



Guidelines and recommendations issued by European supervisory authorities

According to Article 16 of EU Regulations concerning the European supervisory authorities, ie the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA), the EBA, EIOPA and ESMA may issue guidelines and recommendations addressed to national supervisory authorities and financial market participants with a view to establishing consistent, efficient and effective supervisory practices within the European System of Financial Supervision and to ensuring the common, uniform and consistent application of Union law.

According to the Regulations, both the national supervisory authorities and financial market participants shall make every effort to comply with those guidelines and recommendations. Accordingly, the obligation to undertake to comply with the guidelines and recommendations follows directly from the applicable EU Regulation.

Moreover, national supervisory authorities (such as FIN-FSA) are governed by a 'comply or explain' obligation, under which, within 2 months of the issuance of a guideline or recommendation, each authority shall confirm whether it complies or intends to comply with that guideline or recommendation. In the event that an authority does not comply or does not intend to comply, it shall inform the European supervisory authority in question, stating its reasons. Such a guideline or recommendation may also require that financial market participants report whether they comply with the guideline or recommendation in question.

Where necessary, in its regulations and guidelines, FIN-FSA will refer to the guidelines and recommendations issued by the EBA, EIOPA and ESMA. However, if there are no FIN-FSA regulations or guidelines in which such a reference can be incorporated, FIN-FSA may issue a separate guideline recommending compliance with the said guidelines and recommendations.

Any references to guidelines and recommendations issued by the EBA, EIOPA and ESMA are written under the heading 'Guideline' in FIN-FSA's regulations and guidelines. If, however, legislation exceptionally permits issuance of a regulation, FIN-FSA may also issue a regulation on the matter.