EUROPEAN CAPITAL MARKETS INSTITUTE

ECMI Commentary no 94 | January 2025

Why the EU doesn't need a single supervisor for its financial markets – yet

Apostolos Thomadakis *

The debate on the future of capital market supervision in Europe has gained renewed momentum, particularly following remarks made in November 2023 by European Central Bank President Christine Lagarde, who advocated for the creation of a European Securities and Exchange Commission (European SEC). This idea presents a significant shift from the current fragmented supervisory landscape towards a centralised, pan-European authority overseeing capital markets.

However, moving from the status quo to a fully-fledged European SEC would be an extreme leap. Instead, the real emphasis should be on efforts to boost coordination across Member States through what we can call 'single supervision'. This would serve as a critical stepping stone towards a single supervisor and ensure that any transition to a European SEC would be both feasible and sustainable.

The current landscape of supervision

Europe's capital markets are currently overseen by a mix of national competent authorities (NCAs) which regulate financial markets within their respective Member States. While some coordination exists, such as through the European Securities and Markets Authority (ESMA), each NCA operates under its own national legal framework, leading to regulatory

* *Apostolos Thomadakis is Head of Research at ECMI and Research Fellow at CEPS.*

Comments received by Pierre-Henri Conac, Jesper Lau Hansen, Karel Lannoo and Marco Lamandini are greatly acknowledged. These comments were given in a personal capacity and do not necessarily reflect the views or positions of their respective organisations. The article was originally published by Global Trading on November 28, 2024.

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fragmentation[1]. This fragmentation is a significant obstacle to developing a truly integrated and efficient European capital market. Different interpretations of EU laws, varying levels of enforcement and inconsistencies in supervisory practices undermine the goal of capital market integration that initiatives like the Capital Markets Union (CMU) seek to achieve.

Christine Lagarde's suggestion of a European SEC has merit, particularly in addressing these disparities. However, jumping to the extreme of a single centralised supervisor without first addressing the divergent supervisory interpretations would likely create more problems than it solves. Without sufficient groundwork, a European SEC could face challenges in authority, effectiveness and legitimacy, much like handing a ticking time bomb to a single supervisor. Thus, the conversation should focus on ensuring consistent supervision across Member States[2].

In a recent interview, Verena Ross, the Chair of ESMA, echoed similar sentiments, emphasising that while the ambition to strengthen Europe's financial supervision is commendable, it must be grounded in a robust framework that addresses existing weaknesses. Ross pointed out that '*the establishment of a European SEC would require not only political will but also a thorough examination of current practices and capabilities across Member States*.'

Her insights reinforce the need for a phased approach, where strengthening the existing supervisory framework must be prioritised before any proposals for a centralised authority.

The case for single supervision

The distinction between 'single supervision' and a 'single supervisor' is crucial. Single supervision refers to the harmonisation of supervisory practices across Member States. It wouldn't necessarily replace national supervisors but instead ensure that all Member States operate under the same regulatory standards, practices, and interpretations of European law. In essence, single supervision aims to make sure that different supervisors across the EU act as if they were one, without actually centralising all supervisory powers under a single roof.

In the banking sector, Europe has already seen the success of single supervision through the Single Supervisory Mechanism (SSM), which oversees significant banks in the Eurozone. The SSM has provided more uniform supervision, improved transparency and has contributed to greater financial stability. However, capital markets represent a far more complex ecosystem, involving a wider variety of actors beyond just banks – such as asset managers, insurers, trading venues and issuers. This makes implementing a unified supervisory approach much more challenging.

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[1] However, NCAs, while fragmented, bring benefits such as an understanding of local market nuances and allowing for flexibility. A highly centralised system could risk increased bureaucracy and inertia, potentially weakening its ability to quickly respond to local differences. Any move towards single supervision or a European SEC must carefully weigh these trade-offs.

[2] In fact, the current process of selectively centralising oversight for certain cross-border players – such as ESMA's expanded mandate post-reform, AMLA's (Anti-Money Laundering Authority) responsibility for anti-money laundering and the European Banking Authority's (EBA) role in crypto oversight – highlights that incremental centralisation is already happening, allowing for evolution rather than revolution in supervisory structures.

Achieving single supervision would require robust coordination and cooperation mechanisms. ESMA could play a pivotal role by setting common standards and providing guidance on interpreting EU regulations, with the European Commission also contributing by issuing responses to Q&As from Member States. Regular peer reviews and mutual evaluations could help identify supervision discrepancies between Member States and allow for corrective action where necessary. Enhanced data-sharing between NCAs would also be crucial for ensuring uniform supervision across borders, particularly for cross-border entities.

Single supervision would create a more consistent regulatory environment across the EU, fostering market confidence, encouraging investment and enabling the better enforcement of EU financial regulations. More importantly, it would lay the necessary foundation for a future single supervisor – should the EU decide to move in that direction.

But first, we need to address three gaps

One of the primary challenges facing single supervision is the lack of uniformity in **NCAs' regulatory capacity**. Some Member States possess well-funded, experienced supervisors, while others face resource constraints that limit their effectiveness. This discrepancy leads to an uneven playing field, where the quality of supervision depends on the resources available in each Member State. Single supervision would need to address this imbalance through resource pooling or capacity-building programmes that ensure all NCAs are equipped to meet the same supervisory standards.

Another gap lies in the **interpretation of EU laws** (see table below). Even though EU directives aim to harmonise legal requirements, Member States often interpret these laws differently, leading to a patchwork of regulatory practices. ESMA could take on a more proactive role by issuing binding guidelines and interpretations, ensuring that NCAs apply EU regulations uniformly. This could also include more structured Q&A responses from the European Commission to assist NCAs, as variations in interpretation remain a significant issue. Enhanced coordination and more frequent communication between NCAs, ESMA and the European Commission could reduce the opportunities for regulatory arbitrage (i.e. the corporate practice of exploiting favourable laws in one jurisdiction to avoid stricter regulation in others) that arise from this divergence.

Finally, single supervision would need to strengthen **enforcement across Member States**. Some NCAs are more proactive in enforcement than others, leading to a situation where compliance with EU rules varies from country to country. A more standardised supervisory framework would require not only consistent supervision but also the uniform enforcement of penalties and corrective measures. ESMA could also play an enhanced role here, coordinating enforcement actions and ensuring that breaches of EU law are addressed consistently across all Member States.

Table 1 - Examples of diverging interpretations and enforcement of EU financial services directives and regulations across Member States

Directive/Regulation	Country	Interpretation/Enforcement
Market Abuse Regulation (MAR)	e.g. France, Germany, Italy	France: stringent approach (e.g. inside trading) and high penalties for breaches; Italy: prioritises administrative measures over heavier fines; Germany: lenient enforcement (e.g. the Wirecard scandal).
MiFID II Research Unbundling	e.g. France, Germany	France: strict adherence - asset managers significantly reduced their reliance on paid research; Germany: more flexibility - asset managers accessing a broader scope of research, creative fee structures.
Anti-Money Laundering Directives (AMLDs)	e.g. Sweden, Malta, the Netherlands	Sweden: stricter monitoring after high-profile scandals; the Netherlands: aggressive stance, active monitoring, even for small transactions; Malta: lenient enforcement (e.g. cryptocurrency and gaming), scrutiny from the EU.
General Data Protection Regulation (GDPR)	e.g. France, Ireland, Italy	France: firm stance, large fines for violations; Ireland: slower enforcement, especially with large tech companies; Italy: middle-ground approach, more compliance warnings before fines.

Notes: Red represents a strict or rigorous approach. Yellow indicates a moderate or flexible stance. Green signifies a lenient or more relaxed approach.

Source: Author's own elaboration.

Single supervision as a prerequisite for a single supervisor

A European SEC or any other single supervisor would be a logical evolution only after single supervision is fully implemented and functioning effectively. Without the prior groundwork of harmonised supervisory practices, a centralised authority would be overwhelmed by the disparities in regulatory approaches across Member States. The transition from decentralised supervision to centralised oversight would be smoother, and more effective once all NCAs are brought into line.

A phased approach would be necessary. First, single supervision would ensure that all NCAs are working together under the same framework. Over time, as these practices become

entrenched, discussions around creating a single supervisor – such as a European SEC – could be revisited. By that point, the necessary structures for consistent supervision and enforcement would be in place, making the transition far less disruptive and much more likely to succeed.

Conclusions

While the concept of a European Securities and Exchange Commission (European SEC) is an attractive one, it should be seen as a long-term goal rather than an immediate solution. The establishment of a single, centralised supervisor is not a panacea for all the challenges facing Europe's capital markets. Even in the US, where the SEC has a long-standing role, it faces criticism and substantial challenges in enforcing regulations across a vast and complex financial landscape.

For Europe, the priority should be to improve the existing system of supervision and enforcement, making it more efficient, consistent and coordinated. A move towards single supervision can address the immediate issues of regulatory fragmentation and divergence across Member States, creating a more harmonised regulatory environment. This streamlined supervisory framework would serve as a crucial foundation for any future transition to a European SEC, ensuring that the ecosystem is properly prepared rather than blindly rushed into centralisation.

In this context, single supervision is a practical and necessary step forward. It allows for greater consistency in national regulators' actions while retaining the flexibility of a decentralised approach. Once Europe's national competent authorities operate under a unified supervisory framework, discussions around a European SEC can be grounded in practical realities rather than lofty ambition.

Until then, efforts must focus on enhancing coordination and harmonisation across Europe's capital market supervision to build a robust, integrated financial system that is truly fit for the future.

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