

Brussels, 4 June 2026

EFAMA POSITION PAPER ON THE MARKET INTEGRATION AND SUPERVISION PACKAGE

EFAMA welcomes the Market Integration and Supervision Package, which includes several promising measures to deliver more efficient, integrated, and competitive EU capital markets, critical to strengthening the EU's economy and achieving its strategic priorities, such as the digital and green transitions, defence, and security.

As the European Commission has recognised, the asset management industry is losing out on potential economies of scale and efficiency gains. Reflecting the recommendations in our response to the Commission's Consultation in 2025, we particularly support efforts to remove cross-border barriers, streamline the delegation regime, enhance supervisory convergence through the existing convergence toolkit, further improve the consolidated tape, and encourage digital innovation. However, many proposals raise questions that will require careful consideration to avoid adding new layers of complexity and make sure that the long-term benefits of the Package truly offset short-term adjustment costs for market participants.

To ensure the proposal achieves its objectives, we propose several changes to the Commission's proposal. The core ones are listed below:

Core recommendations:

- A. Find a better balance between empowering ESMA and achieving an enabling regulatory environment. This can be achieved by:
 - a. Including the EU's competitiveness as one objective in Article 1(5) of the ESMA Founding Regulation (Recommendation 1).
 - b. Preserving ESMA Q&A powers and strengthening ESMA no-action powers (Recommendation 2).
 - c. Deleting ESMA reviews foreseen in Articles 110b UCITS and 47a AIFMD and ESMA's power to suspend cross-border activities (Recommendations 3 and 4).

- B. Deliver efficiencies to cross-border fund distribution in line with the Commission's proposal (Section II.B).
- C. Preserve the management company regulation from unnecessary changes:
 - a. Deleting ESMA mandates to harmonize prudential and conduct rules (Recommendation 8).
 - b. Revise the derogation to the delegation regime to ensure that asset managers with different business models can opt into such derogation. This requires deleting the 'EU group' definition to allow asset managers to also benefit from the derogation when delegating to all intra-group entities. It will also require an opt-in mechanism during the authorisation process, allowing asset managers to inform their NCAs whether they intend to avail themselves of the derogation. The derogation should equally apply when asset managers delegate to a group entity outside the EU upon condition that a supervisory cooperation agreement (e.g. the IOSCO MMoU, or the ones negotiated by ESMA with non-EU supervisory authorities) exists between the EU and third-country supervisors. (Recommendation 9).
- D. To further facilitate operational efficiency for asset managers, postpone the entry into force of new UCITS/AIFMD reporting requirements and insert an explicit mandate for ESMA to develop an integrated reporting system for funds (Recommendation 10).
- E. Develop a robust and comprehensive regulatory framework for cross-border depositary services, mindful of important safeguards in terms of aligning operating standards, ensuring supervisory cooperation and a high degree of investor protection via adequate asset safekeeping standards(Recommendation 11).
- F. Ensure that the consolidated tape includes the venue attribution and the five layers of pre-trade data (Recommendation 12).
- G. Simplify the reporting requirement on activity at third country CCPs under Article 7d EMIR by limiting the reporting to cleared derivative instruments, exempting clearing clients, and limiting the reporting to information not reported under other obligations, such as article 9 EMIR (Recommendation 18).
- H. Make the DLT Pilot Regime future-fit by:
 - a. Removing the value threshold (Recommendation 19)
 - b. Removing the restrictions on DLT central account keepers to offer settlement schemes (Recommendation 20).

Contents

- I. Introduction 4
- II. Asset management 5
 - A. Supervision 5
 - B. Funds 9
 - C. Management companies 12
 - D. Depositaries 16
- III. Capital markets 17

I. Introduction

We support the Commission's ambition to deepen the Single Market and further increase the competitiveness of the European market. It is important that the Market Integration and Supervision Package remains targeted and proportionate, addressing genuine obstacles without introducing additional complexity or new layers of supervision. Our members believe this is the most effective way to create a more competitive market in which they can serve investors efficiently.

To facilitate this, ESMA should have an explicit competitiveness objective alongside its other objectives. Existing practices that are already functioning effectively should be preserved and disruption avoided, particularly in the context of the Savings and Investments Union, where trust is essential to mobilise savings into investment.

The Package, as outlined in the following sections, rightly identifies multiple challenges to asset managers. Despite the introduction of the Cross-Border Fund Distribution Framework in 2019, asset managers continue to face challenges with the current passporting procedure and national market barriers. While the UCITS/AIFMD delegation regime works well, it can require asset managers to maintain a disproportionate degree of oversight over certain delegates. Without venue attribution, the consolidated tape will bring limited value to investors seeking to execute their trades with the venues offering the best price. Finally, the current DLT regime unduly restricts the ability to scale tokenisation projects.

However, the Commission overestimates both the fragmentation in the asset management sector and the benefits the Package can deliver. First, while EU funds may be smaller and more numerous than in the U.S., large funds still account for the bulk of the assets under management (AuM).¹ The average fund size provided by the Commission (i.e., EUR 300 million) underestimates the actual size of funds. Second, the fragmented nature of the Single Market for funds does not primarily originate from regulation, nor supervision. It rather results from significant differences in market structures across countries (e.g., domestic investor bases, national attitudes toward investment risk, market practices, languages, overall investment culture, geographical restrictions in national savings and investments requirements, or tax considerations). Due to these different market structures, asset managers may need to create stand-alone or feeder funds targeting specific markets. Third, while scale is an important determinant of competitiveness, it is not the only one. Competitiveness can also derive from expertise, technology, efficient infrastructures, and innovative distribution models. There are many smaller and/or local asset managers that provide value to investors without benefiting from the scale gained from distributing their products across the Single Market. These firms will benefit to a lesser extent from the Package, while still bearing the downside risks it may entail. Regulatory simplification would be more beneficial for them.

Regarding the specific changes considered in the Package, the potentially negative impacts of several proposals (i.e., intra-group arrangements, ESMA annual reviews, ESMA's power to take corrective measures against NCAs and market participants, and the depositary passport) **have not been sufficiently analysed.** Extended considerations would be required to determine their costs and benefits. To enable an informed discussion, the European Commission should provide more detail on the rationale for these proposals. The one provided in the impact assessment is insufficient. As outlined in more detail in the rest of the paper, the benefits of these proposals remain open to further questioning (e.g., the derogation from the delegation regime for intra-group arrangements). At the same time, the compounding costs associated with the Package have not been adequately considered. These costs include the need for asset managers to change their operational processes (e.g., authorisation, marketing notification,

¹ EFAMA, [Fact Book](#), June 2023, p. 26.

marketing materials), additional ESMA resources that are unlikely to be compensated by a decrease in resources within NCAs, and lastly, the opportunity costs stemming from changes to operational processes.

Considering these challenges, and given that most elements of the proposal are politically sensitive (e.g., home-host relations, ESMA powers, intra-group arrangements, depository passports), **we recommend that co-legislators focus on the aspects of the proposal that already offer tangible benefits for managers and end-investors (i.e., cross-border fund distribution, integrated reporting, the consolidated tape, and the DLT pilot).**

II. Asset management

A. Supervision

The Market Integration and Supervision Package seeks to encourage ESMA to make greater use of its supervisory convergence toolkit. The proposal tasks ESMA with identifying and addressing cross-border barriers, provides the authority with additional resources, and imposes a legal obligation on ESMA to use tools such as breach-of-Union-law procedures when necessary. These are positive developments.

That said, the proposal should also have introduced a competitiveness mandate for ESMA. A shift in mindset is necessary within ESMA to ensure the authority also focuses on enabling capital formation and innovation in the asset management sector. On the contrary, we fundamentally oppose ESMA reviews over large cross-border asset managers and the possibility of giving ESMA the power to suspend cross-border activities. Any additional tasks given to ESMA should demonstrably contribute to the Package's objectives and avoid imposing additional operational burden or costs on market participants without clear added value.

a. Competitiveness mandate

Despite references in recital 13 of the ESMA's Founding Regulation to competitiveness and its drivers, such as innovation and a functioning Single Market, these are barely mentioned among the authority's objectives listed in Article 1(5).

The Market Integration and Supervision Package is a unique opportunity to better enshrine the competitiveness mandate in the ESMA Founding Regulation. As demonstrated by Mario Draghi and Enrico Letta, the EU's financial services policy needs to better account for the EU's global competitiveness. While rules are important to ensure a level playing field and safeguard investor protection and financial stability, regulation cannot create markets 'out of thin air'. The EU financial service policy should not only pursue harmonization but also create the conditions for capital markets to grow and innovate, thereby ensuring that investors have access to appropriate investment products.

The ESMA mandate would ensure that the authority pays due regard to competitiveness considerations when developing new rules and facilitates convergence activities that enhance EU capital markets (e.g., by increasing retail participation, attracting both EU and foreign capital, or making markets more efficient).

For instance, when considering innovation specifically, ESMA should not focus solely on Digital Ledger Technology (DLT), as is currently the case in the MISP. Asset managers innovate at every stage of the production and distribution chain. They develop new investment strategies, fund structures, and distribution channels. An uncoordinated supervisory response to this innovation is particularly detrimental to the Single Market. When host NCAs are unfamiliar with a relatively new product, they may contact the management company. This can quickly become burdensome for the asset manager if they must address concerns from four or five host NCAs.

As a **safeguard**, the competitiveness mandate would apply only to ESMA's rulemaking and convergence responsibilities, without affecting the authority's direct supervisory responsibilities. Moreover, while

competitiveness considerations should be systematically taken into account in the authority's decision-making process, they should not override financial stability, investor protection, or market integrity. Finally, it is essential that the EU continues to abide by international standards to avoid any proverbial 'race to the bottom', which would be detrimental for every jurisdiction.

Annex I explains in more detail what the competitiveness mandate would imply for ESMA.

Recommendation #1:

- A. Include the EU's competitiveness as one objective in Article 1(5) of the ESMA Founding Regulation.
- B. Ensure that ESMA organises collaboration platforms pursuant to Articles 14c-e CBFDR and 19a of the ESMA Regulation to discuss innovative products seeking authorisation and facilitate their distribution across Europe.

b. Existing convergence powers

ESMA already has access to a wide range of supervisory convergence tools, which the authority should more actively use to promote a functioning Single Market. It is therefore welcome that the Market Integration and Supervision Package gives ESMA the explicit task to use these powers to address cross-border issues. It is also welcome that the proposal requires ESMA to use tools such as the breach-of-Union-law procedure when required rather than leaving it to ESMA's discretion.

That said, we strongly oppose the proposal to remove the power to issue Q&As from ESMA, which would offer the Commission the sole responsibility in interpreting Levels 2 & 3 rules. ESMA Q&As play an important role in clarifying how asset managers should interpret their legal obligations. Given that it is ESMA who develops Level 2 rules, it is the best placed to clarify its intention behind specific rules. The Commission may not have the expertise and resources to adequately respond to questions from the industry.

Moreover, the enhancements made to ESMA no-action letters remain insufficient. These no-action letters should have the legal force to suspend for a time-limited 6-month period the application of a Level 1 or Level 2 act. Supervisors in other jurisdictions (e.g. the U.S.) can valuably use this power without needing to seek the approval of the legislature. Currently, ESMA must follow a lengthy and impractical process to issue opinions 'with a view to furthering consistent, efficient and effective supervisory and enforcement practices, and the common, uniform and consistent application of Union law.' At the end of this lengthy process, the clauses subject to a no-action letter from ESMA would nonetheless still legally apply to market participants. There is therefore no guarantee for the former that their respective NCAs will not sanction them for not complying with the said acts.

Recommendation #2:

- A. Preserve ESMA Q&A powers.
- B. Explore how the ESMA no-action letters could become more effective.

c. ESMA reviews

EFAMA fundamentally opposes the idea that ESMA could conduct annual (and potentially more frequent) reviews of large cross-border asset management groups.

While it was not the Commission’s intention, ESMA reviews would amount to doubling supervision.

The authority would, *de facto*, evaluate how NCAs supervise asset managers within their scope. To conduct such assessments, ESMA would need to perform analyses similar to those conducted by national supervisors to ensure it reaches appropriate conclusions. Under this setup, ESMA would likely lack sufficient information and expertise to make informed assessments. After all, it would not have access to all the sources of information that national supervisors can leverage to form an opinion on a given supervised entity (authorisation documentation, supervisory reporting, and various interactions with supervised entities, including inspections and informal exchanges). In this context, ESMA would need to liaise frequently with national supervisors to request information or clarification. This risks diverting NCA’s time and resources away from critical supervisory duties. Moreover, given the duplicative nature of these reviews, the increase in human resources ESMA will receive will not be offset by a decrease in resources at the national level. As a result, NCAs will have to bear half of these additional costs, leading to inevitably higher supervisory fees for the industry.

Equally puzzling is that **the proposal does not adequately specify the purpose of these reviews**. The proposal states only that ESMA will conduct these reviews to “identify and address divergent, duplicative, redundant, or deficient supervisory practices in specific cases, ultimately removing barriers to the operations of large asset management groups.” The Commission recommends granting ESMA this power without providing concrete examples of national supervisory practices that could act as an impediment to the Single Market.

Even though the Commission argues that these reviews aim to remove barriers to the operation of large asset management groups, the reviews are foreseen, according to the impact assessment, to entail “monitoring risks on an ongoing basis, using dashboards derived from supervisory data and risk indicators to identify emerging vulnerabilities, and initiating investigations by joint teams, if necessary”. **A group-wide perspective would not improve prudential supervision in the asset management sector because, unlike in other sectors, management companies themselves do not represent a risk to the financial system:**

- Asset managers operate under an agency business model, managing investments on behalf of their investors.
- Management companies usually manage a range of funds that may follow very different investment strategies. These funds are managed at the discretion of different portfolio managers, who seek to improve their performance for end investors. It would therefore be misguided to assume that funds would behave similarly simply because the same management company manages them. Moreover, no single asset manager controls all funds investing in a given market. In Europe, investment funds typically account for only 20 percent of a given market. Given that there are 3,000 management companies, one can assume that dozens, if not hundreds, of asset managers manage these funds.

As outlined in our response to the EC consultation on assessing the adequacy of macroprudential policies for Non-Bank Financial Intermediation (NBFi), prudential supervisors require a holistic perspective, in which they investigate funds investing in a specific market, rather than a company-wide perspective, in which they investigate only funds from a particular asset manager.²

Recommendation #3:

A. Delete ESMA reviews foreseen in Articles 110b UCITS and 47a AIFMD.

² EFAMA, [Response to the European Commission’s consultation on assessing the adequacy of macroprudential policies for Non-Bank Financial Intermediation \(NBFi\)](#), 22 November 2024.

- B. Remove preamble 15 in the Master Directive, which states that asset managers subject to the enhanced group supervision coordination should pay a fee to ESMA for the authority's coordination role. This is a remnant of a previous draft and does not correspond to any legal provision in the main text.
- C. Reallocate the additional resources foreseen for these reviews to the broader ESMA supervisory convergence activities.

d. Corrective actions

A shift in mindset is necessary within ESMA to ensure that the authority also seeks to enable capital formation and innovation in the asset management sector. An excessive emphasis on policing the Single Market would inevitably defeat the objective of market integration.

While ESMA should have the possibility to intervene when there is a material threat to investor protection, **the Market Integration and Supervision Package goes too far by granting ESMA wide-ranging corrective powers.** Given that, unlike some other investment services under regulators' scrutiny, funds are highly regulated investment products, **we do not see a need to strengthen the sanctions ESMA can impose on either national supervisors and/or asset managers.**

Both the ESMA reviews and tasks to identify cross-border barriers require ESMA to recommend 'corrective actions' when it identifies a barrier or a supervisory deficiency (Articles 110b-c UCITS, 47a-b AIFMD, and 14c-e CBFDR). ESMA could, moreover, rely on enhanced powers to address breaches of Union law and rely on binding mediation to strengthen its enforcement capabilities. Beyond several changes to facilitate these procedures and following a peer review (Article 30 ESMA Regulation) or a macroprudential enquiry (Article 22(4) ESMA Regulation), the Commission proposes to grant ESMA the powers to require an NCA to seek ESMA's opinion before granting an authorisation under Article 17aa of the ESMA Regulation. In case of serious regulatory infringements, it could also issue an individual decision to suspend a management company's cross-border activities under Article 17aaa of the same Regulation.

Yet, **ESMA already has several instruments to address investment products that pose a threat to investors or financial stability.** First, ESMA has product intervention powers that allow it to prohibit or restrict the marketing, distribution, or sale of certain financial products, instruments, or activities that could cause significant harm to customers. In 2018, ESMA prohibited the marketing and sale of binary options and contracts for differences to retail clients due to investor protection concerns.³ Second, following a **peer review**, ESMA can make recommendations to specific NCAs. For instance, following long-standing concerns about certain cross-border investment services, ESMA conducted a peer review that identified significant supervisory deficiencies in one Member State. It recommended that the NCA develop a supervisory plan and expand its supervisory teams by 30-40 FTEs.⁴ Third, breaches of Union law and binding mediations already allow ESMA to adopt an individual decision addressed to an individual company, requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice (Articles 17(6) and 19(4) of the ESMA Regulation). **The Commission did not explain why the current convergence powers are insufficient. Should this be the case, the Package should seek to strengthen these powers rather than introduce brand new ones.**

The power to suspend cross-border activities would be particularly problematic because it would introduce legal uncertainty for NCAs and asset managers alike:

³ ESMA, [Notice of product intervention decisions on CFDs and binary options](#), 1 June 2018.

⁴ ESMA, [Peer review report on the supervision of cross-border activities of investment firms](#), 10 March 2022.

- **Aware that ESMA could challenge them, NCAs will be more cautious to avoid such an eventuality.** There is a real risk that NCAs will prefer to systematically consult ESMA before making decisions on emerging supervisory issues. **This would slow national supervision and increase time-to-market for new products**, particularly innovative ones, if NCAs are no longer willing to authorise products with innovative features without ESMA's prior approval.
- Similarly, aware that ESMA could second-guess supervisory decisions made by NCAs, **asset managers will be more cautious when developing new products because both the launch of a corrective procedure and the adverse decision that would result from that procedure could have wide-ranging consequences for them.** The launch of a corrective procedure could require asset managers to take precautions to manage associated risks (e.g., pause marketing). More so, an unfavourable decision could render a new product inoperative, necessitating a suspension of the fund and reimbursement to investors. It could also require time-consuming and costly changes to fund literature and investor notifications.

Recommendation #4:

Delete ESMA powers to suspend cross-border activities foreseen in Articles 110b-c UCITS, 47a-b AIFMD, and 14c-e CBFDR as well as Article 17aaa of the ESMA Regulation.

B. Funds

The Single Market for funds already works well, given the size of the cross-border market, but more can be done to facilitate entry by new players and reduce the burden for existing participants. Asset managers still face unnecessary barriers when distributing funds across borders, which drive up costs and add complexity. EFAMA commends the Commission's efforts to tackle these obstacles.

In particular, we support proposals to streamline passport notification, harmonise fund authorisation processes, and limit additional requirements imposed by Member States. If implemented pragmatically and with a genuine focus on simplification, these measures could reduce fund costs and expand the range of funds available to investors.

a. Authorisation

The current authorisation framework for UCITS is broadly effective and has delivered positive outcomes across the EU. However, there remain opportunities for refinement, particularly in achieving greater consistency and efficiency across jurisdictions. First, authorisation requirements can be unclear or excessive (e.g., extensive questionnaires, obligation to pre-notify KIDs, board's approval for new sub-funds, duplicative reporting obligations, and mandatory interactions with national databases). Second, the authorisation timelines can be uncertain and sometimes excessively lengthy.

When developing the RTS, ESMA should ensure that they do not result in the cumulative disclosure of all information items currently required by NCAs. Such an outcome would go counter to the EU's simplification objective. **ESMA should also ensure that harmonisation provides sufficient flexibility to accommodate product innovation.** New products may require asset managers to provide information that is not foreseen in the RTS. The inability to require such information in the authorisation process risks delaying the launch of these products.

Passporting upon authorisation is welcomed by the industry. Nevertheless, **it is important to remove marketing communications from the authorisation process**, as they are usually prepared after the fund receives its authorisation. Furthermore, these communications are dynamic and context-specific, requiring frequent updates across markets and investor types. Therefore, asset managers would have to regularly

update their authorisation form. For these reasons, excluding marketing communications from the authorisation stage would avoid creating administrative burdens and potential delays to time to market.

Finally, **notification requirements for material changes should be streamlined**. It would be beneficial to set the notification period for material changes to 10 days, ensuring coherence between UCITSD and CBFDR. Moreover, providing a clear definition of what constitutes a material change would ensure that asset managers only report the necessary information to supervisors. Currently, numerous pre-notifications must be made in each jurisdiction, making the process particularly time-consuming. The new passporting regime should avoid this. In particular, notifications regarding changes to share classes should only be sent to the home NCAs when these are issued to local investors.

Recommendation #5:

- A. Remove from the articles 17(c)(2), 17f(2), and 17(g)(2) CBFDR references to marketing communications.
- B. Simplify the notification requirements associated with the material changes to the funds' authorisation.
- C. Involve the industry in the development of the ESMA RTS to ensure that the authorisation template focuses on material and meaningful information.

b. Fund passporting

The new (de-)notification procedure proposed by the Commission (Articles 17a-h CBFDR) is a positive development. The benefits associated with this new procedure would be severalfold:

- **The ESMA platform (Article 12 CBFDR) would streamline the notification process.** Currently, communication channels with NCAs are inconsistent: some use web portals, others rely on email, and some offer APIs. This patchwork creates inefficiencies and challenges in workflow integration for fund managers operating across multiple jurisdictions. While NCAs increasingly require fund managers to submit marketing notifications, documents, and updates via dedicated online platforms, these vary widely in access procedures, technical architecture, required detail, and usability. Finally, not all NCAs maintain accessible online registers. Where such registers exist, formats differ widely and are often non-downloadable or non-extractable, limiting data usability. Information may also be incomplete and lack granularity at the share-class level. That said, these benefits will only fully materialise if the ESMA platform is set up efficiently and the cost reductions for home and host NCAs are passed on to funds.
- **The suggested procedure would address multiple difficulties asset managers face with the current procedure:** a) insufficient acknowledgement that a notification was submitted, b) 1-month prior filing for any material changes, c) pre-marketing blackout stemming from Article 32a AIFMD, d) the denotification process (incl. the a blanket offer to redeem for local investors when a fund is no longer distributed in their country), and e) notification forms (in particular differences in the use and content of notification letters pursuant to Article 93(8) UCITS and obligations to list share classes in the marketing notification form pursuant to Article 32 AIFMD).

Recommendation #6:

Add a new paragraph (3) to article 17i CBFDR where it is specified that neither ESMA nor NCAs shall collect fees or charges for the same passporting or de-notification procedure, and more broadly for the same service.

c. Fund marketing

EFAMA welcomes the harmonisation of marketing communications (Article 4(6) CBFDR) and the interdiction for Member States to introduce additional requirements on the marketing communications used in their territory (Article 4(5a) CBFDR), including the requirement to translate these documents (except the PRIIPs KID) in a language other than one customary in the sphere of international finance (Art. 12a CBFDR).

National marketing rules represent a significant hurdle for cross-border fund distribution. Local rules for marketing communications and language translations vary by country, making it more challenging to create a single marketing communication that can be released across countries. As regards sustainability, despite the introduction of the SFDR, complex national rules and labels still hinder fund managers from offering the same investment strategy across jurisdictions without compromising the investment integrity of the same product.

While we would have preferred to address these concerns through greater supervisory convergence, regulatory clarifications could be beneficial, **provided the European Commission does not introduce rigid requirements.** Because marketing communications are linked to a specific medium (paper, digital fact sheets, or websites), the harmonised rule should be principle-based rather than overly prescriptive. Commercial, innovation, and branding should remain the responsibility of each firm. Moreover, marketing communications are increasingly delivered in multiple and increasingly digital formats. To ensure the output of marketing communications remains relevant and accessible to retail investors, the requirements will need to be delivered in digital format. Finally, we also urge interoperability with recent changes agreed to PRIIPS disclosure requirements in the RIS negotiations, particularly regarding the presentation of past performance and the ability to layer information in digital formats.

Recommendation #7:

- A. Specify in the EC mandate set out in Article 4(6) CBDFD that the authority shall develop a principle-based Delegated Act, exclusively focused on the content of marketing communications rather than the format with the aim to remain investor friendly and to reduce cross-border barriers.
- B. Involve the industry, including investor representatives, in the development of the Delegated Act.

d. Other national requirements

The Market Integration and Supervision Package is rightly aimed at addressing national gold-plating that unduly restricts cross-border fund distribution.

- Member States should not require that cross-border funds maintain a **physical presence or the appointment of a third party** within their territory (Article 17b CBFDR). Such obligations take various forms depending on the Member State (e.g., mandatory local correspondents, paying

agents, and tax agents). That said, we are unsure to what extent this legislative change will prevent such practices (e.g., national tax law requires local tax agents).

- ESMA should indeed publish information on the **supervisory fees charged by host NCAs** and analyse whether these are consistent with the level of supervision conducted by these NCAs (Articles 9 and 10 CBFDR). There is significant heterogeneity in these fees and insufficient transparency into how they are calculated. Even though these fees are usually relatively low, they can quickly add up when a fund operates across multiple jurisdictions. It is also difficult for asset managers to determine the fees they would incur when distributing in host Member States. Local regulator websites are often difficult to navigate and lack searchable public registers.

Unfortunately, **the Package does not address reporting requirements introduced by host jurisdictions**. The cross-border marketing of funds in a handful of Member States entails the regular completion of specific reports (e.g., statistical reporting, tax reporting). Such reporting would no longer be necessary if ESMA develops integrated fund reporting, as recommended by EFAMA in its response to the ESMA Discussion Paper on the integrated collection of funds' data.⁵ Host NCAs (and possibly national tax authorities) could be granted access to certain information, eliminating the need for these authorities to collect it themselves (refer to Section II.C.c for additional details).

C. Management companies

a. Authorisation and prudential harmonisation

While EFAMA appreciates the Commission's efforts to achieve a higher level of harmonisation, including rules that directly address management companies (authorisation, prudential, and conduct rules), our previous analysis shows that the UCITS/AIFMD framework is sufficiently robust in these areas. While some divergences can be observed across Member States in authorisation procedures (e.g., permissible ancillary activities under Article 6(3) UCITS / 6(4) AIFMD and scope of authorisations), they are not considered to require further changes to the Directives. ESMA should instead use its existing convergence powers to address these issues.

In particular, **we oppose the introduction of additional mandates for ESMA guidelines on prudential and conduct rules (Articles 12(3) and 14(2) UCITSD and Articles 18(2) and 12(1) AIFMD)**. Elements such as organisational rules, conflicts of interest, and conduct of business are already sufficiently specified for UCITS management companies in the Commission Directive 2010/43/EU and for AIFMs under Commission Delegated Regulation 231/2013. Given that there are no issues requiring further clarification, the purpose of these guidelines remains unclear. Without a clear need for further guidance, they would only add to the already extensive EU acquis and, as such, be counterproductive to the current objective of simplification. As recently as October 2025, the Commission identified 115 Level 2 empowerments within recently discussed frameworks that were considered non-essential for the effective functioning of Level 1 legislation and these were deprioritised as a result.⁶ Current discussions should avoid adding mandates where no clear need for additional rules is identified.

Recommendation #8:

Delete mandates for ESMA guidelines proposed under Articles 12(3) and 14(2) UCITSD and Articles 18(2) and 12(1) AIFMD.

⁵ EFAMA, [Response to the ESMA Discussion Paper on the integrated collection of funds' data](#), 19 September.

⁶ European Commission, [De-prioritisation of Level 2 acts in financial services legislation](#), October 2025.

b. Delegation

The delegation regime is an essential building block behind the success of the UCITS/AIFMD framework. It allows asset managers to leverage expertise worldwide to the benefit of end investors while ensuring sufficient investor protection. **EFAMA remains of the strong opinion that any change to the delegation regime should be carefully considered to avoid any disruption that would prevent European and global investors in European funds from accessing well-diversified investment strategies.**

EFAMA welcomes the Commission's intention to ensure that delegation arrangements are not subject to disproportionate requirements. Asset managers currently face the following challenges when applying the delegation regime:

- Asset managers often operate within broader group structures and are sometimes subject to disproportionate and duplicative delegation requirements even though intra-group arrangements benefit from safeguards that do not exist when an asset manager delegates to an external entity (e.g., intra-group accountability and, in some groups, integrated IT systems). As recommended in the *ESMA Principles for third-party risk supervision*, NCAs usually expect the same level of due diligence and oversight for intra-group arrangements as for other delegation arrangements, because they deem these arrangements subject to unique risks.⁷
- Asset managers part of a banking group or with group entities subject to IFD/IFR must comply with the EBA outsourcing guidelines.⁸ Although these requirements are broadly in line with the UCITS/AIFMD delegation requirements, asset managers must develop policies that account for the differences between these two frameworks, unnecessarily complicating the process. Moreover, they have to review their policies whenever either one of these two frameworks is revised. Some requirements, which are, in all intents and purposes, developed for banks and investment firms, can also be excessive for asset managers, which do not face the same risks.
- Only intra-EU distribution arrangements are covered by the streamlined rules introduced by the recent UCITS/AIFMD review (Articles 13(3) UCITSD and 20(6a) AIFMD). Yet investment funds are also widely distributed outside the EU. In fact, non-EU investors account for one-third of the industry's assets under management.⁹ Applying stricter requirements to extra-EU distribution is disproportionate because distributors in third countries are also regulated in their local jurisdictions.
- While the UCITS/AIFMD review clarified that non-core functions that are not listed in Annex II UCITS and Annex I AIFMD (e.g., HR, tax, and internal control functions such as internal audit and compliance) are not subject to the delegation requirements set out in Articles 13(1) UCITS and 20(1) AIFMD, NCAs still expect asset managers to comply with some delegation requirements. There is, however, no European guidance regarding how to oversee these non-core functions.

Unfortunately, the proposed derogation would fail to address the problems outlined above. First, asset managers operate under different business models and therefore rely on the delegation regime in different ways. The derogation would only apply to group entities listed in Articles 2(1v) UCITS and 4(1av) AIFMD, even though delegation arrangements can involve a broader range of intra-group entities. **The scope of the derogation regime should be significantly expanded to deliver value to asset managers and avoid an uneven playing field. By deleting the 'EU group' definition, the derogation would also**

⁷ ESMA, [Principles for third-party risk supervision](#), June 2025.

⁸ EBA, [Guidelines on outsourcing arrangements](#), February 2019.

⁹ EFAMA, [UCITS – A global success story: the distribution of UCITS outside of Europe](#), Market Insights, September 2025.

extend to intra-group arrangements with other entities if key organisational requirements under MiFID are met (as for instance Article 16(2) and 16(5) thereof).

Second, the derogation would have limited benefits because it would apply to too few functions. The derogation would indeed only apply to functions listed in Annex II UCITS and Annex I AIFMD, under the condition that the delegate has been duly authorised to perform such functions. Yet, in practice, these functions, except for portfolio management, are usually delegated to other entities provided minimum safeguards are met (as explained above). In addition, asset managers could not benefit from the derogation when they delegate non-core functions, even though such delegation is frequent within a group. The derogation would therefore result in regulated functions being subject to lower delegation requirements than unregulated and non-core functions. **The derogation should also apply to functions that do not require a regulatory authorisation, and proportionate rules should apply to non-core functions.**

Third, the derogation would only apply to intra-group arrangements within the EU. Yet, asset management groups have internal standards that apply across all entities within the group, whether or not they are within the EU. The delegated function will therefore be performed in the same way regardless of the location of the group delegate. As a result, intra-group arrangements are not, *per se*, riskier when they involve entities part of the group but established outside the EU. While the Commission argues that the derogation is only possible for intra-EU arrangements because the EU provides a level of oversight and supervisory cooperation that cannot be replicated for third-country entities, ESMA and NCAs do in fact have ongoing cooperation agreements evidenced by Memoranda of Understanding (MoUs), including ESMA-negotiated Multilateral MoUs, contracted with a broad range of non-EU supervisory authorities.¹⁰ Provided such MoUs exist between an EU NCAs and its non-EU peers, **the derogation should be extended to intra-group arrangements with entities outside the EU. For the avoidance of doubt, there should be no difference in treatment between asset managers headquartered inside and outside the EU.**

Fourth, groups are subject to other regulatory obligations that can negate the benefits derogation seeks to achieve. An asset manager within a banking/investment group would still be subject to the EBA guidelines on outsourcing arrangements. Asset managers in this situation would still have to comply with requirements quite similar to those currently in place under the UCITS/AIFMD delegation regime. Transfer pricing rules would also continue to apply. Group entities would still, at least, need a contractual agreement specifying the services they provide to each other and how profits are distributed among them. **To ensure that the derogation achieves its simplification objectives, the proposal should also clarify that asset managers should only comply with their sectoral outsourcing rules.**

Recommendation #9:

- A. Revise the derogation to the delegation regime to ensure that asset managers with different business models can opt into the derogation. This requires deleting the 'EU group' definition to allow asset managers to also benefit from the derogation when delegating to other intra-group entities. It will also require an opt-in mechanism during the authorisation process, allowing asset managers to inform their NCAs whether they intend to avail themselves of the derogation. The derogation should equally apply when asset managers delegate to a group entity outside the EU upon condition that a supervisory cooperation agreement (e.g. the IOSCO MMoU or the ones negotiated by ESMA with non-EU supervisory authorities) exists between the EU and third-country supervisor.

¹⁰ Please refer to the [ESMA-UK FCA MMoU](#) for an example, and the [list](#) that ESMA maintains on AIFMD MoUs NCAs put in place with supervisors outside the EU.

- B. Ensure that non-core functions, i.e., functions not listed in Annex II UCITS and Annex I AIFMD, are subject to proportionate rules.
- C. Ensure that asset managers only have to comply with the UCITS/AIFMD rules for their management companies when delegating by amending the CRD and IFD to avoid regulatory complexity.
- D. Extend the applicability of the proposed Articles 13(3) UCITSD and 20(6a) AIFMD to distributors domiciled in non-EU countries that act on their own behalf.

c. Reporting

For asset managers, the primary regulatory challenge in a cross-border context remains supervisory reporting. Asset managers are subject to multiple reporting requirements at the EU level that often overlap (i.e., statistical, supervisory, and transaction reporting). Even when national authorities do not introduce additional reporting requirements beyond EU requirements, managing these requirements can quickly become more complex and costly when asset managers must report to different NCAs with varying expectations for templates, formats, granularity, and frequency. In its Discussion Paper on the integrated collection of funds' data, ESMA estimates that there are "more than 100 distinct asset management reporting templates in use across the EU, varying by fund type and jurisdiction."¹¹

Integrated reporting is therefore essential to deliver efficiencies in the asset management sector. As outlined in our response to the ESMA Discussion Paper on the integrated collection of funds' data, EFAMA supports a fully integrated UCITS, AIFMD, and ECB reporting as part of burden-reduction initiative. It would ensure that authorities receive the necessary supervisory information while also reducing reporting duplication for asset managers. Such an integrated regime would ensure that NCAs collect granular data, including securities-by-securities holdings that are currently accessible only to central banks, and share this information among themselves to avoid situations in which asset managers must report the same information to multiple authorities.¹²

The ESMA report on the integrated collection of funds' data broadly aligns with the industry recommendations. At the same time, it still proposes a **two-phase approach** in which ESMA would first consolidate the UCITS/AIFMD reporting framework before extending this integration to the other elements, in particular, the ECB reporting.¹³ **This would be inappropriate because changes to reporting processes are costly for firms.** They should not need to review their reporting systems every few years.

Moreover, even within the proposed phased approach, **ESMA foresees that it will deliver the first element, i.e., the draft RTS and ITS mandated under the recent AIFMD/UCITS review by April 2027.** Considering the subsequent legislative steps and the necessary and sufficiently long implementation period, **ESMA foresees that these rules could be implemented by 2029 at the earliest. This is two years later than the implementation deadline foreseen in the AIFMD/UCITS review,** meaning that the rules as they stand do not leave sufficient time for ESMA to develop even the first phase of its roadmap, let alone an ambitious, long-lasting reporting regime the industry is calling for. Therefore, **this Package should provide ESMA and the industry with the necessary additional time under AIFMD and UCITS to allow for a reasonable implementation of new reporting and to avoid the risk of misalignment**

¹¹ ESMA, [Discussion Paper on the integrated collection of funds' data](#), June 2025.

¹² EFAMA, [Response to the ESMA Discussion Paper on the integrated collection of funds' data](#), September 2025.

¹³ ESMA, [Final report on integrated collection of funds' data](#), May 2026.

between the deadline set in Level 1 and the regulatory reality of Level 2 development and responsible implementation of new rules.

Finally, given the difficulty of developing an integrated regime, ESMA will need to commit significant resources to achieve it. The additional mandates granted to ESMA by the Market Integration and Supervision Package could divert precious time and energy from this priority.

Recommendation #10:

- A. Postpone the entry into force of the new UCITS/AIFMD reporting requirements (Articles 20a UCITS and 20 AIFMD) expected for April 2027 to give ESMA sufficient time to develop an integrated reporting regime that would last in time.
- B. Insert an explicit mandate for ESMA to develop an integrated reporting system for funds.
- C. Give ESMA the necessary resources to operate this new reporting system.

D. Depositories

EFAMA considers there is merit in considering the introduction of a depository passport. Introducing such a passport would, however, require further consideration to ensure that adequate safeguards are put in place. These would primarily relate to aligning operating standards, ensuring supervisory cooperation and a high degree of investor protection via adequate asset safekeeping standards, mindful of differences in applicable legal regimes across EU jurisdictions.

Most asset managers have access to multiple depositories that charge low fees for their services. Safekeeping costs usually amount to only a few basis points (bps), rarely more than six bps.¹⁴ That said, some Member States do face situations in which some funds (usually smaller, independent ones) have access to fewer depositories. Likewise, for some alternative investment strategies, even in larger Member States, it is difficult to find a single depository capable of safeguarding the necessary range of assets. This means that asset managers must find a depository capable of delegating certain services to a sub-custodian with the necessary capabilities in the asset classes that the depository cannot custody itself.

However, introducing a depository passport could undermine essential safeguards in the UCITS/AIFMD framework. First, it risks undermining investor protection. There is currently no authorisation framework in EU law to guarantee the qualification of a depository to perform its core functions. At the same time, supervisory expectations can differ from one Member State to another.¹⁵ Moreover, a cross-border custodian might not be able to provide the same services as a local one. Depositories have an oversight duty that requires an excellent understanding of the local fund ecosystem and applicable rules. This is particularly true, as fund structures and local requirements often differ from one market to another. In the event of litigation, investors may also face additional challenges in enforcing their rights due to differing insolvency laws.

Second, having the fund, its manager, and its depository in potentially three different Member States would complicate supervision. Depositories must inform the NCA responsible for a fund when they identify a

¹⁴ EFAMA, [Market Insights – Perspective on the costs of UCITS](#), September 2021; Invest Europe, [Response to the European Commission’s targeted consultation on the integration of EU capital markets](#), June 2025.

¹⁵ ESMA, [Report on the peer review on the supervision of depository obligations](#), November 2025.

potential regulatory breach. This cooperation is less likely to occur in a cross-border context. Moreover, it will be more difficult for the NCA responsible for a fund facing disruptions to act swiftly and decisively, as it will likely need to coordinate with the authority that supervises the depositary servicing the fund. Finally, coordination among jurisdictions may delay time-to-market because the fund NCAs would have to liaise with the supervisor of the depositary. Depending on the reactivity of the latter, the fund authorisation process may be lengthened.

Lastly, because the depositary market is a scale business, there is real uncertainty about the outcome of opening that market. As outlined in the aforementioned peer review report on depositary services, the top five depositaries for UCITS and AIFs in each jurisdiction hold a significant share of the total market. It cannot be ruled out that opening the Single Market might lead to market consolidation, with fewer depositaries ultimately servicing funds, as happened in the past (e.g., following the UK's 'Big Bang' deregulation drive in the mid-1980s).

These challenges remain to be adequately addressed before the effective introduction of a depositary passport. **A robust and comprehensive framework for cross-border depositary services should be developed to this end.** It could include further regulatory harmonization, a clearer delineation of supervisory responsibilities between home and host NCAs, and even the ability of the home UCITS NCA to ensure, *ex post*, that the depositary can comply with the rules applicable to depositaries in the host country. This will require a clear delineation of supervisory responsibilities between depositary institutions and NCAs, between home and host NCAs (via means of supervisory cooperation), as well as of the applicable legal framework to ensure that investors have means to seek redress in the event depositary institutions (and their sub-delegates) fails to abide by their UCITS/AIFMD standards.

Recommendation #11:

Develop a robust and comprehensive regulatory framework for cross-border depositary services, mindful of the aforementioned challenges.

III. Capital markets

A. Trading

EFAMA supports the Commission's approach to avoid significant changes to the EU equity trading rulebook. Regulatory stability in this area is essential, considering that trading rules have faced frequent reviews in recent years. The EU should focus on implementing the existing regimes, as recent changes demand certainty to enhance EU competitiveness and attract investments.

a. Consolidated tape

The Savings & Investments Union is designed to channel Europe's large pool of household savings into investments and to make EU capital markets more attractive, accessible, and competitive. **A consolidated tape is central to that objective because it reduces market fragmentation, improves transparency, and allows all investors to see a more complete picture of available liquidity across venues.**

EFAMA supports the changes introduced by the Package relating to the pre-trade Equities and ETF tapes, namely that pre-trade data should include venue attribution and five layers of data. This is critical for the commercial viability of the tape. While we would have preferred to see this incorporated into the tape's initial offering, we can also support its inclusion after the initial five-year operational period.

Europe has deliberately built a competitive trading landscape, with numerous regulated markets and alternative trading venues. That competition has created choice and access for issuers and investors, but it has also produced a complex market structure in which liquidity is distributed across many venues and is often difficult to observe in full.

This fragmentation creates an information gap. Large European financial institutions (such as asset managers and banks) can afford to build a comprehensive, consolidated view of liquidity and prices using in-house data teams and significant internal resources, but smaller firms and retail investors often cannot. With a consolidated tape, these smaller players would gain access to the same high-quality, consolidated market data as the largest institutions, levelling the playing field. In this context, a consolidated tape is not just an add-on, but a missing piece of core market infrastructure. Its value is particularly evident when the tape goes beyond post-trade transparency to provide meaningful pre-trade information, including venue attribution and several layers of market depth. The greater the uncertainty traders face about true market conditions, the more inclined they are to trade in the dark or through OTC channels, where transparency and comparability are limited. Conversely, a clear view of market depth and liquidity distribution enables more informed trading strategies, better order-working decisions, and a more efficient allocation of capital across the European Union.

We describe the broad use cases of the pre-trade equity CT in a separate paper.¹⁶ These range from use-cases for European retail investors, European institutional flows, and global investment flows into EU equities and ETFs.

- Retail participation is a core SIU objective and is essential to let more households invest confidently in EU capital markets. Deploying passive cash savings that are currently sitting in bank accounts into capital markets is a core objective of the SIU. This kind of direct participation in those markets can be significantly facilitated by a consolidated tape, especially one that provides pre-trade depth, venue attribution, and the proposed five layers of data. It is important for retail investors to have accessible, comprehensive market data that helps them make more informed trading decisions, choose appropriate venues, and determine whether a quoted price is competitive.

In the United States, many retail users already benefit from a similar consolidated pre-trade view embedded directly in low-cost or free broker platforms, which supports simple price checking, monitoring, and basic trading strategies. Bringing a pre-trade consolidated tape with venue attribution and multiple layers of depth to Europe would materially strengthen retail investor protection, challenge opaque execution practices, and build confidence that best execution obligations are being met in a transparent and comparable way.

- The ETF market is another clear and important example of why a stronger consolidated tape matters. UCITS ETFs are attractive to global investors, such as pension funds, insurers, and sovereign wealth funds, because of their regulatory framework, tax treatment, broad product range, and cost efficiency. Yet, Europe's fragmented trading landscape makes it harder to assess true liquidity and execution quality than in more centralized markets.

A more transparent ETF market would strengthen Europe's competitiveness as a destination for international capital. For global institutional investors, a five-layer pre-trade tape would make European ETFs significantly easier to trade at scale. That is especially important for large investors who need a reliable, real-time picture of aggregated liquidity before committing capital. If overseas investors can clearly see liquidity, assess execution quality with confidence, and trade without undue market impact, Europe becomes a more credible and attractive destination for allocation.

¹⁶ EFAMA, [Position Paper on Consolidated Tape within the Market Integration and Supervision Package](#), February 2026.

Recommendation #12:

Ensure that the consolidated tape includes venue attribution and the five layers of data.

b. Systematic internalizer (SI) quotes

EFAMA welcomes the disclosure of additional SI quotations within an equity tape, as proposed in Article 2(1)(36b) MiFIR. We support the notion that retail SI quotes should be updated once there has been a price improvement. Such transparency would help improve price formation. This would not only lead to better outcomes for clients but also foster greater competition across trading venues.

Moreover, including SI quotes would render the CT more comprehensive and, consequently, more valuable. Broader adoption would further reinforce its function as a central reference point for European equity markets.

It goes without saying that the SI regime needs to be respected. SIs take positions with their own capital, unlike the exchanges, which only match orders between buyers and sellers without using their own capital.

Recommendation #13:

Ensure that Systematic internalizer quotes remain on a separate data stream and are not included in the regulated market consolidated tape.

c. Volume weighted closing price (VWCP)

EFAMA applauds the attempt to bring more competition to the closing auctions with the proposal for volume weighted closing price (VWCP) data on the CT. However, **we struggle at this point to see how this could bring about more competition in the closing price or favor price discovery.**

At its core, the VWCP would not be a tradable price found on any exchange. ETF managers and passive funds would be forced to 'choose' a closing auction and replicate that price, given that, once again, the VWCP would not be an actual tradable price. As a result, we believe that **maintaining the closing auction as the reference benchmark is essential because it provides: a measurable price, an achievable execution point, and a robust reference for performance evaluation.** Residual flows will still go to other venues, but the price-forming flow should remain on the main exchange.

The only use case that has received any traction is the idea that the VWCP would trigger a secondary closing auction in the event of an outage on the primary exchange. However, this does not require a VWCP to be in place. **A well-established protocol to move to a secondary closing auction would be sufficient to bolster resilience and reliability.**

Recommendation #14:

- A. Maintain the closing auction as the reference benchmark for the time being.
- B. Develop a protocol to move to a secondary closing auction in the event of an outage on the primary exchange.

d. European All Shares Index Family (EUASIF)

Over a longer time horizon, looking at the last 20 years, US markets have outperformed Europe, meaning that US securities are becoming an ever-larger weight in global benchmarks relative to EU securities. As the passive fund universe continues to grow, this will lead to more investment in US securities relative to

the EU, resulting in higher trading volumes and a more attractive environment for IPOs, reinforcing a virtuous cycle for the US and the opposite for Europe. It is critical we do all we can to level the playing field and make EU capital markets as attractive as possible.

Seen through this lens, it is important to establish and stimulate the creation of the European All Shares Index Family (EUASIF). This initiative involves developing a range of indices to cover various aspects of the EU equity capital markets. To enhance the visibility and transparency of EU capital markets, the Consolidated Tape Provider (CTP) could develop an accompanying index family that details various regions and sectors of EU-listed shares worldwide. This proposal aligns with recent backing from the ECB and the European Parliament for using this CTP data to establish an EU All Shares Index Family.

Recommendation #15:

Add in Article 2(1)(36b)(viii) MIFIR the obligation of the Equity and ETF Consolidated Tape Provider to create, offer, and publish the European All Shares Index Family as a free or low-cost data product to market participants. With this change and suggested enhancement, we seek to remove geographical labels in capital markets that negatively impact smaller and newer EU member states.

e. Tick size regime

EFAMA agrees that removing the LIS restriction was necessary and a good idea. With the removal of the LIS restriction, trading possibilities would be broadened, allowing mid-point trading on regulated markets on the same terms as SIs.

As such, we propose under Article 2h MiFIR:

The operator of a regulated market shall ensure that the regulated market adopts tick-size regimes in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and in any other financial instrument for which regulatory technical standards are developed in accordance with Article 2zg(3), point (k). The application of tick sizes shall not prevent regulated markets from matching orders at the mid-point within the current bid and offer prices.

Post-trade

a. CCP open access

With respect to the CCP choice provisions, our main concern is that Article 36(4) will not ensure full CCP interoperability. Article 36(4) currently states the following: *"...it shall not restrict access to specific trade feeds on the ground that the counterparties to a specific transaction have not chosen the same CCP, where the CCPs of their choice have already entered into an interoperability arrangement pursuant to Article 51 of Regulation (EU) No 648/2012."*

This provision seems to indicate that interoperability is not mandatory. If, for example, Clearinghouse X and Clearinghouse Y gained access to Exchange A, this provision would allow counterparties to choose either Clearinghouse X or Clearinghouse Y. However, it would not force Exchange A's own clearinghouse to interoperate with them. As a result, if one counterparty chose Exchange A's clearinghouse and the other picked Clearinghouse X, Exchange A could still run its preferred clearing model without mandatory connections. **As a result, exchanges would still be able to maintain their monopolistic approach.**

Recommendation #17:

Ensure that exchanges accept full interoperability. To achieve this, we propose the following adjustments to Article 36: *"1. Without prejudice to Article 8 of Regulation (EU) 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards fees*

relating to access, to any CCP authorised or recognised pursuant to that Regulation that wishes to clear transactions in financial instruments that are not concluded on that trading venue. Where two or more CCPs have been granted access to a trading venue under this Article in respect of transferable securities as set out in Article 4(1)(44) of Directive (EU) No 2014/65, the CCPs that provide clearing for that trading venue shall have interoperable arrangements as set out in Title V of Regulation (EU) No 648/2012 and the relevant trading venue shall facilitate such arrangements.”

b. Reporting on activity at third-country CCP (Article 7d EMIR)

The latest review of the European Market Infrastructure Regulation (EMIR 3) introduced a reporting obligation under Article 7d, requiring clearing members and clients to report information on their clearing activity in third-country CCPs recognised under Article 25 EMIR. This includes information on the types of instruments cleared, average values cleared, margins collected, default fund contributions, and largest payment obligations.

EFAMA considers that Article 7d, in its current form, risks creating a disproportionate and duplicative reporting obligation. This is particularly relevant in the context of the MISP, whose objective is to simplify regulatory requirements, reduce unnecessary administrative burdens, and avoid duplication with existing reporting frameworks.

First, Article 7d is drafted too broadly. While EMIR is primarily concerned with derivatives clearing and bilateral risk-management requirements, Article 7d refers to ‘financial instruments or non-financial instruments cleared’. This creates legal uncertainty and risks extending the scope of EMIR beyond derivatives. From an asset management perspective, this could bring into scope investment funds with no derivatives activity, which is not currently the case, simply because they clear or settle other instruments through an Article 25 third-country CCP. Such an extension would go beyond the core purpose of EMIR and impose disproportionate reporting obligations for entities that are not otherwise subject to EMIR on the basis of derivatives activity.

Second, Article 7d risks creating duplicative reporting obligations. Under the current drafting, both clearing members and clearing clients that clear contracts through recognised third-country CCPs may be required to report substantially the same clearing activity. In practice, this could lead to the same transactions or exposures being reported multiple times, particularly where an EU clearing client (i.e., a buy-side firm) accesses a recognised third-country CCP indirectly through an EU clearing member or clearing service provider (i.e., a sell-side firm). This would increase operational complexity, create risks of inconsistent data, and provide limited additional value to supervisors.

Third, several data points required under Article 7d are not generally accessible to clearing clients. Information such as the amount of margin collected under Article 7d(c), default fund contributions under Article 7d(d), and largest payment obligations under Article 7d(e) is typically held by clearing members and CCPs, rather than by asset managers or investment funds acting as clearing clients. Requiring clearing clients to report such information is not feasible.

This duplication is particularly difficult to justify given the existing reporting frameworks already available to supervisors. EMIR Article 9 already provides granular transaction-level data on derivatives activity, while MiFIR Article 26 provides transaction reporting data on financial instruments. Article 7d(2) itself requires ESMA, when developing the relevant RTS, to take into account existing reporting channels and information already available under the current framework, including Article 9 EMIR reporting.

There is also a timing consideration. Article 7d has not yet been implemented in practice, as the relevant Level 2 measures have not been finalised. This creates a unique opportunity for co-legislators to reassess

and refine this provision before it becomes operational, ensuring that it does not introduce a burdensome obligation with limited supervisory value.

EFAMA therefore considers that Article 7d should be reviewed under MISP to ensure that it remains proportionate, coherent with EMIR's scope and aligned with existing reporting channels.

Recommendation #18:

- A. Limit Article 7d reporting strictly to derivatives, by replacing references to 'financial instruments or non-financial instruments cleared' with 'derivative instruments cleared'
- B. Remove clearing clients from the Article 7d reporting obligation, or at least ensure that clients are not required to report data already reported by clearing members or CCPs.
- C. Limit Article 7d reporting to non-duplicative aggregate data necessary to provide a high-level view of Union exposure to third-country CCPs.
- D. Ensure that Article 7d expressly avoids duplication with existing reporting under EMIR Article 9 and, where relevant, MiFIR Article 26.
- E. Amend Article 7d EMIR accordingly, including by clarifying that the information reported should be limited to aggregate data necessary to assess EU exposure to third-country CCPs and should not duplicate data already available under existing reporting frameworks.

C. Distributed Ledger Technology

EFAMA is extremely pleased to note a comprehensive sweep of current regulations to adapt to DLT technology, necessary changes to the EU's experimental sandbox legislation, and a strong aspiration to build a framework that is future-proof and not already obsolete by the time of adoption.

We particularly appreciate two overarching themes in the EC's proposal:

- The push to avoid discrimination of assets or players if they are providing products and services in a DLT format.
- The amendment of legislation, both with the dedicated DLT Pilot Regime (PR), and CSDR, to provide a level playing field between entities wishing to provide different services ranging from notary/registration, central account keeping, custodial services, trading, and settlement. The ability of different players, with different natural advantages, to provide competitive services under robust regulatory and investor-protection safeguards is of tremendous importance to the EU and its future competitiveness.

However, we share the concern held by many stakeholders that the DLT file is a particularly time-critical part of the Package. The DLT PR is already very much considered out of date and in need of new parameters, the same is true for the technology neutrality and level playing field aspects explained above. Given the pace of change in other jurisdictions and the need to provide legal certainty to all the firms seeking to invest in, build and expand their DLT offering in Europe, an expedited treatment of the Package is called for.

a. DLT PR

EFAMA welcomes the expansion of the pilot regime to a new threshold of EUR 100 billion in total aggregated market value for admitted instruments. This is certainly an improvement and absolutely necessary if the DLT PR is to enter a new phase of growth and attract a healthy level of operators. First, it is not entirely clear how securities that are not digitally native but that also have a traditional presence would

be treated. Such hybrid securities could quickly breach the EUR 100bn cap. Second, tokenised funds represent a very small but high-growth portion of the mutual fund market. Other jurisdictions have no thresholds or flexible thresholds, which could make the EU DLT PR quickly irrelevant even in its updated form. **Under a risk-based approach with proportionate requirements, higher thresholds could already be built into the DLT PR. A full removal of the market value threshold would be preferred, however.**

We also fully support the lifting of asset restrictions under the DLT PR. The MISP texts rightly recognises that financial instruments (under MiFID) represent no greater or no less a risk than instruments issued under 'functionally analogous' technologies. This is a very important manifestation of technology neutrality that we welcome.

Recommendation #19:

Remove the value threshold applicable to the DLT Pilot Regime.

b. CSDR

Amending the CSDR to ensure that all definitions, concepts, and requirements are also DLT compatible is a major and welcome step. This supports the convergence of traditional and DLT regulatory frameworks.

A major step toward fully enabling our existing frameworks to support DLT technologies is the recognition of Electronic Money Tokens, i.e., stablecoins under MiCA, under the CSDR as a means of payment.

While we see a strong push to update CSDR to include DLT-based services, the targeted technology neutrality should apply in both directions. While CSDR opens up to DLT technology, the same should be true for entities operating outside CSDs but providing identical services. Those assets should not be discriminated against either. **Over the longer term, we see a need to amend Article 3(2) of CSDR to remove the monopoly of CSD-registered securities for use in financial and central bank collateral, and on-venue trading eligibility.**

c. Unbundling of CSD services

EFAMA fully supports the proposal to allow an investment firm, a regulated market, a credit institution, or a CASP to provide individual CSD services, such as notary and central account-keeping services.

However, we question the very low threshold of EUR 10 billion for the simplified regime, which would also apply to any providers of DLT notary or central account keeping. Moreover, it is important that the final requirements and ensuing Level 2 rules should not be more restrictive than the provisions laid out in national regimes for DLT securities registration. If the EC regime proves more restrictive, authorisations under existing national frameworks should be grandfathered.

d. Expanded role of CASPs

EFAMA is pleased to see greater competition introduced in the market for the operation of DLT Trading and Settlement Systems and DLT SS platforms, provision of notary and CAK services, and management of EMT cash accounts (i.e., digital wallets).

The direct transfer of supervisory powers to ESMA, as currently proposed raises a number of questions that EFAMA is working through: i) the time required to achieve same level of competence and technical expertise at ESMA level as is today found in leading NCAs, ii) impact on finely calibrated national ecosystems, including a robust and trustworthy supervisor in the DLT space, iii) additional costs/cost differential to current conditions with national NCA.

e. Settlement Schemes

EFAMA is very pleased by the ‘settlement scheme’ proposal within the DLT PR and the opening up for DLT central account keepers to take on this role. This absolutely supports the innovative and competitive solutions we would like to see brought to market by entities that fully leverage the power of DLT technology.

However, some of the provisions appear overly restrictive, potentially preventing participation in the scheme before it has a chance to become a proven business model (similar to what happened with the unfortunately low thresholds for the DLT PR when it was negotiated in 2020-2021):

- Confinement to the simplified regime at EUR 10bn maximum for aggregate total market value, is once again too low and would severely restrict participation.
- The restriction of a maximum of 2 settlement schemes per DLT central account keeper appears arbitrary and too restrictive.
- Most significant in the design of the settlement scheme is the availability of payment options. Settlement schemes would be limited to central bank money, which seems odd given the need to fully leverage DLT and retain the entire trading and post-trading workflow on chain.
- Securities registered with DLT notaries should automatically benefit from on-venue trading eligibility and financial and central bank collateral eligibility.

Recommendation #20:

Remove the restrictions on DLT central account keepers to offer settlement schemes.

f. UCITS holdings of Stablecoins

Technology neutrality is a broad theme we see reflected in the proposed updates to CSDR, DLT PR, and MiCA. These reforms are, however, incomplete if the buy-side of the equation is not taken into account. As we have signaled previously, UCITS regulation and the Eligible Assets Directive (EAD) are not entirely clear on the ability for UCITS funds to hold stablecoins for payment purposes. We have previously sought such interpretive guidance and would appreciate if ESMA could clarify that stablecoins can be held for settlement purposes either as an ancillary liquid asset or because eligible asset requirements under Article 50(1) UCITS are met. Such guidance would be greatly appreciated by the buy-side community.

g. Tokenised MMFs

EFAMA will shortly be releasing a paper on Tokenised Money Market Funds (tMMFs). In this paper, we undertake a legal analysis of the regulatory framework necessary to support digital assets, tMMFs in particular. As such, we would like to draw attention to some of the areas that we know require action and which are elaborated in the forthcoming paper:

- Ensuring that on-chain transfer of assets equate to legal title;
- Eligibility of non-CSD registered securities for on-venue trading and collateral transfer;
- ESMA standards on digital custody to ensure a standardised approach to segregation, control and investor protection; and
- EU guidance on financial collateral arrangements.



ABOUT EFAMA

EFAMA is the voice of the European investment management industry, which manages around EUR 33 trillion of assets on behalf of its clients in Europe and around the world. Its membership consists of 29 national associations, 52 global asset managers, and 27 associate members. We advocate for a regulatory environment that supports our industry's crucial role in steering capital towards investments for a sustainable future and providing long-term value for investors.

Besides fostering a Savings & Investments Union, consumer empowerment and sustainable finance in Europe, we also support open and well-functioning global capital markets and engage with international standard setters and relevant third-country authorities. EFAMA is a primary source of industry statistical data and issues regular publications, including Market Insights and the authoritative EFAMA Fact Book.

More information is available at www.efama.org

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