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AMF makes proposals for more European supervision and improved regulation

The AMF has published its main proposals as part of the European Commission's consultation on supervisory convergence, which was opened until May 2021. The aim of these proposals is to endow ESMA with a greater role in order to achieve harmonised, unified supervision, ensuring a level playing field while minimising the possibility of regulatory arbitrage.

Two years after the reform of the European Supervisory Authorities, the European Commission made supervision and the improvement of the Single Rulebook a priority in its new Action Plan published in September 2020 to strengthen the Capital Markets Union (CMU). The consultation conducted by the Commission in the spring is an opportunity to review past efforts to promote supervisory convergence and a single set of rules across the EU.

The AMF believes that efforts to promote supervisory convergence through exercises such as peer reviews or common supervisory actions have reached their limits, since they rely heavily on the resources of national authorities and can be time-consuming. However, the EU capital market needs harmonised and unified supervision, which ensures a level playing field for all market participants and eliminates opportunities for regulatory arbitrage, with a central role for ESMA.

The AMF is therefore in favour of:

- evolving towards genuinely centralised supervision within ESMA of new unregulated activities, and of certain categories of entities and activities on account of their cross-border nature, or their significant or systemic impact: ESMA could be given a role in authorising and monitoring these entities, for example European clearing houses;
- an ESMA endowed with redesigned tools such as no action letters comparable to those existing in other jurisdictions, such as the US. These make it possible to quickly and temporarily suspend the application of certain rules when they may have harmful consequences;
- ESMA governance allowing for a decision-making process with a more European dimension, which could be achieved through an independent Management Board, composed of permanent members, empowered to take decisions on supervisory convergence and through a weighted majority vote by the Board on strategic decisions;
- simplification of the way in which the rules are drawn up, in order to facilitate possible recalibration, where this is necessary, and by privileging maximum harmonisation of the regulation, to minimise divergent interpretations from one country to another.

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More European supervision and better regulation are key elements to build a true

- Capital Markets Union
- Targeted consultation on the supervisory convergence and the single rulebook
- The European Commission's new action plan for the Capital Markets Union

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