JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

April 2018

JC 2017 10

Joint Committee Annual Report 2017

In 2017, the Joint Committee continued to be a central point for coordination and exchange of information between the European Supervisory Authorities and with the European Commission and the European Systemic Risk Board. Progress in the field of Anti-Money Laundering and Counter-Terrorist Financing was in the spotlight of the Joint Committee work under the EBA Chairmanship.

Joint Committee – Forum for exchange on cross-sectoral risks

The three ESAs continued their efforts to identify potential risks to financial stability across the three sectors, with a view to support consistent approaches and clear convergent guidance to supervisors and market participants. Beyond being a cross-sectoral forum for exchange among its participants, the Joint Committee started to look at the potential risks triggered by Brexit. Here, a focus is on possible implications on the provision of financial services, the continuity of contracts, and on ensuring consistent EU approaches to oversight of cross-border banking groups, including possible relocations. The two Joint Committee Risk Reports, published in spring (JC 2017 09) and autumn (JC 2017 46), convey the ESAs' preliminary analysis on this issue.

Beyond that, both Joint Committee Risk Reports discuss the persistent low profitability of banks and insurers in a low growth and yield environment, valuation risks with risks of a reversal of risk premia, as well as interconnectedness, in particular via asset price contagion and direct financial exposure. The reports moreover address challenges arising from rapid developments in information technology, including Fintech, and its impact across the three sectors.

Progress in the ESAs' mandate in the fight against money laundering and terrorist financing

The fight against money laundering and terrorist financing has been a key priority for the Joint Committee over the last year, as the ESAs sought to create a common understanding, by AML/CFT competent authorities and credit and financial institutions, of the risk-based approach to AML/CFT, and how it should be applied.

To this end, the ESAs published guidance on ML/TF Risk Factors, which provide institutions with the tools they need to make informed, risk-based decisions on the effective management of ML/TF risk and help competent authorities assess whether institutions' ML/TF risk assessment and management systems and controls are adequate. Together with the Risk-based AML/CFT Supervision Guidelines (published in 2016) and a Joint Opinion on the ML/TF risk affecting the internal market that was published in February, the Risk Factors Guidelines provide a framework for the consistent application of EU AML/CFT legislation, and transform the way European supervisors and firms discharge their AML/CFT functions. Consequently, the Commission, in its 2017 supranational risk assessment, recognises the ESAs' pivotal role in raising the EU's capacity to meet AML/CFT challenges across the financial sector.

The ESAs complemented its work on the fundamental aspects of the risk-based approach with training for AML/CFT supervisors, and guidance and standards on specific aspects of Europe's AML/CFT regime, including guidelines on managing ML/TF risk in transfers of funds that set out what payment service providers should do to identify and manage fund transfers with incomplete information on the payer or the payee; draft Regulatory Technical Standards (RTS) on Central Contact Points to facilitate the AML/CFT supervision of, and AML/CFT compliance by, payment service providers and e- money institutions that are established in different Member States; draft RTS on the management of ML/TF risk in situations where a third country's law prevents the application of robust group-wide AML/CFT policies and procedures; and a joint opinion on the use of innovative solutions for CDD compliance purposes. This Opinion sets out the factors competent authorities should consider when assessing, on a case-by-case basis, whether the use of innovative solutions for CDD purposes is appropriate, with a view to promoting the responsible use of innovation in the AML/CFT context in line with the ESAs' wider work on financial innovation.

Looking after consumer across financial services, also in the innovative space

Consumer protection and financial innovation continue to figure prominently on the Joint Committee's agenda. The Joint Committee continued its work on the PRIIPs Regulation, with the three ESAs putting forward Technical Advice on PRIIPs with environmental and social objectives (JC 2017 43), concluding that specific and standalone obligations for PRIIPs targeting these objectives would not be proportionate. Moreover, the Joint Committee published three sets of Q&As on PRIIPs (JC 2017 49) which inform stakeholders on the application of rules and promote common supervisory approaches and practices in the implementation and supervision of the KID.

In the field of financial innovation, the Joint Committee continued its work on Big Data in analysing the potential benefits and risks for consumers and financial institutions linked to the use of big data analytics and processes. The final Report will encourage the adoption of good practices by financial institutions, and an accompanying consumer information sheet will inform consumers about the use of big data.

Work initiated in 2016 on cross-border supervision of financial services continued, with a view to preparing a general mapping of the rules for the different financial firms operating in three sectors and analysing any issues experienced by supervisors.

The Joint ESAs Consumer Protection Day 2017, which took place in Prague, Czech Republic, facilitated the ESAs to engage with key – and new – stakeholders, especially representatives of consumers, on important issues faced by consumers and investors across the EU.

Financial Conglomerates

In December 2017, the Joint Committee published its annual list of Financial Conglomerates showing the location of 80 financial conglomerates with, in particular, the head of group located in the EU/EEA area. In addition to that, the Joint Committee started to work on reporting templates in this field and will continue doing so in 2018.

ESAs' advancement in the Single Rulebook and ensuring a level playing field

Since the adoption of two Implementing Regulations on credit assessments by External Credit Assessment Institutions (ECAIs) based on the draft Implementing Technical Standards (ITS) submitted by the Joint Committee, five additional ECAIs have been recognised and one ECAI has been deregistered. The Joint Committee has updated the Implementing Regulations to reflect these changes.

In addition, the ESAs submitted draft amendments to the RTS on risk mitigation techniques for OTC derivatives not cleared by a central counterparty under EMIR to align the treatment of variation margin for physically-settled FX forwards with the supervisory guidance applicable in other key jurisdictions after being made aware of certain challenges. The amendments reiterate the commitment to apply the international standards, and require the exchange of variation margin for physically-settled FX forwards in a risk based and proportionate manner.

Board of Appeal

The ESAs continued to provide operational and secretarial support to the Board of Appeal. In 2017, there was one appeal case brought by FinancialCraft Analytics Sp. Z o.o. against a registration decision by ESMA. The Board of Appeal unanimously dismissed the appeal in July 2017, thereby confirming ESMA's decision of 8 December 2016 refusing FinancialCraft Analytics Sp. z o.o.'s registration as a credit rating agency.