

ESMA Fees

A new Article X MiFIR is added

Article X

By 31 December 201X, ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with Article [61] of Regulation [IFR] and submit a report to the European Parliament, the Council and the Commission.

A new paragraph [3] is added to Article 59 IFR

(3) By [1 year from the receipt of the report referred to in Article X MiFIR], the Commission shall submit a report on the resources needs arising from the assumption of new powers and duties by ESMA in accordance with Article [61] of Regulation [IFR], including the possibility for ESMA to levy registration fees to third-country firms registered by ESMA in accordance with Article 46(2) MiFIR, together with a legislative proposal where appropriate.

Justification

Building on the Council General Approach, this compromise proposal amends the equivalence provisions in order to address some of the concerns raised by the Parliament in the course of the trilogues. This includes in particular:

-) The addition of a new criterion for the Commission assessment of the legal-framework applicable to the services listed in points 3 and 6 of Section A of Annex I of MIFID. This would ensure that firms providing bank-like services are subject to equivalent capital requirements to those applicable to Class 1, 2 or 3 firms established in the Union (Article 47(1) MiFIR, amended b);*
-) A new reporting obligation from the Commission to the European Parliament and the Council, in order to provide information to the co-legislators as regards any equivalence decisions taken or withdrawn by the Commission, or any measures taken by ESMA vis-à-vis registered third country firms (Article 47, new new paragraph (5a));*
-) A new review clause mandating ESMA to submit an assessment report on the staffing and resources needs arising from taking on the new powers granted with respect to the monitoring of registered third-country firms. This would allow the Commission to submit a legislative proposal, including the possibility for ESMA to levy registration fees, ahead of the entry into force of the revised IFR regime.*