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Review of the European System for Financial Supervision

A joint statement by the Dutch Banking Association (NVB), the Dutch Association of Insurers and the Federation of Dutch Pension Funds

On September 20th, 2017, the European Commission has published a package of regulatory proposals to review the European System for Financial Supervision (ESFS) and its authorities (hereafter ESAs). The three Dutch organizations representing Dutch banks (NVB), insurers (Verbond van Verzekeraars) and pension funds (Pensioenfederatie) would like to share this joint statement on the proposals.

1. Supervision should serve the 'common good'

The purpose of the European supervisory authorities is first and foremost to safeguard financial stability, effectiveness and efficiency of financial markets. In this respect, ESAs should serve the purpose of the 'Common Good' for all European citizens. This overarching principle should be observed by the ESAs throughout all their operations and activities. Supervisory convergence should serve the stability of the financial markets or consumer/beneficiary protection.

2. Governance should be based on proper checks and balances

We see some room for improvement of the proposals with respect to the governance of the ESAs.

Governance of the ESAs and the ESRB needs to be sound, solid and transparent. Good governance includes a clear division of tasks, transparent funding, costs/benefit analyses and good planning of supervisory activities. This is crucial in order to avoid overlapping with national supervision and not to create unnecessary administrative burden. It ensures legal certainty for the supervised undertakings. We suggest to include in the proposal clear rules on the accountability of the ESAs. In addition we call for a requirement on proper and regular scrutiny done by the European Parliament, the Commission and the Council; more than is currently the case.

Good checks and balances are needed for an efficient and effective fulfillment of the ESAs' tasks. Solid governance will contribute to their credibility and public trust in these authorities.

It is of utmost importance to make sure that the specificities of all sectors will be taken into account. This is certainly true for the governance of the Boards of Supervisors of the three supervisory authorities as well as the European Systemic Risk Board. We would like to stress the added value of national supervisors to have seat in the Executive Boards.

We support the Dutch government's position in its consideration that only in case the ESAs are provided with new competences, the governance has to be adjusted according to the principle form follows function.

Reducing and streamlining reporting requirements by the ESAs should be high on the priority list. Simplification should be achieved where possible and an overarching assessment of reporting burden should be made. Data, including those for statistical purposes, should as a starting point only be collected by NCAs.

3. More transparency in financing and operations

We call for transparency with regard to the financing and operations of the ESAs.

Financing

The EC proposes that the industry partly will fund the ESAs as 'this in line with the existing EU practice'. The EC states that the change in funding would not impact consumers/beneficiaries. This reasoning is flawed as the amounts to be paid by the industry would of course need to be paid by the industry's members / customers (indirectly). Moreover, it is imperative that the budget of the ESAs is capped so it cannot be endlessly increased. The overall size of the supervisory cost must remain reasonable, so we advocate for a cap on the ESAs budget (comply or explain principle).

Under the SSM, the budget of the ECB has increased from EUR 296 mln (2015), EUR 404 mln (2016) to EUR 425 mln in 2017 while the supervisory fees paid at a national level have not decreased. The reason for the significant increase in fees is not very clear as both the ECB and the national authorities do not provide much transparency on how the fees are spent and the ECA is kept at bay when auditing these authorities. In addition to a cap, we find it reasonable that in case the financial sector has to pay for the ESAs, it is provided with a role in setting the budget of the ESAs as well as the inclusion of a requirement, that ensures that the costs at the European level can only increase if the costs at national level decrease accordingly.

Institutions with a task for respecting the public good also need financing from public funds. In our view financing of the ESAs by the sector could lead to an unnecessary increase in supervisory cost for the (indirectly) supervised. The risk is that there will be an increase in European supervision whereas the role of national supervisory authorities and consequently their costs remain the same. It could lead to duplicate supervision and confuse markets and consumers/ beneficiaries more than it would contribute to financial stability or efficient and effective financial markets.

Operations

Our experience with the role of the ESAs is that beyond their role in safeguarding financial stability, ESAs produce requested (by the European Commission) and own initiative advice and opinion on technical matters. We think that own initiative reports need to have a specific legal basis and contribute to research on financial stability and more efficient financial markets. In this respect we call for proper cost-benefit analysis for own initiative reports and a long enough consultation period in order for the stakeholders to have enough time for informed responses to these consultations.

We are pleased that via the stakeholder groups there is a continuous dialogue with the supervisory authorities. At the same time we would like to stress that a good representation of the different parts of the industry in the different stakeholder groups is of utmost importance in order to take sufficiently into account the diversity and different supervisory practices and sectors.