



Stellungnahme im Rahmen der Konsultation der EU-Kommission zur Arbeitsweise der Europäischen Aufsichtsbehörden (*European Supervisory Authorities – ESA*)

Die WPK hat mit Schreiben vom 16. Mai 2017 gegenüber der Europäischen Kommission zu deren Konsultationspapier *The Operations of the European Supervisory Authorities* wie nachfolgend wiedergegeben Stellung genommen.

I. A. 6. Access to Data

Q11. Are there areas where the ESAs should be granted additional powers to require information from market participants? Please elaborate on what areas could usefully benefit from such new powers and explain what would be the advantages and disadvantages.

Before empowering the ESAs to obtain information directly from market participants, a greater harmonization regarding accounting and auditing requirements should be contemplated. Uniform financial reporting requirements at EU-level exist only in part. The EU Accounting Directive (Directive 2013/34/EC) provides the basis for financial reporting, but at the same time provides various member state options, diluting the consistency of reporting across Europe.

The same is true for auditing standards. Even though the EU Auditing Directive and Regulation provide for the mandatory application of the International Standards of Auditing (ISAs) after their adoption by the European Commission, we are not aware of corresponding adoption activities of the Commission. Accordingly, some EU member states require a mandatory ISA application based on national decree while other EU member states still have national auditing standards in use. Those manifold member state options in the Accounting Directive as well as in Auditing Directive and Regulation show a lack of (political) will for harmonization.

Even though harmonization and better coordination of the NCAs with regard to supervision seems desirable, the NCAs are still the first point of contact for the companies and auditors in the corresponding jurisdictions. On-site data collection from companies – apart from the banking and insurance sector – by NCAs or ECAs should be avoided, since this will lead to an increasing bureaucracy and uncertainties in the market place with regard to responsibilities.

I. A. 8. Financial reporting

Q14. What improvements to the current organisation and operation of the various bodies do you see would contribute to enhance enforcement and supervisory convergence in the financial reporting area? How can synergies between the enforcement of accounting and audit standards be strengthened?

Q15. How can the current endorsement process be made more effective and efficient? To what extent should ESMA's role be strengthened? Please elaborate.

The current European system of oversight on auditors of public interest entities is the result of a more than five-year reform process. This reform process came to an end just recently on June 16, 2016 as the corresponding EU Audit Regulation (Regulation (EU) No 537/2014) came into force. Regarding the European audit profession, it will even take a few more years for the effects of the audit reform to be fully digested, such as the profound modification of the oversight system in Germany.

In order to foster the cooperation – and therefore the harmonization – in the area of auditor oversight on the European level, the EU Audit Regulation provided in Article 30 for the establishment of the Committee of European Auditing Oversight Bodies (CEAOB). CEOB has only taken up its work on July 12, 2016 and, while on a good way, it is still in its initial stage. An assessment of the outcome or the effectiveness of the work of CEOB would be premature at the present stage.

According to the EU Audit Regulation the EU Commission shall review and report on the operation and effectiveness of the system of cooperation between competent authorities within the framework of the CEOB at the latest by June 17, 2019 (Article 40 EU Audit Regulation). We consider such an assessment of the work of CEOB as a prerequisite for further contemplation on possible structural changes to the auditor oversight on the European level, especially with a view to the proposed integration of CEOB into ESMA.

Before implementing structural changes the benefits of such changes should be demonstrated by corresponding cost-benefit-analysis. Thereby a strengthening of convergence activities in the proposed form may only be one possible measure. Currently it remains unclear what the advantages of an integration of the CEOB into ESMA would be. Only a fraction of the remit of the oversight of the CEOB members is identical with ESMA's responsibility. Audit regulation and oversight is not limited to just auditors of listed companies, but to auditors of all kinds of companies, including non-listed PIEs as well as small and medium sized entities.

Besides, only a limited number of EU member states have chosen to integrate auditor oversight into the national financial market or securities regulator. It seems questionable whether ESMA as such would be better suited to fulfill the tasks of an auditor oversight authority. The decision-making arrangements within ESMA will have to ensure that those who have sufficient knowledge

and practical experience in auditor oversight matters will take the decision related to auditor oversight. On a national level, auditor oversight authorities may struggle to be involved in these decisions and to bring their expertise to the table if they themselves are not part of the deliberations or the decision-making process within ESMA. They would rely on the discretion of whatever national body is represented at ESMA level.

In the consultation paper, the footnote No. 32 assumes that there is a “proliferation” of sub-groups and points out their costs. We think that the opposite is true: The sub-groups are led by knowledgeable and senior representatives of the national competent authorities and are self-sufficient, meaning that their work is organized and carried out by the sub-groups themselves. This does not increase the costs of the CEAOB. Also, the sub-groups are identical with those who were already established at the CEAOB’s predecessor, the EGAOB, with one exception: The Enforcement sub-group was recently established. This, however, is both necessary and adequate as the sub-group reflects the newly imposed key responsibilities of the members under the Audit Regulation and Directive in the area of enforcement. The cooperation and supervisory convergence demanded by the EU legislation and mentioned in the consultation document can only be achieved in sub-groups, where the expertise and knowledge of specialists is required. These topics cannot be dealt with in sufficient depth within the plenary. The success of the sub-groups is documented by achievements such as the development of the Inspection Findings Database or the development of a Common Audit Inspection Methodology (CAIM). We are of the view that an identical, if not larger, number of sub-groups would be required even in the case of integration into ESMA.

Instead of integrating CEAOB into another regulator, the CEAOB as such could be strengthened further.

Finally, we would like to stress that, from our point of view, a segregation of powers between standard-setters, enforcement authorities and final disciplinary sanctioning is required as it provides for independent decision-making and mitigates conflicts of interests.