

December 2017

Review of the European supervisory authorities (ESAs) (micro-prudential supervision)

Impact assessment (SWD(2017) 308, SWD(2017) 309 (summary) accompanying a Commission proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; and Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (COM(2017) 536 final)

Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above [proposal](#), adopted on 20 September 2017 and referred to Parliament's Committee on Economic and Monetary Affairs (ECON).

Against the backdrop of the financial crisis and global efforts to safeguard financial stability, in 2011 the EU established three European Supervisory Authorities (ESAs) for the supervision of individual banking, investment, insurance and pension markets: the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA). These ESAs also contribute to the development and application of a single rulebook for financial regulation in the European Economic Area. In 2015, in view of further integration of the financial sector, the EU launched the Capital Markets Union, stressing the need to strengthen both regulatory and supervisory convergence. The latter was particularly highlighted in the [Five Presidents' 2015 report on completing Europe's economic and monetary union](#) and in a [reflection paper](#) of May 2017. In this context, the Commission's 2017 work programme announced the review of the European System of Financial Supervisors (ESFS), which comprises the ESAs and the European Systemic Risk Board.¹ Accordingly, the review of the current ESA regulations addresses the micro-prudential aspects of the continuing financial integration, together with the extension of ESA responsibilities through a number of recent pieces of sectoral legislation,² also covered in the IA (IA, pp. 8-9, 25). Finally, the prospect of Brexit – which will entail a relocation of the EBA – further increases the need for the EU27 to

¹ Reflection paper on the deepening of the economic and monetary union, COM(2017) 291, European Commission, 31 May 2017.

² These relate both to the EU and to relations between the EU and the rest of the world – see the list of regulations to be amended by this proposal above.

strengthen EU-wide convergence of supervisory practices, in order to protect consumers and investors and to promote financial stability.³

While the ESA regulations are considered to have worked well in general, a first review in 2014 found several shortcomings (IA, p. 9). The IA notes that for specific cross-border activities in particular, the balance between ESA and national supervision is problematic. Also, the considerable divergence between national supervisory practices across the EU makes the current system inconsistent, since the day-to-day supervision of small financial actors remains a national competence, as does the implementation of the cited sectoral regulations involving ESA activities (IA, pp. 20, 142).

Problem definition

Based on an *ex-post* evaluation, conducted in 2017 (IA, pp. 136-176), the IA defines a number of problems at two complementary levels – a general and a more specific one – the latter related to the three problem drivers that are at the core of the IA: the **powers, governance and funding of the ESAs** (IA, pp. 19-20).⁴

At the **general** level, the IA identifies two problems, one current and one future, causing increased regulatory and supervisory arbitrage, reduced financial stability and lower investor and consumer protection (IA, pp. 16-19):

1. **Constraints on the ESAs' ability to fulfil their existing mandates**, due to unclear definition of powers, unbalanced decision-making of the Board of Supervisors (tension between European and national interests) and insufficient funding based on current budget arrangements.
2. **Inadequate scope of existing ESA mandates in view of the developing integration of financial markets** and supervision in the EU, entailing insufficient supervisory enforcement, especially as regards cross-border activities.

At the **specific** level, the IA translates these into three sets of problems and their consequences:

1) Regarding ESA powers (IA, pp. 24-30):

- Unclear definition of ESA powers, leading to a risk of supervisory gaps, for example limited access to information when investigating alleged breaches of EU law.
- Limited ESA powers, leading to unbalanced supervisory competences between the national and EU levels, whereas power allocation to national competent authorities is growing through increased cross-border financial services and recent financial services legislation. National authorities lack capacities, or differ widely in administrative practices, to detect, monitor and assess problems in other Member States. This leads to inefficient and insufficient cross-border supervision, for example of cross-border data reporting service providers or cross-border marketing of investment funds.

2) Regarding ESA governance (IA, pp. 15, 44-51):

- Lack of an EU/common perspective in decision-making, as decisions are taken exclusively by the national competent authorities (on the Board of Supervisors), who appoint the chairperson and maintain all formal powers. According to the IA, the lack of powers (and voting rights) of the Management Board and the chairperson leads to an inability to promote supervisory convergence effectively.

3) Regarding ESA funding (IA, pp. 66-77):

- The current budget is insufficient to meet the tasks and objectives of ESAs.
- The contributions of national competent authorities are unrelated to the size of their local financial sector so that some national authorities are paying for financial sectors in other countries.⁵

³ N. Véron, Charting the next steps for the EU financial supervisory architecture, Bruegel, June 2017.

⁴ Illustrated by one general and three specific problem trees (IA, pp. 30, 49 and 77).

⁵ According to the IA, p. 76, France and Italy currently pay similar contributions to the ESAs as the UK, despite the fact that their financial sector is only about half the size of the UK's.

The twofold structure of the problem definition is rather confusing for the reader and does not contribute to the transparency of the IA. While the general problems refer to current and future perspectives, the specific ones are presented in relation to the three main problem drivers. This approach is maintained and leads to overlapping and frequent repetitions of elements throughout the IA (IA, pp. 24-25, 45-58, 61-64, 80-81). The IA defines the problems for all three ESAs together and does not distinguish between or analyse their respective situations, arguing that they have generally similar structures. Only for ESMA does it detail some differences in tasks and specific governance features (IA, pp. 16, 32-34, 66).⁶ A more specific approach to each ESA might have been useful in this section of the IA, so as to allow for a differentiated analysis of the impacts later on. Furthermore, the IA discusses the groups affected by the initiative only in an annex – ESAs, national competent authorities, market participants and other stakeholders – without specifying the identity of the latter two, referring only to 'financial groups' and 'users of financial services' (IA, pp. 122-123). Stakeholder views are cited as the main source of the IA, but are only mentioned in a selective and largely unspecific way. Finally, the IA does not address or quantify the size of the problems, except mentioning the number of entities indirectly supervised by the ESAs (more than 20 000 for ESMA, 10 000 for EBA and 4 000 for EIOPA) and their lack of resources (IA, pp. 61, 71-76, 134). Nevertheless, the consistent stressing of the need for reform due to enhanced financial regulation in view of the Capital Markets Union, and due to the increased workload of the ESAs since 2011, indicates a high relevance of the initiative for the Commission (IA, pp. 72-74).

Objectives of the legislative proposal

The IA presents the objectives at two levels, again in separate chapters relating to the power, the governance and the funding of the ESAs. The **general** objective of the ESAs is to contribute to the short- medium and long-term stability and effectiveness of the financial system for the EU economy, its citizens and businesses (IA, p. 22). The IA notes 'more specifically' other objectives at this level, inter alia improving the internal market; ensuring the integrity and transparency of financial markets; preventing regulatory arbitrage and promoting equal conditions of competition; ensuring appropriate regulation and supervision of risks in the respective sectors of the ESAs, and enhancing consumer protection. The difference between 'general' and 'specifically' mentioned objectives at this level is not explained. Finally, the general objectives are broken down into four **specific** objectives:

1. Better define powers of the ESAs to ensure greater regulatory and supervisory convergence and more effective supervision (specific objective 1 under 'powers of ESAs').
2. Support the coherence of ESA powers with other EU policies on EU financial integration, such as the Capital Markets Union (specific objective 2 under 'powers of ESAs').
3. Enable swift decisions in the EU interest by providing proper incentives to apply powers and carry out tasks (specific objective under 'governance of ESAs').
4. Ensure sufficient and proportionate annual funding (specific objective 1 and 2 under 'funding of ESAs').

These objectives seem pertinent and derive directly from the identified problems. They are also in line with the single market for financial services, the Capital Markets Union and the Economic and Monetary Union (see 'background' section above). However, the IA does not provide any elements to demonstrate that they fulfil all of the S.M.A.R.T. criteria set out in the Commission's Better Regulation (BR) guidelines,⁷ i.e. that they are not only specific and relevant, which is the case, but also measurable, achievable and time-bound, which is not apparent. This is partly due to the limited evidence base of the analysis, and could be problematic in view of future measuring, monitoring and evaluation of the achievement of the objectives. It is even more relevant because the IA does not provide any **operational** objectives, also contrary to the BR guidelines.

⁶ For example, general problem I concerns all three ESAs in the same way; general problem II mainly concerns ESMA (IA, p. 16).

⁷ SWD (2017) 350 final (Better Regulation Guidelines), 7.7.2017.

Range of options considered

The IA screens a list of policy options to achieve the specific objectives. Firstly, as regards the **powers of the ESAs**, the IA suggests four options (the preferred options of the IA are shaded in grey):

Option 1: No policy action (baseline scenario).

Option 2: Re-define and clarify existing ESA powers and strengthen oversight of national competent authorities.

Option 3: Option 2 + additional supervisory powers for ESMA in targeted areas, mostly cross-border activities.⁸

The IA details six specific products, activities or actors in securities markets for which ESMA should get direct supervision (currently supervised by national competent authorities).⁹

Option 4: Centralise supervision and establish ESAs as single supervisors in the Union.

Secondly, to address the **governance of the ESAs**, the IA proposes a multi-layered set of options:

Option 1: No policy action (baseline scenario).

Option 2: Targeted changes to the current governance of the ESAs:

Sub-option 1: no policy action – no changes to Management Board composition or tasks.

Sub-option 2: replace Management Board with new Executive Board, composed of ESA senior managers who would participate in Board of Supervisors (representation of national competent authorities may be envisaged).

Sub-option 3: replace Management Board by new Executive Board, composed of *independent* full-time board members (representation of national competent authorities may be envisaged).

Sub-option 4: enhance the standing of the chairperson by granting voting powers, tasks and possibly different appointment procedure (this sub-option could be cumulative with either option 2 or 3).¹⁰

Further sub-options (allocation of decision-making powers on certain non-regulatory issues):¹¹

Sub-option 1: no policy action (keep composition and voting structure).

Sub-option 2: add voting rights for independent members of the Board of Supervisors for non-regulatory issues (i.e. other than direct supervision).

Sub-option 3: transfer of decision-making powers on non-regulatory issues from Board of Supervisors to newly established independent Executive Board.

Option 3: Fundamental rebalancing of decision-making powers within the ESAs.

Thirdly, in terms of **funding of the ESAs**, the IA discusses four options:

Option 1: No policy action (baseline scenario).

Option 2: Adjust public funding (keep 40 % of annual funding from EU budget and 60 % from contributions of national competent authorities, but the latter now according to the size of their domestic financial sector).

Option 3: Same as option 2, but replace national public contributions by private sector contributions.

The IA presents two more (sub-)options¹² related to the system/costs for collecting the private contributions:

Sub-option 1: indirect collection (ESAs via the national competent authorities, separate charging for supervisory fees on directly supervised entities).

Sub-option 2: direct collection (ESAs directly from private entities).

⁸ According to the IA, the preferred option could prepare for the creation of a single European capital markets' supervisor (option 4) in the longer term.

⁹ i) Authorisation and supervision of data reporting service providers and enhanced data gathering powers; ii) authorisation and supervision of European long-term investment funds (ELTIF) and registration and supervision of collective investment undertakings or managers under the EUSEF and the EuVECA Regulations; iii) supervision of administrators of critical benchmarks; iv) approval of prospectuses for wholesale non-equity securities, asset-backed securities and specialist issues; v) approval of prospectuses of non-EU entities in accordance with Regulation (EU) 2017/1129; vi) recognition and approval of endorsement of third country benchmarks.

¹⁰ A combination of both options is preferred here.

¹¹ The IA does not provide a preferred sub-option at this level (only sub-option 1 is considered non-effective, IA, p. 64).

¹² The IA presents these separately as further 'options', without clearly explaining their link to the other options (IA, pp. 88-92).

Option 4: Replace public funding fully by private sector funding.

As with the first sections of the IA, the screening of the options could have been clearer and simpler. For example, the IA describes several baseline scenarios, a general baseline and separate baselines for each problem driver, more or less detailed in the context of the problem and the option definitions. An illustration of the linkages between them would have been helpful to better understand the full picture of the current situation. In addition, the line between the baselines and the implications of increasing financial regulation seems blurred in some parts of the text.¹³ Regarding the policy options as such, some appear incomplete or very general, failing to specify, for example, what is meant by 'certain ESA powers', 'new powers' or 'certain non-regulatory issues'. The range of options seems to be slightly imbalanced, the governance aspect being the most complex, with three layers of options (each refining the previous preferred option). Despite this complexity, the IA dedicates the most thorough analysis to the options for the *funding* of the ESAs which seems, in the end, to be the decisive part of the assessment. Some sub-options feature only in a table, leaving it entirely to the reader to deduce their context (IA, pp. 62-64). Some comparisons of (sub-)options also lack transparency and specificity, for instance with regard to details of the possible representation of national authorities on a new Executive Board, its creation or the rights of chairpersons. In the same vein, the selection of preferred options is somewhat inconsistent, including one, two or no preferred options (IA, pp. 61, 65). Finally, the IA does not mention discarded options (except once regarding sub-option 4 on the chairperson's rights). For example, a re-distribution (or merging) of some tasks might seem conceivable, also in connection with the Single Supervisory Mechanism (SSM), but is not explored at any stage of the analysis.¹⁴

Scope of the Impact Assessment

The assessment of potential impacts of the policy options consists of two parts, one looking at each (sub-)option related to the three problem drivers, and another looking at the 'cumulative' impact of the preferred combination of options. The analysis is mostly qualitative, describing 'advantages' and 'disadvantages' of the options, rather than their economic, social and environmental impacts (IA, pp. 32-43, 44-65 and 66-95). Throughout the IA, there is no mention of social, environmental or other potentially relevant impacts, for instance on third countries.¹⁵ Economic impacts are explored in terms of additional costs deriving from increased budgets of the ESAs to address their expanded workload. While some costs are quantified, benefits are not; they are noted in general as enhanced supervisory convergence through the reduction of administrative costs and increased effectiveness (IA, p. 98). The IA clearly lacks substantiation, explicitly citing the stakeholder consultation as its main source, but referring to it in an unspecific and selective manner. Key implications are often reiterated, but not elaborated in depth, for example how a particular ESA action would become more effective, how exactly it would strengthen the supervision of the national competent authorities and their convergence, or what specific impacts Brexit is expected to have on financial integration in the EU and beyond (IA, pp. 33, 50, 96). There seems to be an imbalance in the IA, with the analyses on the funding of the ESAs much longer and more consistent than the ones on their powers and governance, even though the latter have the most complex set of options. The focus of the numerous sub-options in this section on governance suggests, regardless of the assessment, that option 2 will be the preferred one. The section on *financing* is the only one underpinned with consistent data from the Commission, Eurostat and the ESAs, quantifying the cost of the options by, inter alia, estimations of additional human resources, previously underestimated investment costs for IT systems and simulations of potential costs for a new data collection mechanism to tap private sector funding (IA, pp. 71, 86-90, 131-134). Although required by the BR guidelines, the IA does not provide a clear, accessible listing of all preferred (sub-)options – the overview in the introduction to the 'cumulative' impacts

¹³ In the *ex-post* evaluation, the baseline is described as the situation 'before the adoption of the ESA regulations', not the current state of the legislation (IA, pp. 145-146).

¹⁴ The IA notes the creation of the SSM in 2013, establishing the ECB as single supervisor for banking and suggests for the future, but without any further information, reconsidering the allocation of tasks between EBA and ECB (IA, p. 41, note 39).

¹⁵ The BR guidelines require a review of all potentially important impacts, regardless of whether they can be assessed precisely, and an explicit statement if economic, social or environmental impacts are not considered significant.

contains no references to the (sub-)options. Such a listing would have been useful, especially since the analysis of the options is split across separate chapters.

The analysis of the 'cumulative impact of the chosen options' is short and does not fill the gaps of the assessment of the individual policy options (IA, pp. 96-99). It reiterates the need for changes to the current legislation much in the way the introduction and the description of the baseline scenario(s) does, complemented by a 'merely indicative' estimation of the overall costs caused by the 'funding gap' of the ESAs – around €1.4 million one-off costs and €3.25 million recurring costs for each ESA (IA, pp. 97, 134-135). Moreover, for additional supervisory powers given to ESMA, the IA estimates a funding gap of around €3 million one-off costs and €7.4 million recurring costs (IA, pp. 97, 135). However, as for earlier quantifications, the presentation of the estimations and the origin of some data are not clear.¹⁶ The IA does not explain the overall lack of quantification or analytical depth, except through references to time constraints and missing data on some issues. It nevertheless concludes that despite a significant increase in costs for the budget of the ESAs, the net impact of the preferred options on the private sector would be limited, with no impact on consumers and the EU budget (IA, p. 97). The IA considers the preferred option(s) to be coherent with the general trend of the organisation of decentralised EU agencies in the context of cross-border activities (IA, p. 100).

Subsidiarity / proportionality

The IA confirms the need for action at EU level, which led to the creation of the ESAs in 2011 in the first place (IA, p. 21). Article 81(4) of the existing ESA Regulations calls for an evaluation report, and, if appropriate, a legislative proposal to accompany it if any change of the legal framework were necessary to allow the ESAs to fulfil their mandate (IA, p. 21). The IA argues that by changing, but not completely overhauling, the current legislation, it proposes proportionate, targeted solutions to tackle the existing problems (IA, p. 96). Accordingly, some disproportionate (sub-)options were not selected (IA, pp. 55-56, 67). Furthermore, 'proportionality' in the sense of funding of the ESAs according to the size of the financial sector of each Member State, is one of the objectives of the IA (IA, pp. 69, 75-76).

At the time of writing, no reasoned opinion has been received from national parliaments (the subsidiarity deadline is 11 January 2018). The finance committee of the Swedish Parliament found the proposal to be in breach of the subsidiarity principle and submitted a [proposal for a reasoned opinion](#) on 7 December 2017.

Budgetary or public finance implications

According to the IA, the preferred options respect the ceilings of the Multiannual Financial Framework in force for the 40 % EU contributions to ESA (IA, pp. 99-100). It proposes to tap the additional funding needed after the revision, for example for new governance structures, from the private sector. The net impact on market participants and the budgets of the national competent authorities are not quantified or specified in the IA, with the justification that they depend on the respective national funding systems (IA, p. 98). The IA stresses that the preferred option of mixed financing maintains the accountability and audit mechanisms of the current ESA regulations, i.e. authorisation and discharge from the European Parliament and the Council (IA, p. 100).

SME test / Competitiveness

The IA does not explore if, how, or to what extent SMEs would be directly or indirectly affected by the existing problems or by the proposal. In the context of the discussion of the costs of new direct powers and the funding of the ESAs, the IA explains that the lack of analysis is due to missing data and the relevance of different national models applied (IA, p. 97). Notwithstanding, it expects the preferred option to bring about increased effectiveness and efficiency of the ESAs and fairer cross-border competition, benefiting investors and consumers (IA, p. 32, 34).

¹⁶ The table featuring the costs of the options contains a mix of numbers for all three ESAs and/or individual data, as well as one-off and annual costs, for example for translation or additional posts (IA, pp. 134-135).

Simplification and other regulatory implications

The IA refers a number of times to the aim of simpler, more effective and efficient rules, in particular in the context of the ESAs' funding and governance (IA, pp. 79, 81-82, 98). It also underlines the stakeholders' concern for a simple system, but fails to illustrate thoroughly how the preferred options would contribute to this. At the same time, it indicates that additional analysis and 'secondary legislation' would be necessary to determine the details of an efficient and effective financial distribution of the private sector contributions to ESAs (IA, p. 85).

Quality of data, research and analysis

The inception IA for this procedure, dated 22 March 2017, and the submission of the draft IA report to the Commission's Regulatory Scrutiny Board (RSB) on 14 June 2017, suggest a very tight timeframe for this IA process.¹⁷ The IA acknowledges 'significant time constraint', which led to a 'back to back' exercise of the *ex-post* evaluation of the current legislation and the *ex-ante* IA (IA, p. 146) – a challenge that seems not to have benefited the quality of either. Both suffer from a lack of relevant data and diversified expertise, as the IA does not mention any external supporting research/study and cites only a few academic sources. Both refer mainly to the same stakeholder consultation and other non-specified 'informal evidence' (IA, pp. 89-90). Consequently, the IA recognises the limited 'robustness' of the evaluation's findings, which affects the IA as well, despite the mention of a fact-finding exercise conducted in 2015 'to map the variety of funding models' across the EU (IA, pp. 104).¹⁸ As already mentioned, the presentation and the origin of the data that is used (for cost estimations) is not always transparent. As a result, many assumptions cannot be checked and appear to be rather subjective.

Stakeholder consultation

A three-month open public consultation of stakeholders was launched on 21 March 2017 to feed into both the evaluation and the IA (IA, pp. 111-121). It received 227 replies, 161 from private organisations or companies, 59 from public authorities and seven from private individuals. The IA cites the input from stakeholders as its main source, but refers to it inconsistently and in a mostly unspecified way (in terms of 'a majority', 'a few' or 'some of the respondents') which weakens its precision and relevance. Also, the feedback seems limited compared to the approximately 34 000 financial bodies and other stakeholders mentioned in the IA as directly concerned by the proposal (see above) and considering that some of the central questions, for example regarding the current governance of the ESAs and the supervisory architecture, only received answers from half of the respondents or less (IA, pp. 118, 120). In addition, the important aspect of the transfer of powers to ESMA was 'added to the policy discussion' only after the launch of the public consultation, which illustrates how problematic the short timeline of the whole IA process was. Finally, the geographical coverage of the stakeholder feedback may be imbalanced, as 63 % of the replies came from Belgium, Germany, UK, France and Italy alone (IA, p. 111). According to the synopsis report of the consultation, annexed to the IA, a vast majority of respondents supported the ESAs' mandate on supervisory convergence and were aware of their limited resources. The IA states that more direct supervisory powers in certain areas of the Capital Markets Union were supported by 'a vast majority', but not by some public authorities (IA, pp. 112, 117). There was, however, no majority for changes to the 'current toolkit available to the ESAs' (IA, p. 18), meaning that opinions on increasing the ESA's powers were split, especially as regards EIOPA. Therefore, the IA's generally vague references to stakeholder feedback do not seem sufficient to ensure a solid basis, particularly if the IA considers it to be its main source.

Monitoring and evaluation

The IA proposes to maintain the monitoring and evaluation rules of the current ESA regulations, providing for evaluation every three years, based on a list of 26 specific indicators and targets to be monitored annually (IA, pp. 102-103). This system does not, however, appear to have been very effective, since both the *ex-post*

¹⁷ Explanatory memorandum of the proposal, p. 14.

¹⁸ It also notes that 'no analytical models' were used for the evaluation (IA, p. 146).

evaluation and the *ex-ante* IA note a lack of certain data. It seems therefore advisable to check if other indicators could be added to ensure clear and transparent evaluation of the achievement of the objectives in the future.

Commission Regulatory Scrutiny Board (RSB)

Both RSB opinions (the [first negative](#) and the [second positive with reservations](#)) sharply criticised the overall lack of evidence, transparency and quantification of the draft IA report, regarding the problem definitions, the range and content of the policy options and their comparisons.¹⁹ The IA points out where adjustments to the first draft were made to clarify the policy options, better explain the problems and add some quantifications (IA, pp. 105-110). However, major issues were not significantly improved, either in the second draft, or in the final IA. The remaining issues are linked to the limited evidence base, which was not enhanced and thereby affects the depth and precision of the analysis, and to the imbalanced and somewhat scattered structure of the IA, making a convincing comparison of the options challenging.

Coherence between the Commission's legislative proposal and IA

The legislative proposal appears to follow the IA's preferred option(s). Unlike the IA, it does address potential environmental and social implications of financial stability, requiring that the ESAs be obliged to take these into account when carrying out their tasks (article 8 of the proposal; explanatory memorandum, p. 19).

Conclusions

The IA provides useful information on the functioning of the three ESAs in the context of increasing financial regulation in the EU. However, it does not provide a thorough assessment of the economic, social and environmental impacts of the policy options to tackle current problems, but rather a description of their respective advantages and disadvantages, based on internal desk research and quite varied feedback from stakeholders. The analysis lacks evidence-based substantiation and external sources, except for the section on the funding of the ESAs. Furthermore, its structure, split into one general and three specific parts, makes it unnecessarily difficult for the reader to see the whole picture (of the problems, objectives and options, including their assessment). In sum, it appears that the preferred option(s) have been determined to a large extent independently from the IA, which does not support them in a transparent and solidly evidence-based manner.

This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on Economic and Monetary Affairs, analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.

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¹⁹ '...between the first and the second submission..., the text of the evaluation has been tweaked in places in order to fit with...the choice of the preferred option. This confirms the board's initial view that this evaluation relies heavily on subjective desk work...' (second opinion, p. 2). The explanatory memorandum of the proposal, p. 16, notes that it relies 'heavily on anecdotal evidence'.