

European Banking Authority (EBA): adjustment of procedural modalities

2012/0244(COD) - 03/12/2012 - Committee report tabled for plenary, 1st reading/single reading

The committee on Economic and Monetary Affairs adopted the report by Sven GIEGOLD (Greens/EFA, DE) on the 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) as regards its interaction with the [Council Regulation](#) conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

The committee recommended that the European Parliament's position at first reading under the ordinary legislative procedure should be to amend the Commission proposal as follows:

Towards the creation of a European banking union: the report clarifies that the introduction of a single supervisory mechanism (SSM) is the first step towards the creation of a European banking union, underpinned by a true single rulebook for financial services and comprising also harmonisation of the various national deposit insurance systems and a common European resolution framework.

Democratic control: Members consider it vital that the banking union should contain democratic accountability mechanisms. The banking union should be underpinned by proper checks and balances and accountability mechanisms between political institutions at EU and national level and those bodies exercising supervisory responsibilities at both EU and national level.

Member States not belonging to the euro area: the implementation of the banking union should at all its different stages ensure that due consideration be given to the potential mutual spill-over effects of the banking union in the euro area for non-euro area members. To this aim, appropriate preventive measures should be put in place to avoid possible disruption of the internal market. In particular, the ECB should be required to ensure that it performs its supervisory tasks in a manner that is non-discriminatory and is consistent with the proper functioning of the internal market.

Role and tasks of the European Banking Authority (EBA): the conferral of supervisory tasks to the ECB in the banking sector for part of the Member States of the Union should not in any way hamper the functioning of the internal market in the field of financial services. Members therefore stress the EBA should maintain its role and retain all its existing powers and tasks: it should continue developing and ensuring the implementation of the single rulebook applicable to all Member States and enhance convergence of supervisory practices across the whole Union.

With a view to improving the operation of the single market, in particular in ensuring efficient regulation and supervision in the union, the EBA should:

- protect public values such as the stability of the financial system, the transparency of markets and financial products, and the protection of depositors and investors;
- prevent regulatory arbitrage and guarantee a level playing field, and strengthen international supervisory coordination, for the benefit of the EU economy, including financial institutions and consumers;
- respect the differences in supervisory culture adopted by competent authorities. In this regard no Member States or group of Member States should be discriminated against, directly or indirectly, as a venue for financial services, whether by reference to their currency or otherwise;
- promote supervisory convergence and providing advice to the Union institutions in the areas of banking, payments, e-money regulation and supervision, and related corporate governance, auditing and financial reporting issues.

Given the establishment of the single supervisory mechanism with a leading role of the ECB, the EBA needs to be equipped with adequate instruments, which will enable it to efficiently perform its entrusted tasks concerning the integrity of the single market in the area of financial services.

European supervisory handbook: in order to prevent the risk that the establishment of a supervisory mechanism which covers only some of the Member States could lead to a fragmentation of supervisory practices within the internal market, it is fundamental that the single rulebook is accompanied by a European supervisory handbook, drawn up by EBA in consultation with national supervisory authorities.

This handbook:

- should identify the practices of the highest quality across the Union as regards supervisory methodologies and processes so that core Basel and Union principles are not undermined;
- should not restrict judgement led supervision and should also include, where appropriate and within the remit of EBA, the areas of consumer protection and efforts against money laundering;
- should set out metrics and methodologies for risk assessment, identification of early warnings and criteria for supervisory action;
- should apply the handbook strictly and should not treat it as a tick-box exercise.

Stress tests: Members insist on the need to ensure that credit institutions fully comply with the information requests of the European Supervisory Authorities with regard to stress testing and other tasks conferred upon it by this Regulation. It is therefore necessary to strengthen the provisions relating to such requests, streamline the processes associated with them and, in the case of obstruction or other non-compliance, it is appropriate that Member States concerned afford such assistance to EBA as is necessary for it to obtain the information requested, including access to business premises of credit institutions or other legal persons holding relevant information, such as those to whom a credit institution may have outsourced functions.

Governance and voting: as the single market and the cohesion of the EU must be secured, Members consider that concerns such as governance and voting arrangements in the EBA should be considered carefully and equal treatment of Member States participating in the SSM and other Member States must be guaranteed.

Guidelines and recommendations: in areas not covered by regulatory or implementing technical standards, the Authority should have the

power to issue guidelines and recommendations on the application of Union law. In order to ensure transparency and to strengthen compliance by the ECB's Supervisory Board and European Union national competent authorities with those guidelines and recommendations, it should be possible for the Authority to publish the reasons provided by supervisory authorities for not complying with those guidelines and recommendations.

Breaches of Union law and settlement of disagreements: decisions in these fields should be examined by an independent panel composed of voting members of the Board of Supervisors which do not have any conflicts of interest and appropriately qualified experts, appointed by the Board of Supervisors.

Members stress the importance of maintaining the necessary incentives for closer integration of Member States within a single Union-wide supervisory mechanism, where disagreements occur between home and host competent authorities, a balance should be maintained in the decision-making process to ensure that the ability of host Member States to apply stricter prudential standards is not undermined in particular where the entity in the host Member State is of systemic importance or size.

Management Board: the composition of the Management Board should be balanced and proper representation of Member States participating in the SSM, Member States that have entered into close cooperation and Member States not participating in the SSM should be ensured.

The Management Board shall be composed of the Chairperson and six other members appointed by the European Parliament following a hearing of the candidates designated by the Council from among persons of recognised standing and professional experience in financial matters. The list of candidates shall be gender-balanced and sufficiently diverse with regards to expertise and geographical balance. The head of the Management Board should be different from the respective heads of the European System of Financial Supervision (ESFS).

Conflict between Euro-area monetary policy and Union-wide supervisory policy: where there is a conflict between Euro-area monetary policy and Union-wide supervisory policy, the requirements of Euro-area monetary policy are not imposed on non-Euro area countries where it would be damaging to their monetary policy. Any analysis of such conflict may not be made solely by the ECB, but must be referred inter alia to the ESRB. The monetary policy of the ECB must be conducted independently.