

# ESAs Joint Board of Appeal dismissed appeal by Appellant “A” against the European Securities and Markets Authority

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The Joint Board of Appeal of the European Supervisory Authorities (ESAs – European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority) unanimously decided that the appeal brought by an institution that wishes to stay anonymous (Appellant “A”) against the European Securities and Markets Authority (ESMA) is inadmissible. The appeal was in relation to the launch of an investigation into an alleged breach of EU law by a National Competent Authority (NCA).

Central to this appeal is a Decision by ESMA not to investigate the approach adopted by a Member State’s NCA as regards the valuation of Structured Retail Products (SRPs) and the identification of a series of EU law provisions which, the Appellant “A” argues, have not been applied correctly by the NCA. The Appellant’s request to ESMA relates to the approach adopted by the NCA in relation to the concept of “fair value” of SRPs and, specifically, which implicit costs should be regarded as being included within the fair value of an SRP and which other costs and fees can be regarded as separate and external to fair value.

After careful consideration, the Board of Appeal [unanimously decided](#) that the appeal is inadmissible.