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FSMA

AUTORITEIT
VOOR FINANCIËLE
DIENSTEN
EN MARKTEN

AUTORITÉ
DES SERVICES
ET MARCHÉS
FINANCIERS



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Table of contents

1. CMU 2.0
2. Cross-border supervision challenges
3. Supervisory convergence

1. CMU 2.0 (1/3)

- **Need for further development of the EU CMU in order to broaden access to finance for companies and increase investment opportunities**
 - **2018:** European companies continue to over-rely on bank lending, with 88% of their new funding in 2018 coming from banks and only 12% from capital markets
 - **Long-term impact of Brexit increases the need for a more independent EU financing capacity**
- **The EC High-Level Forum on CMU will focus on building an ecosystem for capital raising, with special focus on**
 - SMEs, including a private-public fund specialising in Initial Public Offerings of SMEs
 - **a European capital market architecture, including how new financial technologies can support this process.** E.g. reduce structural barriers among legal systems (e.g. certain insolvency procedures) and taxation procedures, how to make market infrastructure more efficient and integrated (consolidated tape?)

1. CMU 2.0 (2/3)

- **A renewed focus is needed on the demand side so that citizens can reap the benefits of the CMU, via increased retail investor participation and the diversification of the investor base, including on a cross-border basis.**
- **Key issues include**
 - Strengthening investor trust, including in cross-border investment opportunities
 - Enhancing financial literacy: can the ESAs play a coordinating role? Absent financial education, consumers and SMEs will make unwise financial decisions without a proper understanding of the risks involved or miss optimal investment or funding opportunities, especially cross-border ones
 - Supporting more suitable retail investment products, which are cost-efficient and easy to compare and understand
 - Adequate investor protection standards across all investment products
 - More efficient distribution of products, for example by digitalisation.

1. CMU 2.0 (3/3)

- **A holistic approach to the CMU by combining it with**
 - a new EU FinTech Plan
 - a strong Sustainable Finance Agenda
- **Drivers for the CMU are different from the Banking Union:**
 - in terms of supervisory architecture, the aim is ensure the appropriate level of supervision at the right level, avoiding inefficient centralization
 - supervisory model should recognize the differences between retail markets (consisting of less integrated national ecosystems) and more unified professional markets
 - enhance consistent application of the single rulebook

2. Cross-border supervision challenges (1/3)

- **A more integrated regulatory framework together with innovative online services and the digitalisation of traditional financial services have driven progress towards a more integrated market for financial services. This evolution has made it easier for financial institutions to provide services across borders and has given European consumers more choice and better access to financial services across the EU**
- **The increased cross-border provision of financial services to consumers has resulted in**
 - the need to enhance the home-host cooperation among national CAs
 - the need to strengthen supervisory convergence

2. Cross-border supervision challenges (2/3)

- **Challenges:**

- The distribution of responsibilities between home and host NCAs is not always clear
- With regard to supervision and enforcement issues, the most important challenges relate to the risk that home NCAs prioritise financial institutions that represent a higher risk in their own territories, with less attention paid to the activities of those institutions carried out in other Member States.

- **Possible remedies considered by the European Supervisory Authorities (2019 Joint Committee Report on cross-border supervision of retail financial services) include:**

- consider reinforcing the harmonisation of Level 1 provisions governing the marketing and sale of services and products, and clearly set out and allocate responsibilities between the home and host NCAs with regard to the enforcement of consumer protection and conduct of business provisions;
- to provide more clarity on when activities carried out through digital means fall under passporting, due to the lack of definition of cross-border provision of financial services and in the light of the continuous growth in the digitalisation of financial services;

2. Cross-border supervision challenges (3/3)

- address the topic of 'jurisdiction shopping', e.g. follow the path laid out in MiFID2, the Mortgage Credit Directive (MCD) and PSD2, which aims to prevent financial institutions opting to comply with the legal system of one Member State in order to avoid stricter standards in another Member State where it intends to carry out or does carry out the greater part of its activities;

EU co-legislators are moving increasingly in a direction that requires a financial institution to locate in a MS where it carries out at least part of its business.

- to consider requiring a passporting regime to include the proportionate provision of information on whether the products and/or services covered by the notification are, in practice, provided;
- to ensure an effective collaboration and exchange of information between NCAs to establish appropriate preventative measures and to identify at an early stage any potential issues.

E.g. most recently, the product intervention (PI) powers conferred on ESMA, the EBA and CAs by MiFIR, and on EIOPA and CAs in the PRIIPs Regulation, are very powerful and useful tools for protecting European consumers. PI contributed to a significant decrease in misleading cross-border marketing of complex financial products to consumers in the case of CFDs and binary options (ESMA and NCA measures). In 2019 also EIOPA used PI measures and as a result a group of products were removed from the market.

3. Supervisory convergence (1/2)

- **Consistent implementation of the single rulebook is an important building block of the European single market.**
- **When supervisors unjustifiably take different approaches to the single rulebook, and where supervisory outcomes diverge, that can create challenges for the effective functioning of the internal market.**
- **The single rulebook will only deliver an internal market in practice when supervised and enforced consistently by strong gatekeepers, home and host supervisors.**
- **Supervisory convergence enables fair competition. It also ensures the same level of consumer protection regardless of the type and location of the service provider.**

3. Supervisory convergence (2/2)

- **Strong convergence is therefore also in the interest of investors. Only when investors feel sufficiently protected will they be willing to enter the capital markets and participate.**
- **The ESAs deploy a range of tools to promote supervisory convergence, such as guidelines, Q&As and peer reviews.**
 - In the future, there needs to be a shift of time and resources within the ESAs from the regulatory side to supervisory convergence.
 - Reviews should assess not only the consistency but also the efficacy of supervisory outcomes.
 - The enhancements to the ESAs' convergence toolkit that the ESA review delivered (such as enhanced peer reviews, coordination groups and the Union Strategic Supervisory Priorities) should be put into practice quickly and with sufficient resources.