Yet we would like to comment and say that fostering convergence is only useful where suited to the supervised activities. What is paramount is that legislation be fit for purpose and the framework should refrain from forcing common approaches where not appropriate to the business models and risk profiles under supervision and rather, in such situations, identify whether amendments/revisions/complements to the legislation are needed.

We would bring out few points considering the Article 29 EIOPA Regulation; (1) With a view to legal certainty for both, EIOPA and financial institutions, the EIOPA Regulation should contain an exhaustive list with the official titles of supervisory convergence tools that EIOPA is able to use pursuant to Article 29 (i.e. "opinions" and "supervisory statements"). (2) Following and confirming the current supervisory practice, these supervisory convergence tools should make explicit reference to an existing legislative act within the scope of Article 1(2) EIOPA Regulation and the latter should clarify that these supervisory convergent tools may solely be addressed to NCAs and that they are non-binding. (3) To ensure legal clarity, NCAs should be required to provide a transparent public response to these supervisory convergence tools (for example by publishing them on their websites).

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

DON'T KNOW / NO OPINION / NOT RELEVANT

1.4.4. Please assess in a scale from 1 to 5 the significance of the new ESAs' task of fostering and monitoring the supervisory independence of national competent authorities ("5" being the highest rate and "1" the lowest rate). Please explain.

	1,2,3,4,5,no opinion
fostering and monitoring supervisory independence	NO OPINION

IRSG's Answer:

The IRSG believes, that rather than considering new powers, existing tools and powers should be fully used and resources adequately allocated. Maybe some training on the local specificities and business models could help and prevent inadequate standardization in approaches.

The subsidiarity principle should also serve as a guide and that independence is required for a control process to work properly.

We find that NSA's should keep their independent role on supervising the insurance industry as there is a number of national aspects (national insurance products laws, taxation, the way private side supplements the public side) to take into account to effectively supervise the market / local industry. But it also is important to ensure that the existing EU legislation effectively being complied with.

1.4.5. What criteria would be the most relevant, in you view, for the ESAs to perform effectively their new task of fostering and monitoring supervisory independence of

national competent authorities? Please rate the relevance of each criteria in a scale from 1 to 5 ("5" being the most relevant criteria rate and "1" less relevant criteria).

	1,2,3,4,5,no opinion
operational independence	NO OPINION
financial independence	NO OPINION
appointment and dismissal of governing body	NO OPINION
accountability and transparency	NO OPINION
adequacy of powers and ability to apply them	NO OPINION
other, please specify	NO OPINION

IRSG's Answer:

NO OPINION

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

IRSG's Answer:

The IRSG is of the opinion that the Lack of enforcement but also national gold-plating and arbitrary implementation present major threats.

Effective convergence should work both ways. Fostering convergence is only useful where suited to the supervised activities. What is paramount is that legislation be fit for purpose and the framework should refrain from forcing common approaches where not appropriate to the business models and risk profiles under supervision and rather, in such situations, identify whether amendments/revisions/complements to the legislation are needed.

More work should be done to ensure the basic supervisory work in national level meets the same level all over Europe. Existing powers should be enough if used efficiently into this.

1.4.7. Do you consider that the ESAs ensure that enough information on their activities and on financial institutions is available? If not, what changes should be made in this area?

NO

IRSG's Answer:

We find that progress needs to be made towards more transparency in the supervision of the NCAs.

1.4.8. Do you consider that the purpose and outcome of inquiries under Article 22.4 is clear? If the answer is no, please indicate what role such inquiries should play.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

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? If your answer is yes, please explain.

YES

IRSG's Answer:

The IRSG believes that any actions to bring so called sup tech into EU supervision should be furthered following a careful step-by-step approach and ensure any new way can be enough well justified in term of increasing policyholder protection.

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:

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We believe that it is important that supervisory practice is consistent across the Union. Gold-plating by some NCAs and potential arbitrary behavior by others undermine fair competition and more importantly can undermine the business models and product offering.

A common supervisory culture and a close cooperation across the Union can be essential. To achieve this high-level objective, EIOPA has developed a toolkit based on reference texts and events (guidelines, recommendations, opinions, handbook, statements, Q&A, reports, training and Events), reviews (thematic reviews, peer reviews, consistency projects) and independent assessments (bilateral engagement, engagements with several NCAs).

The number of tools seems huge and may bring additional complexity and goldplating. EIOPA should aim towards reducing the regulatory complexity and thereby enhancing legal certainty and proportionality in the framework

1.5. BREACH OF UNION LAW AND DISPUTE SETTLEMENT

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? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

The IRSG finds that freedom of services failures have highlighted the need for better communication amongst NSAs and to ensure that the existing regulation is effectively applied across all jurisdictions. Yet, we are not aware of any cases where EIOPA used its tools against breach of Union law at this stage.

1.5.2. Do you think that the use of the breach of Union law procedure by the ESAs is adequate? Please consider both before and after the 2019 ESAs' review and explain your answer.

Before 2019 ESAs' review

DON'T KNOW / NO OPINION / NOT RELEVANT

After 2019 ESAs' review

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

The IRSG finds that the changes to Art 18 (3) in ESA's review brought more clarity, celerity and efficiency than before 2019 to address those aspects concerning orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, or customer and consumer protection in a unitary manner, where coordinated action by competent authorities is necessary.

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? If the answer is yes, what would be those instruments?

DON'T KNOW / NO OPINION / NOT RELEVANT

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? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.5.5. Do you think that the ESAs have always acted, where needed, under Article 17 and Article 19 of the ESAs' Regulations? If the answer is no, please give concrete examples where you consider that the ESAs should have taken relevant action under these Articles.

DON'T KNOW / NO OPINION / NOT RELEVANT

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

IRSG's Answer:

NO OPINION

1.5.7. Why do you think the use of these ESAs' powers has been limited? Please explain how these processes could be improved.

IRSG's Answer:

NO OPINION

1.6. EMERGENCY SITUATIONS AND RESPONSE TO COVID-19 CRISIS

1.6.1. Please rate the impact of the ESAs' response in the context of the COVID-19 crisis from 1 to 5, 1 standing for "less significant impact" and 5 for "very significant impact". Please explain your answer.

	1,2,3,4,5,no opinion
ESAs' response to the Covid-19 crisis	NO OPINION

IRSG's Answer:

We find that EIOPA’s response to the Covid-19 crisis has not been adequate and reveals the tendency to much conservatism and procyclicality. Some of the members of the IRSG believes that there was no need to call for the suspension of dividends since the solvency II regulation already foresees that in case of need if the SCR is breached or when the distributions would lead to non-compliance. Furthermore, the differences of application of EIOPA’s call has created inconsistencies and an un-level playing field within Europe. Additionally, there is no need to cancel dividends for a sound and solvent insurer. Anyway, some others of the IRSG members find that there is an issue here over the effectiveness of the EIOPA’s call to suspend dividend payments in the past. EIOPA could play a more key role in ensuring common supervisory responses to extraordinary situations, but only under the strict mandate and control of co-legislators.

We believe also that there has been no issue of liquidity risk because of the crisis, on the contrary, liquidity was plentiful and insurers are not structurally exposed to liquidity risk like the banking sector. Insurer monitor liquidity with their ALM and investment policies and have ad hoc dedicated internal monitoring. There was no need to put a focus on this risk, all the more when noting that no mass lapse occurred as a result of the crisis, on the contrary lapses have decreased during the crisis.

More impact was not needed as insurance undertakings have been able to weather the crisis. The solvency II framework responded well in the sense that it was able to factor the different dimensions of the shock due to its risk based modular approach. A great deal of the crisis has been operational and the tools, governance and risk management in place in the insurance undertakings have ensured business continuity for salaried forces and business services to the clients.

1.6.2. Please rate in a scale from 1 to 5, 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. Please explain.

	1,2,3,4,5,no opinion
--	----------------------

Market illiquidity and implications for asset managers and insurers	NO OPINION
Impact of large scale downgrades of corporate bonds on markets and entities across the financial system	NO OPINION
System-wide restraints on dividend payments, share buybacks and other pay-outs	NO OPINION
Liquidity risks arising from margin calls	NO OPINION

IRSG's Answer:

NO OPINION

1.6.3. Do you think the coordinating activities carried out by the ESAs have successfully contributed to address the challenges posed by the COVID-19 crisis? If the answer is yes, please explain. If the answer is no, please give examples.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.6.4. Do you think that the ESAs have always acted effectively, where needed, in the context of the COVID-19 crisis? If the answer is no, please give concrete examples where you consider that the ESAs should have taken relevant action.

NO

IRSG's Answer:

We believe that EIOPA should have focused more on promoting coordination and convergence between NSAs rather than making public statements

1.6.5. Do you think Article 18.2 of the ESAs Regulation (declaration of an emergency situation) is fit for its intended purpose? Please explain your answer. If the answer is no please suggest potential changes.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

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?

IRSG's Answer:

NO OPINION

1.7. COORDINATION FUNCTION (ART 31 ESAS' REGULATIONS)

1.7.1. Do you think the coordination role of the ESAs is effective? If you identify areas for improvement, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

1.7.2. Do you see a need for greater coordination between the ESAs and/or with other EU and national authorities as regards developing data requirements, data collection and data sharing? If yes, please explain your answer and indicate what changes you propose.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.7.3. 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. (“5” being the most effective and “1” the least effective tool)

	1,2,3,4,5,no opinion
exchange of information and best practices	NO OPINION
adopt guidelines	NO OPINION
adopt recommendations	NO OPINION

IRSG’s Answer:

The IRSG believes that before the ESAs review, freedom of services failures has demonstrated the weakness of the coordination role of EIOPA. It is too early to assess the effectiveness of the new provisions regarding supervision of cross-border business introduced by the ESAs review.

Some of the members of the IRSG believes that EIOPA should use more efficiently its existing resources to ensure that the differences of the insurance industry is taken into account in the joint work with other ESA's – solutions for the banking sector are often not suited for the insurance sector, as the business models, promises towards customers and prudential systems are very different. Moreover, the same applies on international (IAIS) vs. European level, there is globally a number of issues that do not consider EU and especially not European insurers operation in national level.

On the other hand, other IRSG members believe that EIOPA and the ERSB specifically work on insurance and don’t agree that their approach is not tailored to the insurance industry, which would somehow need to be further evidenced. Proposals put forward should always be assessed on their own merit and relevance to the sector.

Yes, we support any initiative to facilitate and foster the sharing of data among the relevant EU authorities by removing any undue legal and technical obstacles and providing the appropriate tools and legislative framework (e.g. common data spaces)

1.7.4. 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? If the answer is yes, please provide examples where the new provision could be useful. If you identify room for improvement in this new provision, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.7.5. In your view, does the coordination function of the ESAs, ensuring that the competent authorities effectively supervise outsourcing, delegation and risk transfer arrangements in third countries, work in a satisfactory way? Please explain your answer. If your answer is no, please indicate how the coordination function of the ESAs should be adjusted.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.8. TASKS RELATED TO CONSUMER PROTECTION AND FINANCIAL ACTIVITIES.

1.8.1. What are, in your view, the ESAs' main achievements in the consumer and investor protection area?

IRSG's Answer:

No opinion

1.8.2. Please assess the impact of the ESAs' 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. Please rate the ESAs impact on

each item from 1 to 5, 1 standing for "less significant impact" and 5 for "most significant impact". Please explain:

	1,2,3,4,5,no opinion
analysis of consumer trends	NO OPINION
reviewing market conduct	NO OPINION
developing indicators	NO OPINION
contributing to a level playing field	NO OPINION
financial literacy	NO OPINION
follow up to work in this area	NO OPINION

IRSG's Answer:

We find that EIOPA's work to ensure that the implementation of Solvency II has been effective in EU might be the most important single piece of work which ensures consumers (and also investors) are protected. EIOPA has also done good groundwork on digitalization and sustainability which are growingly important themes from consumer protection perspective in future. EIOPA has not well succeed on actions regarding price/product terms types of activities and done too much work just looking the price of the product.

1.8.3. 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? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

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?

NO

IRSG's Answer:

We believe that due respect must be paid to the diversity of products and subsidiarity should take place to account for national situations and practices and citizens choices, expectations, culture and habits.

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

IRSG's Answer:

NO OPINION

1.8.6. 2019 ESAs review. Please rate the new ESAs' task to coordinate mystery shopping activities of competent authorities, if applicable, according to its relevance to promote consumer protection at EU level (1 standing for "less relevant" and 5 for "most relevant"). Please explain your answer and indicate whether you consider enhancing national competencies for conduct supervision may be beneficial for the overall coordination of mystery shopping activities.

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:

IRSG's Answer:

We believe that mystery shopping can be effective way gaining understanding of the market but there is a big risk of misinterpreting the results as may not provide the full picture and can be caveated as such.

1.8.7. 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?

IRSG's Answer:

The IRSG believes that EIOPA is in many times too much looking only at the price and costs of products which, alone, cannot give a good indication about whether and how insurance products are valuable for customers. Prices and costs are essential considerations for consumers choice, and this aspect can't be neglected in the work. However, we find also that having clear insurance coverage explained is also key to product comparability and consumer informed decision.

1.8.8. Are there areas for improvement in the toolkit of the ESAs when it comes to coordinating supervisors in the area of consumer protection? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.9. INTERNATIONAL RELATIONS.

1.9.1. How do you assess the role and competences of each ESA in the field of international relations? Are there additional international fora in which the ESAs should be active? Please specify.

IRSG's Answer:

The IRSG believes that EIOPA should be the European voice of insurance supervisors and notably in international discussions in the field of international insurance, such as within the IAIS. EIOPA plays an important role in working towards global convergence and consistency of supervisory practices and also in promoting the European regulatory and supervisory framework across the world. Indeed, the EU is leading the

way in many pioneering fields such as data protection and sustainable standards and EIOPA should continue emphasizing its expertise also internationally.

1.9.2. 2019 ESAs' review. How do you assess the new ESAs' 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?

IRSG's Answer:

We find that 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 is key as well as its support to European Commission when granting equivalence decisions to third countries.

We believe that EIOPA engaging dialogues through administrative arrangements with third country authorities is a positive contribution to regulatory and supervisory cooperation. It is valuable to enhance mutual understanding, ease trade relations and promote level playing field between insurance markets.

1.9.3. 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 each of the ESAs? If you identify areas for improvement, please specify.

DON'T KNOW / NO OPINION / NOT RELEVANT

1.10. THE ROLE OF THE ESAS AS ENFORCEMENT ACTORS/ENFORCERS.

1.10.1. Under Articles 17 (breach of Union law), 18 (action in emergency situations) and 19 (settlement of disagreements between

NCA's 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. How do you assess the role of each ESA under these articles of the founding Regulations?

IRSG's Answer:

The IRSG finds that EIOPA should remain NCA's supervisor regarding the enforcement of EU rules. EIOPA's role in assessing and detecting breaches of Union Law is central with regards to the formation of the EU single market for insurance.

1.10.2. Do you see room for improvement in the way each ESA could ensure that competent authorities enforce more effectively EU rules towards market participants/financial institutions? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We are of the opinion that EIOPA should work to ensure that the existing legislations are supervised in the same way, that all countries meet a certain same ground level. It should be better justified (e.g. through principle of proportionality) if more profound supervision is required to monitor a certain insurance sector, business or part of the industry.

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? Please substantiate your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We find that provisions of Articles 17-19 of EIOPA Regulation seem well-balanced and adequate. The primary addressee of EIOPA supervision are NSAs not insurance undertakings. NCAs are best placed to tailor suit supervision to national specificities and business models.

EIOPA should be able to clarify better its actions in emergency situations, when some actions take place and when not. For example, the possibility to breach the solvency capital requirement (SCR) for a preset timeframe and better transparency on this would be something which would in the end ensure better consumer protection.

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? Please substantiate your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

1.10.5. 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, sufficiently dissuasive or disproportionate? If not, what role could sectoral legislation and each ESA play in improving the situation? Please substantiate your answer and give examples.

Other, please explain

IRSG's Answer:

NO OPINION

2. GOVERNANCE OF THE ESAS.

2.1. GENERAL GOVERNANCE ISSUES

2.1.1. Does the ESAs' governance allow them to ensure objectivity, independence and efficiency in their work/decision making? Please explain. If you consider that there should be differences in governance between different types of tasks, please indicate.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

The IRSG believes that more transparency and publicly available information would be useful on the actions, workplan and decisions where to focus and where not.

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

IRSG's Answer:

We find that prudential regulation and work there important. Also ground work on evolving themes (digitalization, sustainability, EU development) should be in focus and good steering on that works. Work on pricing, product terms, new sales etc. Might not need that much attention and could be left for national authorities which are in better place to ensure the national aspect are enough well understood and taken into account.

2.1.2. 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? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

2.1.3. 2019 ESAs' review. Do you think the requirements in Articles 3 and 43a of the ESAs' Regulations are sufficient to ensure accountability and transparency? If you identify areas for improvement, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

2.1.4. 2019 ESAs' review. To what extent the recent enhancements in the role of Chairperson improve the decision making process? Please rate each change from 1 to 5, 1 standing for "less significant improvement" and 5 for "most significant improvement". Please explain your answer.

	1,2,3,4,5,no opinion
Request to the Board to establish internal committees for specific tasks	NO OPINION
Set the agenda to be adopted by the Board and table items for decision	NO OPINION
Call a vote at any time	NO OPINION
Propose the composition of independent panels for breach of Union law investigations and dispute settlements.	NO OPINION
Propose the composition of peer review committees for peer reviews	NO OPINION
Propose a decision to launch an inquiry and convene an independent panel for the purposes of Article 22 (4) ESAs Regulation	NO OPINION
Vote in the Board of Supervisors (except on matters that are decided on the basis of qualified majority voting)	NO OPINION

Other, please indicate	NO OPINION
------------------------	------------

IRSG's Answer:

NO OPINION

2.1.5. Should the role of the Chairperson be strengthened in other areas? If so, in which areas (please substantiate).

DON'T KNOW / NO OPINION / NOT RELEVANT

2.2. DECISION-MAKING BODIES AND PREPARATORY BODIES

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? If you identify areas for improvement, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

2.2.2. Do the current voting modalities (e.g. simple majority, qualified majority...) of the BoS ensure efficient decision making? Please explain. If the answer is no please indicate how voting modalities could be streamlined.

YES

IRSG's Answer:

We find that it is an important prerequisite for the credibility of the Authorities that BoS members with potential conflicting interests abstain from decisions. It seems that a flaw has been fixed.

Yet with regards the discussion and while aware of the conflict of interest, the discussions could still be permitted with all. A member with potential conflict of interest could still be a wise adviser.

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? If you identify areas for improvement, please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

2.2.4. 2019 ESAs' review. To what extent the enhanced role of the Management Board has improved the decision making process. Please rate each change from 1 to 5, 1 standing for "less significant improvement" and 5 for "most significant improvement". Please explain your answer.

	1,2,3,4,5,no opinion
The MB can give opinions on all matters to be decided by the Board of Supervisors.	NO OPINION
The MB ensures the consistent use of a methodology for all peer reviews conducted	NO OPINION
The MB proposes a peer review work plan every two years.	NO OPINION
The MB can set up coordination groups on its own initiative	NO OPINION

IRSG's Answer:

NO OPINION

2.2.5. Should the role of the Management Board be strengthened in other areas? If so, in which areas (please substantiate).

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

2.2.6. 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? Please substantiate your answer. If your answer is yes, please indicate if there should be more decisions taken under this procedure and in which areas.

DON'T KNOW / NO OPINION / NOT RELEVANT

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? If your answer is yes, please indicate if there should be more decisions taken under this procedure and in which areas.

DON'T KNOW / NO OPINION / NOT RELEVANT

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? If you identify any shortcomings please specify how these could be addressed.

DON'T KNOW / NO OPINION / NOT RELEVANT

2.2.9. Please assess the impact of the work undertaken by preparatory/supporting bodies of the ESAs (e.g. technical working groups, standing committees, task forces etc.) on the ESAs' overall work and achievements. Please rate the impact from 1 to 5, 1 standing for "less significant impact" and 5 for "most significant impact": If you identify any shortcomings please specify how these could be addressed.

	1,2,3,4,5,no opinion
Standing committees and other permanent committees	NO OPINION
Other preparatory bodies (e.g. technical working groups	NO OPINION

Committee on consumer protection and financial innovation	NO OPINION
Proportionality Committee	NO OPINION

IRSG's Answer:

NO OPINION

2.3. FINANCING AND RESOURCES.

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? Please explain your answer. If the answer is no, please indicate what other sources of finance could be considered.

YES

Please explain your reasoning

IRSG's Answer:

The IRSG finds that the funding of the ESAs was thoroughly analysed and discussed during the review. Questions on funding an authority within the EU are complicated and could relate to the treaty and member states taxation aspects. From a democratic point of view, it is also of certain relevance that the legislator decides the funding of the authority applying the law. The objectivity and independence of the authority is thereby enhanced.

2.3.2. Do you think that the ESAs have sufficient resources to perform their tasks? Please explain.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

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

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

2.4. INVOLVEMENT AND ROLE OF RELEVANT STAKEHOLDERS

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

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We believe that the answer to the question is not “less consultations” but less and more targeted policies to avoid the burden of inadequate consultations and data collections.

EIOPA launches a lot of consultations which is good. Possibly bit more consideration could be invested on the input received and how to best come out with a balanced outcome on the all feedback received.

Consulting the stakeholders is a very important procedure in a good legislative process which we welcome. It should however be noted that the amount of consultation is very high. This is probably due to the fact that the legislative process is developing too fast. Sound legislation needs time to evaluate and should not be amended too often. Every amendment changes the big picture of the legal framework and thereby makes it more difficult for the insurance undertakings to be compliant but also for good supervisory practise to develop. In conclusion many of the consultations would benefit from a slower pace and so would probably the legislative product under development.

2.4.2. Please assess in a scale from 1 to 5 the quality, in your view, of the consultations launched by the ESAs (5 standing for the highest quality). Please explain your answer.

	1,2,3,4,5,no opinion
General consultations launched by the ESAs	NO OPINION
Specific consultations when developing data collection requirements	NO OPINION

IRSG's Answer:

We find that consultations are quite long and summaries exist but sometimes hard to get the actual concerns out of them. Better clarity is needed in order to respond in the questions and covering the aspect that are of the most importance. Also sometimes consultations are balanced around some certain viewpoints which is usually hindering the results, more holistic perspective would be welcomed

2.4.3. Are the ESAs sufficiently transparent and accessible for stakeholders to ensure effective and efficient interaction? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We appreciate the accessibility of EIOPA and the efforts made to provide feedback in an appropriate timeframe. The workshops, hearings and information sessions organised by EIOPA are very valuable, although the feedback is sometimes not enough.

EIOPA should be mindful to communicate swiftly and to provide a regularly updated list of activities and upcoming consultations to allow interested stakeholders to get organised and prepare.

There is a clear direction towards higher transparency and accessibility for stakeholders during the last years. This is very appreciated.

2.4.4. Please rate in a scale from 1 to 5 the impact of stakeholders groups within the ESAs on the overall work and achievements of the ESAs (1 standing for "less significant impact" and 5 for "very significant impact"). Please explain your answer.

	1,2,3,4,5,no opinion
EIOPA Insurance & Reinsurance Stakeholder Group	5
EIOPA Occupational Pensions Stakeholder Group	no opinion
ESMA Securities and Markets Stakeholder Group	no opinion
EBA Banking Stakeholder Group	no opinion

IRSG's Answer:

The IRSG is of the opinion that the letter, signed by all the four stakeholder groups on Dec 2019 (<https://www.eiopa.europa.eu/content/joint-irsgopsgsmgbsg-letter-esas-review>) is still a valid basis for the overall opinion on the ESA regulation in relation to stakeholder groups with its four key messages; (1) Regret the reduction of the number of academics, from at least 5 to exactly 4, (2) Stress the need for a balanced representation of the industry-side and users-side in all four stakeholder groups, (3) Regret the fact that such important changes have been decided upon without prior consultation - even though not legally required - of the stakeholder groups and (4) Regret the lack of a transition period to implement the new Regulation, which should enter into force on January 1st 2020.

EIOPA has recently taken the approach of conducting public consultations on most, if not all, its tools destined to be available to the public. These consultations are part of the IRSG work plan and the IRSG can also decide to provide additional advices or letters on its own initiative.

To ensure that the IRSG advices are duly taken into account, EIOPA should make sure that the advice and the notable diverging views compared to EIOPA's work are systematically presented to the management board and the board of supervisors in the approval process.

IRSG uses a lot of time to discuss matters with EIOPA and there has been many attempts in recent year to enhance this communication. E.g. feedback loops have been established where EIOPA respond to how they have taken into account IRSG's public opinion on some of the consultations in question. Also EIOPA has been quite well transparent on what they are doing. European commission has been also participating into the meetings but will not

do that anymore. EC's active participation would probably ensure an efficient communication between the parties.

2.4.5. 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)? Please rate each change from 1 to 5, 1 standing for "less significant" and 5 for "most significant". Please explain your answer.

	1,2,3,4,5,no opinion
Composition of stakeholders groups	5
Selection of members	4
Term of office	5
A third of its members can issue a separate advice	5

IRSG's Answer:

See answer on 2.4.4.

2.4.6. Does the composition of stakeholders groups ensure a sufficiently balanced representation of stakeholders in the relevant sectors? Please explain your answer.

YES

IRSG's Answer:

See answer to question 2.4.4.

2.4.7. In your experience, are the ESAs' stakeholders groups sufficiently accessible and transparent in their work? If the answer is no, please indicate the areas where the transparency could be improved.

YES

2.5. JOINT BODIES OF THE ESAS

2.5.1. Please assess the aspects described below regarding the Board of Appeal (BoA) of the ESAs. Please rate the effectiveness of each aspect from 1 to 5 (1 least effective, 5 most effective). If you identify areas for improvement, please explain.

	1,2,3,4,5,no opinion
Organisation	NO OPINION
Functioning and time limits	NO OPINION
One joint Board of Appeal for the 3 ESAs	NO OPINION
The composition of the BoA	NO OPINION

IRSG's Answer:

We find that as basically all the opinions made are public and also clear worded summaries are being written each time. Obviously there could be even better communication and feedback loops with EIOPA.

2.5.2. Please assess the aspects described below regarding the Joint Committee of the ESAs. Please rate the effectiveness of each aspect from 1 to 5 (1 least effective, 5 most effective). If you identify areas for improvement, please explain.

	1,2,3,4,5,no opinion
--	----------------------

Functioning	NO OPINION
Working methods	NO OPINION
Ensuring cross-sectoral cooperation	NO OPINION
Ensuring consistent approaches	NO OPINION
Decision making process	NO OPINION
The legal structure (no legal personality)	NO OPINION

IRSG's Answer:

NO OPINION

2.5.3. Please assess the work of the Joint Committee of the ESAs in the areas below. Please rate each area from 1 to 5 (1 least significant contribution, 5 most significant contribution). If you identify areas for improvement, please explain.

	1,2,3,4,5,no opinion
Consumer Protection and Financial Innovation	NO OPINION
Coordination and cooperation for bi-annual Joint Risk Reports, published in spring and autumn	NO OPINION
Financial Conglomerates	NO OPINION
Securitisation	NO OPINION
European Forum of Financial Innovators	NO OPINION

IRSG's Answer:

We believe that the Joint committee has very important tasks to cover. When it comes to financial conglomerates there are inconsistencies in the different frameworks and which needs to be addressed with developed joint assessment and cooperation. At the same time, it is important to understand the differences between banking and insurance and thoroughly evaluate the relevant legislation for each sector. Not the least within the risk and financial stability area there are significant differences between banks and insurance companies. It would be valuable if the relevant stakeholder groups could also give input to questions that are being handled by the Joint committee.

3. DIRECT SUPERVISORY POWERS.

Not answered, only for ESMA.

4. THE ROLE OF THE ESAS AS REGARDS SYSTEMIC RISK.

4.1. Please assess the aspects described below regarding the role of each ESA as regards systemic risk in a scale of 1 to 5 (1 lowest rate, 5 highest rate). If you identify room for improvement, please specify how this could be addressed.

	1,2,3,4,5,no opinion
The quality of the analysis of market developments	NO OPINION
The quality of the stress test and transparency exercises that were initiated and coordinated by the ESAs	NO OPINION
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	NO OPINION
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	NO OPINION
The broader cooperation between the ESRB and the ESAs within the ESFS	NO OPINION
The contribution of the ESAs to facilitating the dialogue between micro- and macro-supervisors	NO OPINION

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

IRSG's Answer:

Some of the IRSG members believe that the recent experience during the COVID-19 crisis has shown a significant problem where ESRB policies are uniquely inspired and guided by

the banking sector business model. EIOPA should educate ESRB to the features and specificities of the insurance business model, risk profile and functioning in the market, ESRB policies should not be copy pasted from the banking sector. For instance, the recommendation of the ESRB of May 2020 to ban dividends for both banks and insurers until January 1st 2021 didn't take into account the specificities of the insurance sector which showed its resilience during the Covid-19 crisis. Again, EIOPA final opinion for the 2020 solvency II review holds proposals ill-suited to the insurance sector notably with regards systemic and liquidity risks pushing towards an additional so called macro-prudential layer to a framework already fully fledged and very prudent.

Some of the other IRSG members finds the need to strengthen the work on systemic risk especially in order to ensure better consumer protection, also during crisis. As an example of this was the approach from some insurers post SARS to systematically attempt to exclude pandemic risks from business interruption policies to ensure legal certainty on the coverage being provided, taking into account that pandemic risk is largely uninsurable in this area by the private sector alone. In some cases, concerns were expressed as to the way these changes were communicated to some small business owners. Therefore, there could be a number of issues arising from COVID-19 also.

The way ESRB is influencing EIOPA's work should be better opened and more transparency needed there. Also it should be ensured that a certain level of education on how the insurance sector works is in place. ESRB can obviously bring a lot of good insight for EIOPA but this should happen so that EIOPA's control of is clear and this brings mainly additional aspects, things to consider, into the discussion. Any formal role of ESRB in relation to EIOPA should be public and its advises towards EIOPA should also be opened at least for EIOPA's key stakeholders.

B. QUESTIONS ON THE SINGLE RULEBOOK

5. THE ESAS WORK TOWARDS ACHIEVING A RULEBOOK

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

DON'T KNOW / NO OPINION / NOT RELEVANT

5.2. Do you assess the procedure for the development of draft technical standards as foreseen in the ESAs Regulations effective and efficient in view of the objective to ensure high quality and timely deliverables? Please explain your answer. If you identify areas for improvement, please indicate.

DON'T KNOW / NO OPINION / NOT RELEVANT

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?

IRSG's Answer:

We find that a blocking minority appears to be a safeguard in the end delivery. It is a last resort tool when a text is not suited to the issues of one sector and should be preserved.

Education and explanations should take place before and maybe some enhancements could be found in the production process earlier through enhanced exchange of arguments and more consultations.

5.4. In particular, are stakeholders sufficiently consulted and any potential impacts sufficiently assessed? Please explain your answer. If you identify areas for improvement, please indicate.

NO

IRSG's Answer:

We believe that EIOPA's consultations work well but more transparency on how the input is being taken into account would be welcomed

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?

IRSG's Answer:

NO OPINION

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?

NO

IRSG's Answer:

The IRSG believes that the mandate of EIOPA (and the other ESAs) for the issuance of guidelines must be clearly defined. Two steps are necessary: a) the definition of the legal acts under which EIOPA can be empowered to issue guidelines and b) the clear description of the mandate and empowerment for the specific guideline in this legal text. The pre-emptive guidelines on product oversight & governance ahead of the IMD review provide evidence that processes and mandates need to be clearly defined. It is important that EIOPA does not become a quasi-regulator.

Soft law acts such as guidelines are a significant part of the complexity of the legal framework. In many cases they are treated as binding rules and thereby creating a higher risk for inconsistencies and legal uncertainty. ESAs should not adopt guidelines outside the scope of the regulations and their mandate since this also could interfere with the competences of other EU bodies or institutions.

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?

DON'T KNOW / NO OPINION / NOT RELEVANT

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 harmonize enforcement of financial (and non-financial) information.

DON'T KNOW / NO OPINION / NOT RELEVANT

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? Please explain your answer.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

NO OPINION

5.9. Do you think that ESMA could have a role with regard to Directive 2006/43/EC (Audit Directive) and Regulation 537/2014/EU (Audit Regulation)?

DON'T KNOW / NO OPINION / NOT RELEVANT

5.10. What is your assessment of the work undertaken by each ESA regarding opinions and technical advice?

IRSG's Answer:

The IRSG is of the opinion that technical advice and opinions provided by the Authority must not form quasi-legislation. One example is the review of the implementing technical standards (ITS) on reporting requirements under Solvency II. EIOPA has proposed substantial changes to the Quantitative Reporting Templates under Solvency II. In

accordance with the Solvency II Directive, EIOPA is empowered to draft these ITS for adoption by the European Commission. Notwithstanding the outcome of the review of the Directive, EIOPA already started the review of the ITS. The review of the ITS as subordinated regulation to the Solvency II Directive should await and not pre-empt the result of the legislative procedure.

6. GENERAL QUESTIONS ON THE SINGLE RULEBOOK

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)?

IRSG's Answer:

We believe that no further areas, usually some kind of principals based minimum harmonization is the best way forward that also takes into account the national differences.

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 identify the relevant sectoral legislation, examples of gold plating and give reasons for each.

Other

IRSG's Answer:

We find that Supervisors may request for additional risks to the standard formula; Supervisors have the power to revoke or restrict the use of the volatility adjustment (VA); Supervisors have the power to set capital add-ons based on stress-tests; Additional Solvency II disclosures; Additional external audit requirements

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

IRSG's Answer:

NO OPINION

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

IRSG's Answer:

NO OPINION

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? Please explain your choice. Where appropriate, please support your response with examples.

DON'T KNOW / NO OPINION / NOT RELEVANT

IRSG's Answer:

We find that a single rulebook might not be the right answer to ensure supervisory convergence, other actions to ensure that a certain basic level of supervisory actions through EU is in place could also be put in place.

6.4. Questions regarding the appropriate level of regulation.

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? Please specify the area (and if possible, specific piece of legislation) and explain why (e.g. in order to have appropriate flexibility to adapt the specifics of the regulation in case of change of circumstances)?

YES

IRSG's Answer:

We believe that the Level 2 might be most useful place to work with as this is detailed and fully harmonized. It is important that level 2 is being complied across EU in similar ways, ensuring the level playing field.

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?

DON'T KNOW / NO OPINION / NOT RELEVANT

6.5. Generally speaking, which level of regulation should be enhanced/tightened in order to ensure uniform application of the single rulebook? (multiple choices allowed). Please explain and substantiate with examples, where possible.

DON'T KNOW / NO OPINION / NOT RELEVANT

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?

IRSG's Answer:

NO OPINION

6.7. Please indicate whether the following factors should be considered when deciding on the need for further harmonisation in rules (attribute 1 to 5 to each factor, 1 being the least important and 5 being the most important):

	1,2,3,4,5,no opinion
Strong interlinkages with areas of law which remain non-harmonised (e.g. CRIM-MAD and national criminal law)	NO OPINION
Broad discretion left to national authorities and frequent use of that discretion by these national authorities	NO OPINION
High level of gold plating by national rules	NO OPINION
High degree to which supervision of the same type of actors and/or activities render divergent outcomes across Member States	NO OPINION
All of the above	NO OPINION
None of the above	NO OPINION

Other aspects, if so which ones: Please provide concrete examples	NO OPINION
---	------------

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?

DON'T KNOW / NO OPINION / NOT RELEVANT

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?

DON'T KNOW / NO OPINION / NOT RELEVANT

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?

DON'T KNOW / NO OPINION / NOT RELEVANT