



The Consumer Voice in Europe



The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers



Mr. Gabriel Bernardino
Chairman of the European Insurance
and Occupational Pensions Authority (EIOPA)
Westhafenplatz 1
60327 Frankfurt am Main, Germany
gabrielbernardino@eiopa.europa.eu

Mr. José Manuel Campa Fernández
Chairperson of the European Banking Authority (EBA)
20 Avenue André Prothin
92927 Paris La Défense, France
JoseManuel.Campa@eba.europa.eu

Mr. Steven Maijoor
Chair of the European Securities and Markets Authority (ESMA)
201-203 Rue de Bercy,
75012 Paris, FRANCE
steven.maijoor@esma.europa.eu

Brussels, 5th February 2020

Subject: Reform of the European Supervisory Authorities and financial consumer protection – Adequate compensation for representatives of non-profit organisations appointed by ESAs as members of Stakeholder Groups

Dear Mr Bernardino, dear Mr Campa Fernandez, dear Mr Maijoor,

We are writing to you in our capacity as executives of major EU public interest organisations working on financial services who are concerned about the risk of the European Supervisory Authorities not attracting enough highly qualified independent experts representing consumers in the forthcoming call for applications to the ESAs Stakeholder Groups and the risk of the SGs once again becoming dominated by industry stakeholders.

Back in November 2017 we formed an Alliance to voice our disappointment with the European Commission's proposal for the review of the European Supervisory Authorities (ESAs), and to make proposals to remedy the

situation. The Alliance reiterated its main concerns in a joint statement in July 2018, following the report on the review by the ECON Committee. Later in September we were pleased to see that, thanks in large part to the work by co-rapporteur Pervenche Berès (MEP), many amendments were in line with the ones proposed by the Alliance. When we look at the currently available text¹ we hope that that the ESAs will take the necessary measures to ensure that members of the SGs representing non-profit organisations will receive adequate compensation, in line with Article 37, “taking into account the members’ preparatory and follow-up work”.

Since the very beginning of the ESAs review the user-side organisations were stressing the need for an actually balanced representation of the industry-side and users-side in all four stakeholder groups of the ESAs (the balancing principle was already in EU Law). The European Parliament amendments were clearly oriented at strengthening the ESAs’ consumer protection mandate and balancing the industry and user representations. Therefore, we hope that ensuring adequate compensation for the representatives of usually under-resourced European consumer NGOs will allow for a balanced representation of the industry and user-side representatives in line with the stated aim of strengthening the consumer protection mandate of the ESAs² and also in the context of SGs experts’ extended mandate of 4 years.³

The **old articles** provided the following:

Article 37, paragraph 4, Regulation (EU) No 1093/2010⁴, establishing a European Banking Authority:

‘The Authority shall provide all necessary information subject to professional secrecy as set out in Article 70 and ensure adequate secretarial support for the Banking Stakeholder Group. Adequate compensation shall be provided to members of the Banking Stakeholder Group representing non-profit organisations, excluding industry representatives.’

Article 37, paragraph 5, Regulation (EU) No 1094/2010⁵, establishing European Insurance and Occupational Pensions Authority:

‘The Authority shall provide all necessary information subject to professional secrecy as set out in Article 70 and ensure adequate secretarial support for the Stakeholder Groups. Adequate compensation shall be provided to members of the Stakeholder Groups representing non-profit organisations, excluding industry representatives.’

Article 37, paragraph 4, Regulation (EU) No 1095/2010⁶, establishing a European Securities and Markets Authority:

‘The Authority shall provide all necessary information, subject to professional secrecy, as set out in Article 70, and ensure adequate secretarial support for the Securities and Markets Stakeholder Group. Adequate compensation shall be provided to members of the Securities and Markets Stakeholder Group that are representing non-profit organisations, excluding industry representative.’

The **new articles**:

Article 37 paragraph 4, amended EBA regulation:

*“Adequate compensation shall be provided to members of the Banking Stakeholder Group representing non-profit organisations, excluding industry representatives. **This compensation shall take into account the members’ preparatory and follow-up work and shall be at least equivalent to the reimbursement rates of officials pursuant to Title V, Chapter 1, Section 2 of the Staff Regulations of Officials of the European Union and the Conditions of***

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2175&from=EN>

² Please see recitals 1 and 42

³ According to the amended version of Article 37, paragraph 4 (EBA and ESMA regulations), Article 37, paragraph 5 (EIOPA regulation) “Members of the (...) Stakeholder Group shall serve for a period of four years, following which a new selection procedure shall take place”.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010R1093>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010R1094>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010R1095>

*Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (*21) (the Staff Regulations)” .*

Article 37 paragraph 5, amended EIOPA regulation:

*“Adequate compensation shall be provided to members of the Stakeholder Group representing non-profit organisations, excluding industry representatives. This compensation shall take into account the members’ preparatory and follow-up work and shall be at least equivalent to the reimbursement rates of officials pursuant to Title V, Chapter 1, Section 2 of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (*21) (the Staff Regulations)”⁷.*

Article 37, paragraph 4, amended ESMA regulation:

*“Adequate compensation shall be provided to members of the the Securities and Markets Stakeholder Group representing non-profit organisations, excluding industry representatives. This compensation shall take into account the members’ preparatory and follow-up work and shall be at least equivalent to the reimbursement rates of officials pursuant to Title V, Chapter 1, Section 2 of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (*21) (the Staff Regulations)”⁸.*

According to the revised version of these articles adequate compensation:

1. shall take into account “preparatory and follow up work”;
2. cannot be lower than the amount of reimbursement rates established for EU officials pursuant Title V, Chapter 1, Section 2 of the Staff Regulations.

This last reference to the Staff Regulations, refers to Section 2 that includes only one article, namely Article 71 that provides:

*“An official shall be entitled, as provided in Annex VII, to **reimbursement of expenses** incurred by him on taking up appointment, transfer, or leaving the service, and also to expenses incurred by him in the course of or in connection with the performance of his duties.”*

In this context we would like to draw your attention to the fact that currently members of the ESAs Stakeholder Groups representing non-profit organisations receive reimbursement of accommodation and travel costs as well as an allowance of € 150 per meeting day and € 150 for preparing the meeting, i.e. € 18.75 per hour (gross of social contributions and income tax). This is obviously not “adequate” for international financial user-side experts, especially when one takes into consideration, not only the rather technical and time-consuming work done in preparation for the SGs meetings, but also the “follow-up work” in between meetings rightly mentioned in Article 37, including the work of chairs and vice-chairs, but also the work of members of (ad hoc) working groups who prepare drafts for the whole SG, organise and participate in conference calls etc. Nor is the current compensation “adequate” when one compares it, for example, to the hourly rate of senior commercial consultants hired by European Public Authorities, or even to junior EU institutions’ officials. An AD 5 EU official, according to the salary rates established by Article 66 of the Staff Regulations, receives a **basic** monthly salary of € 4 384,38, i.e. over € 200 per working day⁹. At the same time, he/she is not required to have the same high level of qualifications as that of consumer representatives that would like to become experts in the SGs.

The minimum requirements for AD 5 officials (Article 5 of the Staff Regulation)¹⁰:

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01962R0031-20140501&from=EN>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01962R0031-20140501&from=EN>

⁹ Assuming an official on average works eight hours per five days a week (8h x 5d x 4w = 160h), the hourly rate amounts to over € 27, and working day rate to over € 200. (Basic salary of € 4384,38 : 160 h = € 27,4; 27,4 x 8h = €219). According to Article 55 paragraph 2 of the Staff Regulations, the normal working week shall range between 40 to 42 hours.

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01962R0031-20140501>

- (i) a level of education which corresponds to completed university studies of at least three years attested by a diploma, or
- (ii) where justified in the interest of the service, professional training of an equivalent level.

In contrast the eligibility criteria, specified in the **call for expression of interest**, to select members of the ESMA Security and Market Stakeholder Group¹¹, the EBA Banking Stakeholders Group¹², the EIOPA Insurance and Reinsurance Stakeholders Group¹³ and the Occupational Pensions Stakeholder Group¹⁴, require the potential candidate to have at least 4 years **of relevant professional experience** in the financial services sector. The ESAs explicitly added in their calls for application that experience beyond the minimum criteria was highly valued and in most cases was absolutely necessary in order to be selected as a member¹⁵.

In view of the fact that in the past this inadequate compensation heavily contributed to the imbalance in the representation of retail financial user interests versus those of the financial industry, it must be underlined that there are authorities that should be seen as exemplary in the way they value user-side expertise and compensate the non-industry experts. For instance, the UK Financial Conduct Authority not only compensates their Consumer Panel's experts adequately (the ordinary members of the UK FCA Consumer Panel receive a compensation of 400€ per day), but also differentiates between different categories of experts, as it goes without saying that chairing an Advisory/Working Group is more challenging and time consuming than other positions, since it involves additional responsibilities apart from providing expert input.

Therefore, we once again ask for a clear commitment towards a fair and adequate compensation for the preparatory and follow-up work undertaken by non-industry members as well as the acknowledgement of the level of professional competences and experience in the computation of the compensation.

Best regards,

Guillaume PRACHE
Managing Director
BETTER FINANCE



Monique Goyens
Director General
BEUC



Benoît Lallemand
Secretary General
Finance Watch



Anne-Sophie Parent
Secretary General
AGE Platform Europe



Liz Gosme
Director
Families Europe



¹¹ https://www.esma.europa.eu/sites/default/files/library/esma22-106-1050_msg_expression_of_interest_july_2018.pdf

¹² <https://eba.europa.eu/sites/default/documents/files/documents/10180/1220779/0c1d7d11-bb72-4248-aa5d-c1b64e08a43c/BSG%20Renewal%20Process%20-%20Call%20for%20Interest.pdf>

¹³ https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/eiopa-15-535_call_for_expression_of_interest_irsg-final_0.pdf

¹⁴ https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/eiopa-15-536_call_for_expression_of_interest_opsg-final_0.pdf

¹⁵ "Experience: minimum 4 years of relevant professional experience in the financial services sector for all Stakeholder Group membership categories. The professional experience and expertise ("professional quality") of a candidate will be assessed against the category selected by the candidate in the application form. EIOPA notes that experience beyond the minimum criteria will be highly valued and in most cases be absolutely necessary", EIOPA selecting procedure for the renewal of Stakeholders Groups, eligibility criteria paragraph 4.1, https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/eiopa-bos-13-009_stakeholder-groups-selection-procedure-final.pdf

About us:

BETTER FINANCE is the public interest non-governmental organisation solely dedicated to defending and advocating the interests of European citizens as financial services users at European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances. BETTER FINANCE is a federation counting 38 member organisations representing more than 4 million individual members altogether.

BEUC, the European Consumer Organisation, is the Brussels-based federation of 45 independent national consumer organisations from 32 European countries. BEUC is a non-profit association and for more than 55 years has been bringing together consumer organisations to promote, defend and represent the interests of European consumers in the development and implementation of European Union policies. BEUC's role is to inform our member organisations about EU developments, to represent our members in relevant EU dossiers and to act as the consumer voice in Europe.

AGE Platform Europe is a European network of more than 100 organisations of people aged 50+ representing directly more than 40 million older people in Europe. AGE aims to voice and promote the interests of the 190 million inhabitants aged 50+ in the European Union and to raise awareness of the issues that concern them most. AGE's mission is to give a voice to older and retired people in the EU policy debates through the active participation of their representative organisations at EU, national, regional and local levels so as to inform EU policy development.

Finance Watch is the independent non-profit Members' association that defends the public interest in financial reform, with more than 70 Members including experts and civil society organisations that together represent millions of European citizens.

COFACE Families Europe is a pluralistic network of 57 civil society organisations in 23 Member States representing the interests of all families