

aba Analyse
zum ECON-Bericht zur Überarbeitung der EU Finanzaufsichtsstruktur (ESFS)

[A7-0133/2014](#)

Berichterstatter: Sven Giegold

Verfahrensstand: Der federführende EP-Ausschuss hat über den Berichtsentwurf von Sven Giegold und den zahlreichen Änderungsanträgen am 12. Feb. 2014 abgestimmt. Der Bericht wurde mit 33 Stimmen angenommen, es gab vier Gegenstimmen und keine Enthaltungen. Die Abstimmung im EP-Plenum wird für den 13. März 2014 erwartet. Hintergrund des EP-Initiativberichts ist die anstehende Überarbeitung der EU Finanzaufsichtsstruktur. Zwischen dem 26. April und dem 31. Juli 2013 hatte die EU Kommission dazu eine [Konsultation](#) (Review of the European System of Financial Supervision – ESFS) durchgeführt. Weitere Infos dazu finden Sie auf der aba-Europawebsite: <http://www.aba-online.de/22-eu-finanzaufsichtssystem.html>

Gesamtbewertung aus aba-Sicht: Die gesamte Diskussion wird geführt, ohne die Besonderheiten von EbAV zu sehen oder gar zu berücksichtigen. Die Forderungen nach einer Stärkung des Verbraucherschutzes (auch über Besetzung von OPSG), mehr Unabhängigkeit und Ressourcen für EIOPA, direkten Zugriff auf die EbAV lassen nachhaltige Konsequenzen für die EbAV (v.a. stärkere EU-Harmonisierung, Fokus Verbraucherschutz, „konsistente“ Regulierung aller „Finanzinstitute“ (inkl. EbAV), nachrangige Rolle des nationalen Gesetzgebers/BaFin) befürchten.

Im Einzelnen:

I. Interessengruppen (dazu zählt unter anderem die Occupational Pensions Stakeholder Group)

Ai. whereas the benefit of stakeholder groups contributions to the work of the ESAs seems to have been limited;

*Aj. whereas increased **transparency is of utmost importance** for the Stakeholder groups for creating well considered and workable rules for the financial markets and cooperation with market participants would work much better if those groups were more transparent regarding the composition of the group and the detailed duties assigned to the group.*

“revising the system of the stakeholder groups including their structure, their composition and resources and rebalancing the composition of the stakeholder groups to ensure that input from consumers and non-industry stakeholders will be taken into account;” (S. 16)

➤ Umstrukturierung der Zusammensetzung wäre im Sinne der aba, allerdings nicht mit einem Fokus auf Verbrauchervertreter: in der bAV gibt es keine Verbraucher, daher brauchen ihre Vertreter auch nicht in der OPSG zu sitzen. Die aba fordert hier die Einbeziehung der Arbeitgeber, ohne die es gar keine bAV geben würde (siehe auch aba Website: [EIOPA-Verordnung und Besetzung der OPSG](#)).

II. Mehr Unabhängigkeit und mehr Ressourcen für ESAs (Europäische Aufsichtsbehörden)

Regulatory technical standards and implementing technical standards:

- “J. whereas in respect of regulatory technical standards (RTS) or implementing technical standards (ITS) the Commission has the responsibility to adopt with or without amendment the draft RTS or ITS proposed by an ESA, but should provide detailed reasons for departing from the draft RTS or ITS ...*
- L. whereas Regulatory Technical Standards are adopted as delegated acts and guarantee the involvement of the ESAs in those areas for which they have greater technical expertise for drafting lower levels of legislation.;*
- L. whereas paragraph 2 of the Common Understanding between Parliament, the Council and the Commission on delegated acts states that the three institutions shall cooperate throughout the procedure leading to the adoption of delegated acts with a view to a smooth exercise of delegated powers and an effective control of this power by Parliament and the Council;”*

Independence:

- “Af. whereas transparency and independence are an important ingredient of good governance and it is important to increase the transparency of the work of the ESAs and their independence;”*
- “enhancing and safeguarding the independence of the ESAs from the European Commission by establishing formal procedures and disclosure obligations on communications, legal opinions and formal or informal oral advice provided by the Commission;” (S. 15)*

- aba Position: Bestimmte Entscheidungen dürfen dem demokratischen Prozess nicht entzogen werden – EIOPA sollte keinen Blankoscheck bekommen, sondern Rat und EP sollten bei wichtigen Entscheidungen mit einbezogen werden.

More resources needed / Financing:

- “Bb. whereas the ESAs do have the mandate to monitor the implementation of European law in the member states but lack the resources to assess the actual enforcement;”*
- “Bj. whereas compulsory contributions of Member States conflict with the independence of the ESAs;*
- Bk. whereas the ESAs stated having difficulties in employing staff members of a certain seniority and are limited in fulfilling their mandate by a lack of resources, staff and available resources do not reflect the tasks required to be carried out;*
- Bl. whereas the current financing of ESAs, with a mixed-financing arrangement, is inflexible, creates administrative burdens, and poses a threat to the agencies' independence;”*
- “whether further fees from financial industry could be an additional source of revenue for the ESAs for example when accepting of CCPs from third countries;” (S. 20)*

- aba Position: Die Finanzierung des Versicherungs- sowie des EbAV-Bereichs innerhalb von EIOPA sollte verursachungsgerecht sein. Die Finanzierung von Solvency II sollte ausschließlich durch die Versiche-

rungsunternehmen und aus dem EU-Haushalt erfolgen. Generell sehen wir weniger Aufgaben für Aufsichtsbehörden bei EbAV, bei denen die Sozialpartner eine bedeutende Rolle spielen und die Begünstigten in die EbAV-Entscheidungsprozesse einbezogen werden.

III. Informationsrechte der ESAs

“Ay. *whereas recently agreed legislation has enhanced the powers of the ESAs to investigate alleged breaches or non-application of Union law obliging competent authorities to provide the relevant ESA with all information which is considered necessary, including how the legislation is applied in accordance with Union law;*

Az. *whereas in course of the establishment of the SSM some progress was made in giving the European Banking Authority (EBA) necessary powers to collect directly information but such capacity needs to be given to the other Authorities;*“

IV. Aufgaben und Ziele der ESA (v.a. Verbraucherschutz)

„F. *whereas the ESAs should prevent fragmentation of financial markets in the European Union;*

G. *whereas the ESAs are tasked inter alia with convergence and assisting in raising the quality of day to day supervision, there is a need to develop performance indicators that focus on the regulatory outcomes achieved in day to day supervision;* “

“Ad. *whereas legislation relating to financial markets, financial services and financial products is highly fragmented and the multitude of legal texts causes loopholes, duplication of reporting obligations, institutional divergence and regulatory overlap and can cause unintended consequences and negative impacts on the real economy;*

Ae. *whereas the United States of America created a federal Consumer Financial Protection Bureau with a strong mandate*“

“Bs. *whereas in the field of consumer protection, the efforts, deployed resources and results of the ESAs differed and were considerably low at EBA;*

Bt. *whereas a weak corporate governance and system of disclosure were significant contributing factors to the current crisis; ...*

Bv. *whereas misselling, insufficient competition and rent seeking behaviour may harm consumers,*“

“ensuring that the consumer protection work of the ESAs is not hampered by differences between the legal bases of the ESAs, in their respective founding regulations and in the mandates assigned to them in the sectorial legislation;“ (S. 17)

“introducing direct supervision, including stress tests, by the ESAs of highly integrated pan European entities or activities, such as central counterparties (CCPs) or large cross border insurance undertakings, giving ESMA and EIOPA the power, the mandate and the resources to perform these activities and to monitor the consistency of the relevant recovery and resolution planning;...“

strengthening the legal basis for the ESAs work on consumer protection, by bringing legislation containing consumer protection measures into the ESAs' scope of action; extending the definition of financial institutions to ensure that the same activities are subject to the same regulation and updating references to competent

authorities for the purposes of ESAs regulations;”(S. 18)

“whether merging responsibilities of the ESAs i.e. for consumer protection in standing committees under the responsibility of the Joint Committee could enhance efficiency and minimise duplication of tasks;”(S. 20)

V. Ungleichgewichte innerhalb der ESAs (v.a. wachsender Einfluss Bankenaufsicht) und angestrebter Zusammenschluss

„I. whereas, although the regulations establishing the ESAs are almost identical, their scope has evolved very differently;“

“Ac. whereas major parts of the sectoral legislation conferring specific competences to the three ESAs did not yet enter into force, thereby making it impossible for the three ESAs to fulfil their tasks equally;“

“enhancing the balance in the supervision of the three sectors by fostering the role of ESMA and EIOPA in the ESFS in order to avoid that banking-oriented regulation will be adapted and applied to other sectors inappropriately while maintaining a level playfield; ...

enhancing the responsibility of EBA to develop and update the supervisory handbook on the supervision of financial institutions and giving ESMA and EIOPA similar responsibilities in order to improve consistent supervision and a common supervisory culture in Europe;“ (S. 17)

VI. Regulierung von Marktteilnehmern

„ensuring a level playing field between all financial institutions within the EU and requiring the ESAs to respect the principle of proportionality especially with regard to small and medium-sized market participants when carrying out their tasks and developing their supervisory methods, practices and handbooks;“ (S. 17)

“whether EBA and EIOPA should receive further resources to monitor and promote supervisory convergence with regard to internal models for capital requirements;“ (S. 20)

VII. Other points

“U. whereas the systemic risk posed by very low interest rates kept for an excessively long period has never been mentioned by a statement issued by the ESRB;“

SD/VM, 28. Feb. 2014