

PARIS EUROPLACE RESPONSE TO THE TARGETED CONSULTATION ON INTEGRATION OF EU CAPITAL MARKETS

1. Horizontal barriers to trading and post-trading infrastructures

This section seeks feedback on horizontal barriers to trading and post-trading infrastructures in four main areas: EPTF, cross-border operational synergies between entities, issuance, and innovation. Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

1.1. EPTF barriers

- 1) How do you assess the continuing importance of the barriers identified by the EPTF Report and those put on EPTF Watchlist in 2017?

Please rank each barrier according to the urgency of its resolution for achieving an integrated EU market for post-trade services. Please rank barriers as high/medium/low urgency (max 6 barriers per grading category). Please mark barriers that have been resolved and are no longer relevant.

Barrier	High	Medium	Low	No longer relevant	Do you agree with EPTF recommendations? YES/NO
Fragmented corporate actions and general meeting processes (EPTF 1)					
Lack of convergence and harmonisation in information messaging standards (EPTF 2)					
Lack of harmonisation and standardisation of ETF processes (EPTF 3)					
Inconsistent application of asset segregation rules for securities accounts (EPTF 4)					
Lack of harmonisation of registration rules and shareholder identification processes (EPTF 5)					

Complexity of post-trade reporting structure (EPTF 6)					
Unresolved issues regarding reference data and standardised identifier (EPTF 7 (formerly Giovannini Barriers 8 and 9, redefined and combined))					
Uncertainty as to the legal soundness of risk mitigation techniques used by intermediaries and of CCPs' default management procedures (EPTF 8) (formerly Giovannini Barrier 14)					
Deficiencies in the protection of client assets as a result of the fragmented EU legal framework for book entry securities (EPT 9) (formerly Giovannini Barrier 13)					
Shortcomings of EU rules on finality (EPTF 10)					
Legal uncertainty as to ownership rights in book entry securities and third-party effects of assignment of claims (EPTF 11) (formerly Giovannini Barrier 15)					
Inefficient withholding tax collection procedures (the lack of a relief-at-source system) (EPTF 12)	X				Yes. The ETPF report (2017) mentions as Barrier 12: Inefficient withholding tax collection procedures <i>"Simplifying and harmonising tax relief and recovery procedures are crucial elements to the European single market in order to improve post-trade activities, in particular in facilitating the clearing and settlement of securities across EU Member States. In this regard, several aspects should be considered:</i> <i>• Governments should take steps to implement a standardised and harmonised system for tax relief at source and simplified tax refund procedures</i> <i>• The following elements should be considered in order to improve the current system:</i>

					• Standardised investor documentation; • Standardised tax reclaim forms; • Safeguards to protect governments from inappropriate tax relief claims; • Agreement on the liability standards applicable to end investors and financial intermediaries; • Removal of national tax rules reserving tax withholding responsibilities for local intermediaries and thus obliging foreign intermediaries to use local fiscal agents; • Ensure the system remains voluntary and financial intermediaries are free to choose whether or not to provide relief at source services. • Member States should consider harmonisation of the fiscal status of market claims across the EU so that all market claims on dividend payments are treated as indemnities,
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					and not as taxable dividends. • Standardised communication forms, possibly machine readable. • Electronic communication with tax authorities to submit reclaims.” We fully agree with the 2017 proposals, which remain up to date, some existing projects don’t seem to be adequate answers to these requirements: • TRACE has been experimented since 2021 in Finland with a limited success (only less than hundred registered financial intermediaries). • The Directive FASTER AND SAFER deviates from many of these requirements before the fight against tax abuse has clearly taken the lead, far above the goal of simplifying and harmonizing tax relief procedures. To date, except the introduction of the common EU digital tax residence certificate (eTRC), which is welcome to digitalize and speed up withholding tax relief procedures (most of the Member States still use paper-based processes), FASTER will maintain and develop more complexity and uncertainty within the withholding tax procedures than today. To truly simplify and harmonize withholding tax procedures, decluttering exercise of due diligence,
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					reporting and obligations provided by FASTER must be engaged. However, the most effective way to remove this tax barrier is to abolish the withholding taxes altogether.
National restrictions on the activity of primary dealers and market makers (WL1)					
Obstacles to DvP settlement in foreign currencies at CSDs (WL2)					
WL3: Issues regarding intraday credit to support settlement (WL3)					
Insufficient collateral mobility (WL4)					
Non-harmonised procedures to collect transaction taxes (WL5)					

EPTF 3: See our dedicated response on ETFs in the second section of the consultation (trading Q°12 and following).

EPTF 12: While we fully agree with the 2017 proposals, which remain up to date, some existing projects don't seem to be adequate answers to these requirements

TRACE has been experimented since 2021 in Finland with a limited success (only less than hundred registered financial intermediaries).

The FASTER AND SAFER Directive deviates from many of these requirements, prioritizing the fight against tax abuse far above the objective of simplifying and harmonizing tax relief procedures.

The lack of clear definitions and the heavy administrative burden raise concerns about difficulties in accessing withholding tax refund procedures for collective investment undertakings. Plus, the standardised and harmonised system is greatly weakened in FASTER Directive by a large number of options granted to Member States, leading to a real risk of fragmentation.

We consider that the most effective way to remove this tax barrier is to abolish the withholding taxes altogether.

1.2. Leveraging cross-border operational synergies between entities (outsourcing, treatment of group structures)

- 2) On a scale from 1 (it is inadequate) to 5 (it is adequate), do you believe that the current regulatory and supervisory set-up as regards outsourcing is adequate, and captures the risks linked to outsourcing appropriately?

1	2	3	4	5	No opinion
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If you responded 4 or less, please point to specific issues and to possible improvements, including, where relevant, any distinction between intra- and extra-EU outsourcing.

- 3) In case of groups that include trading and/or post-trading infrastructures, does the legislative framework adequately cater for intra-group synergies, notably by way of outsourcing, on a scale from 1 (inadequate) to 5 (adequate)?

1	2	3	4	5	No opinion
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If you responded 4 or less, please point to which types of operations have been negatively impacted by the legislative framework, and what have been the costs (or alternatively: foregone cost synergies)? Please indicate which specific regulatory provisions or supervisory practices have hindered the ability to outsource functions within your group, notably across borders.

- 4) If you consider that the current regulatory and/or supervisory framework should be adapted to more effectively facilitate intra-group operational synergies, please detail the specific legislative amendments that should be implemented. Should any safeguards be maintained in this process (e.g. for preventing/managing conflict of interests)?

Questions	Answers	
5) What are the main barriers to consolidation at group level of CSDs' functions: legal barriers in the CSDR; legal barriers in other EU legislative acts; legal barrier (incl. fiscal, tax-related regulatory requirements) in national law; supervisory barriers; technical/operational barriers; market practice?		
	Yes	No
6) Are there barriers to consolidation due to the structure of the regulatory reporting mandated in the CSDR?		
7) Are there barriers to consolidation due to the organisational requirements (e.g. on outsourcing) mandated in the CSDR?		
8) Are there obstacles to consolidation related to the current CSD supervisory and oversight framework?		

For question 5 complete the following fields: For questions 6 to 8 , where your reply is 'yes' complete the following fields as appropriate. For questions 6	Please provide a clear explanation of the barrier, and the reasons for this being indicated as a barrier, including - the specific legal requirements that create the barrier, if relevant (national or EU level); - whether a barrier is more prominent for one or more types of financial instruments - the supervisory or market practice(s) that create(s) the barrier, if relevant; - the technical aspects related to the barrier, if relevant; - information on the costs, if the level of costs is considered an issue.	
	Please provide a ranking of the importance of the issue as: - high priority; - medium priority; - low priority.	

to 8 where your reply is 'no' justify your reply, in particular identifying potential risks.	Please provide an estimation of the costs of the absence of a group perspective, where possible.	
	Please provide potential solutions and rank the solutions in terms of preference. Suggestions for solutions can include, but are not limited to, - legislative changes (specifying which changes are	
	being suggested); - use of supervisory convergence tools (specifying which tools are being suggested); - centralised supervision; - adoption of market practice(s); - other.	
	Please provide data on the potential costs and benefits of the suggested solutions.	

1.3. Issuance

Questions	Answers	
9) Please describe the steps and how long it takes to issue securities (and, if applicable other financial instruments) in your Member State. Which steps could work better, in particular if undertaken cross-border (i.e. CSD and/or trading venue is in another Member State)?		
10) What are the main barriers to the smooth functioning of processes related to pre-issuance and issuance in an integrated EU market? In answering this question, please consider all of the following, but not limited to this: - legal requirements; - supervisory practice; - differing or lack of data exchange standards (exchange of non-machine readable data; - market practice; - differences in national requirements; - technical/technological aspects.	There is an urgent need to tackle the lack of domestic investors base in Europe, which is more important that the cost of issuance. Also, we see a need for supervisory harmonization in Europe, including for prospectus approval, and for market infrastructure simplification.	
	Yes	No
11) Are there barriers relating to the settlement period of primary market operations?		
12) Are there barriers related to ISIN allocation, or relating to the length of ISIN allocation processes? If so, could any of these barriers be addressed through legislative changes?		
13) Should the attribution of ISIN should be further regulated, e.g. e introduction of a 'reasonable commercial basis' clause, or the prohibition of entities active in closely linked activities (e.g. settlement-related activities) from performing tasks as national numbering agencies? Should measures be taken to create more competition in the area of ISIN attribution and, if so, how?		
14) Are there barriers related to the lack of a harmonised approach for investor identification and classification?		

15) Are there barriers related to the lack of automation and straight-through processing along the issuance value chain?		
16) Are there barriers related to the exchange of data between the stakeholders involved in the issuance?		
17) Are there any barriers related to issuance which are not mentioned above?		
For each of the above questions that have been answered with "yes" please complete the following fields:	Please explain your answer (and clarify the type of barrier (i.e. barrier or a difficulty/challenge)), including - the instruments concerned, or for which the concern is most acute; - the specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level); - the supervisory or market practice(s) that create(s) the barrier, if relevant; - the technical aspects related to the barrier, if relevant; -	
	Please rank the importance of the issue as - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs of the barrier.	
	Please provide potential solutions and rank them in terms of preference. Suggestions for solutions can include, but are not limited to: - legislative changes (specifying which changes are being suggested); - use of supervisory convergence tools (specifying which tools are being suggested); - other.	
	Please provide data on the potential costs and benefits of the suggested solutions.	

Question	Answer
18) On a scale from 1 (very complex) to 5 (very straightforward), what is your assessment of the current procedures for issuing debt or equity instrument in the EU, in particular for the first time? Please point to the main difficulties you might have identified, if any.	
19) In particular, what is your assessment of the level of competition in the area of underwriting, and of the level of fees for such services? Do you perceive that they can be a significant barrier for those issuers considering issuing financial instruments (debt or equity)? If so, what are the drivers for such difficulties?	
20) On a scale from 1 (very unsatisfactory) to 5 (very satisfactory), what is the level of transparency of fees structures in the area of underwriting satisfactory? If not, do you believe transparency on the prices billed to issuers and investors for such services should be provided on an ex post basis (e.g. publication of indicative prices for underwriting services) or on an ex ante basis (standard/average price lists)?	

21) Would a front-to-end pan European platform as proposed by the ECB in 2019 (European Distribution of Debt Instruments (EDDI) initiative) solve the barriers and obstacles identified in the previous questions?	
If yes, should this front-to-end pan European platform focus on debts instruments solely or would this service also contribute to improving equities issuance processes too?	
If no, how should these barriers and obstacles identified be addressed?	
22) Are you satisfied with the current level of digitalisation of the bookbuilding process? Yes, No, don't know.	
If you responded "No" to the previous question, is there any legislative measure that could be taken to support more digitalisation? If yes, please explain.	

1.4. Innovation – DLT Pilot Regime (DLTPR) and asset tokenisation

Questions	Answers	
	Yes	No
23) Do you believe that the DLTPR limit on the value of financial instruments traded or recorded by a DLT market infrastructure should be increased?	Yes. The current thresholds significantly limit the scalability and economic viability of projects under the DLTPR. Eliminating these thresholds aligns with the regime's core objective of fostering large-scale innovation in European financial markets. The status of DLT TSS is not a lower-tier classification; on the contrary, the technical sophistication and complexity required for obtaining and maintaining DLT TSS status demonstrate the rigorous standards these infrastructures must meet. Given the high level of regulatory scrutiny and compliance costs, comparable to those borne by Central Securities Depositories (CSDs) and exceeding those of Multilateral Trading Facilities (MTFs), maintaining restrictive thresholds negatively impacts the business models and overall competitiveness of DLT infrastructures. Removing these thresholds is a HIGH PRIORITY to enable meaningful innovation, attract substantial investment, and ensure DLT-based solutions can compete equally with traditional market infrastructures. Estimation of benefits and risks : Removing the thresholds would attract substantial additional financial activity by	

	enabling economically viable, large-scale projects and fostering deeper liquidity pools. Risks associated with removing thresholds are minimal, given the stringent regulatory framework already governing DLT TSS entities, ensuring robust market integrity and investor protection. Priority: High.	
24) Do you believe that the scope of assets eligible within the DLTPR should be extended?	Yes. Currently, the DLTPR only accommodates shares, plain vanilla bonds, and some investment fund units, significantly narrowing its usefulness and attractiveness. Expanding the eligible scope to encompass structured financial products such as EMTNs, warrants, and derivatives would substantially broaden the applicability and attractiveness of the regime. These instruments are pivotal to capital market activities, and their inclusion is necessary to reflect real market conditions and provide a robust testing ground for innovative financial technologies. Extending the scope of eligible assets is a HIGH PRIORITY for the creation of a comprehensive and competitive European digital finance ecosystem, thus strengthening Europe's financial sovereignty and market resilience. Estimation of benefits and risks: Expanding eligible assets would significantly enhance the diversity and volume of transactions, fostering a more vibrant, innovative market environment. Potential risks associated with the inclusion of complex instruments like derivatives can be effectively mitigated through rigorous regulatory oversight and transparency requirements already established within the DLTPR framework. Priority: High	
25) Do you believe that the DLTPR should be extended to cover other types of systems, such as clearing systems?		No. One of the primary advantages of the DLTPR and the DLT TSS status is the integrated settlement capability, facilitating instantaneous delivery-versus-payment and eliminating counterparty risk,

		thereby inherently removing the need for a traditional clearing system. In the context of certain complex financial instruments such as derivatives—which are currently outside the Pilot Regime’s scope—clearing systems may still be necessary to handle margin calls. Nevertheless, the integrated nature and direct participant relationships of the DLT TSS would enable it to manage such operations more efficiently than separate clearing entities. It is therefore important to retain the capability within the DLT TSS framework itself, leveraging its inherent efficiencies and technological advantages rather than extending DLTPR to cover external clearing systems. Maintaining the integrated settlement function within DLT TSS significantly enhances operational efficiency and reduces systemic risk. However, careful regulatory oversight will be required to ensure adequate risk management practices for more complex instruments if introduced in the future. Priority: Medium.
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For questions 23 to 25, where your reply is ‘yes’ please complete the following fields as appropriate.	Please provide details on the preferred changes to the DLTPR and explain your reasoning (how limits should be increased, which concrete assets should be eligible and why)	See above
	Please provide a ranking of the importance of the issue as: - high priority - medium priority or - low priority	See above
	Please provide an estimation of the benefits and risks that result implementing the changes to the DLTPR that you propose. For example, if you suggest extending the scope of instruments, or increasing the threshold, you are encouraged to estimate how much additional financial activity would the DLTPR attract, and opine on the associated risks.	See above

For questions 23 to 25, where your reply is ‘no’ please explain your reply, in particular identifying potential risks.	See above	
Question	Answer	
	Yes	No
26) Should the DLT trading and settlement system (DLT TSS), allowing for trading and settlement activities within a single entity, become embedded into the regular framework (CSDR, MIFID)?	The DLT TSS is a transformative concept that combines trading and settlement within a single regulated entity. Its integration into the standard EU legal framework (CSDR and MiFID) would create long-term certainty, encouraging investment and broader adoption. The DLT TSS model directly addresses many pain points of current capital markets, such as fragmentation, reconciliation issues, and delayed settlement. It also significantly lowers barriers for issuers and can foster a broader issuer base—particularly SMEs—revitalizing capital markets in a context where private markets and shadow finance have gained ground due to accumulated burdens on public issuance.	
Please explain your reply, noting in particular the risks and the benefits.	See above	
27) What other changes to the DLTPR are needed to ensure that it remains a framework that is fit for the purpose of allowing new entrants and established financial companies to deploy pioneering innovation with DLT in the EU, while also ensuring appropriate risk mitigation?		
It is essential to provide long-term regulatory visibility by clearly extending or making permanent the Pilot Regime. Accelerating the introduction of a wholesale CBDC is also a priority. In the interim, broader access to tokenized deposits and e-money tokens (EMTs) must be enabled under simplified conditions to support effective DvP settlement mechanisms.		
28) What type of below-specified changes to the DLTPR would improve business certainty and planning for businesses that are considering to join the DLTPR?		
Please rank each set of changes on a scale of 1-5 (1 denoting ‘least important’).		
(a) remove the references in the DLTPR to the limited duration of licenses;		
(5/5) The current limited duration of licenses significantly hinders long-term strategic investments and creates unnecessary legal uncertainty. Removing this limitation would reassure market participants encouraging substantial investments in technological development and infrastructure. It would send a clear signal of regulatory stability, essential to fostering a sustainable digital capital markets ecosystem. This change would place Europe in line with international practices such as the UK's Digital Securities Sandbox, which emphasizes continuity and long-term viability of digital market projects.		
(b) size-proportional requirements within the DLTPR, whereby the greater the size of the business of the DLTPR participant (e.g. measured in terms of volume of transactions traded/settled), the greater the compliance obligations;		

(2/5) The compliance obligations currently imposed on DLT TSS entities, though stringent, accurately reflect the critical operational resilience and robust market practices required by these innovative market infrastructures. The fundamental challenge does not lie in scaling these compliance requirements but rather in aligning them with commercially viable business models, currently restricted by artificially imposed thresholds. The resilience standards required of DLT TSS infrastructures should not be diluted, as these standards are essential to safeguard market integrity. Therefore, priority should instead focus on revising transaction thresholds (as outlined in option (d)), allowing businesses to benefit from economies of scale without compromising necessary regulatory rigor.

(c) clearer regulatory pathways to 'graduate' into the 'regular' CSDR framework;

(3/5) The regulatory trajectory from the Pilot Regime towards full compliance with the regular CSDR framework remains somewhat ambiguous and might be daunting for potential entrants. Providing clearer guidelines and transitional arrangements would undoubtedly improve market confidence and encourage participation by providing long-term visibility. For example, clear staged requirements, coupled with explicit guidance from regulatory bodies such as ESMA, would simplify transition processes. While beneficial, this factor is considered moderately important relative to the immediate impact of thresholds and license duration.

(d) other. Allowing a wider range of listed financial instruments and transaction thresholds (5/5): expanding the eligible financial instruments beyond the current restrictive categories and removing thresholds is paramount. This flexibility directly correlates with the commercial attractiveness and the economic viability of DLT-based market infrastructures. The current restrictions severely limit innovation, scalability, and operational profitability. Expanding instrument eligibility and removing restrictive thresholds would significantly boost business model feasibility, attract broader market participation, and foster innovation and competitiveness of the European market infrastructures compared to global competitors. Jurisdictions such as Switzerland and Singapore offer broader eligibility criteria and fewer constraints, clearly demonstrating the benefits in terms of market activity, innovation, and international competitiveness.

In conclusion, to significantly enhance the DLTPR's attractiveness, changes (a) and (d) are of utmost priority. These amendments would drastically improve business certainty, ensure economic viability, and position the EU's digital market infrastructure on equal footing internationally.

29) Does the DLTPR create a sufficiently clear and flexible framework for the use of EMTs as a settlement asset, bearing in mind the overarching need to ensure high level of safety for cash settlement in DLT market infrastructures?

No. The current wording under Article 5, point 8 of the DLTPR states that "Services related to 'e-money tokens' that are equivalent to the services listed in Section C, points (b) and (c), of the Annex to Regulation (EU) No 909/2014 shall be provided by the CSD operating the DLT SS in accordance with Title IV of Regulation (EU) No 909/2014 or by a credit institution."

This has been widely interpreted by market participants and regulatory authorities as requiring EMT issuers to be credit institutions. Consequently, the vast majority of EMTs—typically issued by Electronic Money Institutions (EMIs)—are effectively excluded from eligibility. This unintended restriction significantly limits the flexibility and practicality of EMT use within the DLTPR framework, undermining the Pilot Regime's objective to foster innovation and broader adoption of digital settlement solutions. Clarification or modification of this provision is essential to explicitly permit EMTs issued by EMIs, thus aligning regulatory intentions with market realities and enhancing the operational scope of the DLTPR.

30) Do you think that in addition to, or instead of the current derogations-based approach (allowing switching off of certain MIFID and CSDR provisions), the DLTPR should take a principles-based approach whereby high-level provisions govern trading and settlement services, with the purported

aim of creating more flexibility for deploying innovative DLT-based projects?

Yes. A principles-based framework offers greater flexibility and adaptability to technological innovation compared to the current prescriptive derogations, which risk quickly becoming obsolete due to the rapid pace of technological evolution. Importantly, the experience gained from licenses already granted and from applications currently under advanced review has provided valuable insights into the specific operational characteristics and compliance needs of these new infrastructures. These practical insights should be explicitly integrated into the regulatory texts, ensuring clear guidance and enhancing the long-term stability and predictability of the DLTPR framework. Such clarity will support continued innovation and investment, reinforcing the DLTPR's role in fostering a robust, adaptable digital market infrastructure environment in Europe.

- 31) What would be the advantages and disadvantages of such an approach and how can the disadvantages be mitigated?

Adopting a principles-based approach presents significant advantages, including greater flexibility in accommodating diverse and evolving market models, improved responsiveness to rapid technological innovation, and enhanced regulatory agility. It supports a broader range of use cases and ensures that regulatory frameworks remain relevant as technologies develop. However, potential disadvantages of this approach include inconsistencies in interpretation and application by national competent authorities, which may lead to regulatory fragmentation, and increased supervisory uncertainty, potentially discouraging market participants from investing in innovative solutions. These disadvantages can be effectively mitigated by strengthening ESMA's coordination and supervisory convergence role. Clear and detailed interpretative guidelines at the EU level should be developed, incorporating specific operational insights and regulatory expectations derived from the licensing processes already completed or underway. Additionally, ongoing dialogue between ESMA, national regulators, and market participants should be institutionalized to continually refine and clarify the application of principles, ensuring consistency, transparency, and long-term regulatory predictability.

- 32) Please provide examples of principles-based standards or regulation (EU or non-EU), in the financial or non-financial domain, that may serve as a useful model or inspiration for a principles-based DLTPR, and why you think these examples are insightful.

Several jurisdictions offer successful models for principles-based regulation, notably the Monetary Authority of Singapore's (MAS) regulatory sandbox, the UK's Financial Conduct Authority (FCA) innovation sandbox, and the Swiss FINMA regulatory framework for digital assets.

- The MAS sandbox framework provides clear, overarching principles that facilitate innovation tailored to each project's specific risk profile, maintaining robust supervision and ensuring market stability.
- The UK FCA innovation sandbox similarly supports flexible experimentation with clearly articulated principles, promoting innovation while maintaining stringent standards of consumer protection and market integrity.
- Switzerland's FINMA framework applies high-level, principles-based guidelines for digital assets, providing clear yet adaptable regulatory oversight that accommodates various innovative business models.

Leveraging these international examples, the EU could implement a similar approach within the DLTPR, establishing clear guiding principles supported by detailed interpretative guidelines and supervisory coordination mechanisms. This approach would ensure both flexibility and regulatory clarity, promoting sustainable innovation in European financial markets.

Question	Answer	
	Yes	No
33) Do you believe that DLT is a useful technology to support trading services in financial instruments?		No. DLT is indeed an exceptional technology for maintaining secure, immutable, and transparent registers. This quality makes it highly suitable—and even necessary—for maintaining registers of financial instruments, acting as a foundational ledger or "golden source" within settlement systems such as DLT Settlement Systems (DLT SS) or DLT Trading and Settlement Systems (DLT TSS). However, regarding trading activities specifically, these typically occur off-chain due to performance, scalability, and efficiency requirements. There are, of course, specific use-cases—particularly prevalent in decentralized finance (DeFi)—where on-chain trading is essential due to the deliberate absence of intermediaries. This particular scenario, however, differs fundamentally from the framework and objectives of the EU Pilot Regime, which inherently relies on regulated market infrastructures acting as intermediaries. Thus, while DLT has undeniable strengths for registry and settlement purposes, its added value specifically for trading services within the Pilot Regime remains limited.
Please explain your response.		
34) Do you believe there are regulatory barriers beyond those addressed by the DLTPR that may hinder or prevent DLT-based provision of trading services in financial instruments?	[yes]	No. At this stage, we have not observed additional regulatory barriers, beyond those already addressed within the DLTPR framework, that would specifically hinder or prevent the provision of trading services using DLT. The current DLTPR adequately covers the relevant regulatory considerations, and no significant unaddressed obstacles have been identified.
If 'yes': Please specify and explain these regulatory barriers		

35) For a financial entity using DLT to deploy its services, the distributed ledger is often an external platform on which services are run, and this platform may have a very distributed governance structure. What are the benefits and risks of deploying financial services, including post-trading services, on distributed ledgers external to the financial service provider, and therefore outside its direct control?

Financial market infrastructures should maintain technological neutrality and retain the freedom to choose either public or private distributed ledger technology (DLT) solutions. Opting for a public DLT offers significant advantages, notably reduced infrastructure costs due to shared network maintenance, increased resilience stemming from broad decentralization, enhanced transparency through publicly verifiable transactions, and greater interoperability with diverse ecosystems and participants. However, utilizing public

DLT also introduces specific risks that must be carefully managed. These include a potential reduction in direct control over network operations, governance challenges due to decentralized decision-making, and vulnerability to significant changes such as blockchain forks or unexpected increases in transaction fees (gas fees), which could jeopardize operational models and economic viability. Such risks can—and must—be effectively mitigated through appropriate technical and governance measures, including permissioned smart contracts, clearly defined operational protocols, contingency planning for forks, and mechanisms to manage and hedge against gas fee volatility. By implementing these strategies, market infrastructures can confidently leverage the considerable benefits of public DLT while maintaining necessary safeguards and regulatory compliance.

- 36) How should the regulatory perimeter between a technological service provider and a financial service provider, especially a CSD, be drawn in the above described DLT context?

The existing frameworks provided by the DLTPR and the Digital Operational Resilience Act (DORA) already sufficiently define the boundaries between financial and technological service providers. In our view, technological service providers should remain clearly outside the financial regulatory perimeter. The regulated market infrastructure itself must retain ultimate responsibility for ensuring regulatory compliance, risk management, and oversight, including selecting appropriate technology providers and managing associated risks. This approach maintains clear accountability, allows flexibility in technological choices, and ensures regulatory compliance without unnecessarily extending financial regulation to purely technical service providers.

- 37) The Commission recently published a study on the use of permissionless blockchains for enhancing financial services, which set out operational robustness criteria for assessing permissionless blockchains. Do you believe that beyond the Digital Operational Resilience Act (DORA), additional legislative or non-legislative action is needed to ensure appropriate mitigation of risk stemming from decentralised IT systems such as permissionless blockchains?

Yes. While DORA effectively addresses many operational risks in traditional IT systems, the decentralized and public nature of certain DLTs introduces specific challenges that DORA is not fully equipped to handle. In particular, DORA typically assumes the existence of a clearly identifiable legal entity responsible for compliance. Public DLTs, by contrast, operate through decentralized networks with dispersed control, complicating accountability and compliance enforcement. Specific issues unique to decentralized systems, such as validator selection, potential consensus manipulation, governance decentralization, and protocol forks, require targeted regulatory attention. To effectively mitigate these risks, additional EU-level guidance or tailored secondary legislation is necessary. Such measures should clearly define responsibilities and best practices for regulated entities interacting with decentralized networks, ensuring robust governance and appropriate risk management frameworks are implemented without compromising the inherent benefits of decentralized systems.

- 38) Basel prudential standards on crypto exposures applicable to credit institutions assign group 2 status to tokenised assets, including tokenised financial instruments, that are issued and recorded on permissionless distributed ledgers. The transitional prudential treatment of exposures to tokenised assets in the Capital Requirements Regulation currently applicable does not make a distinction based on the type of underlying distributed ledger. Do you believe that prudential rules should differentiate between permissioned and permissionless distributed ledgers?

No. Prudential treatment should be technology-neutral. What matters is the effective management of risk, not the underlying ledger structure. Imposing stricter prudential rules solely on permissionless systems risks distorting technological choices and stifling innovation.

- 39) Do you believe that risks from permissionless blockchains, in particular operational risks and other

risks set out in the BIS Working paper on novel risks, mitigants and uncertainties with permissionless distributed ledger technologies, can be mitigated?

Yes. Operational risks associated with permissionless blockchains can indeed be effectively mitigated through robust governance structures, advanced cryptographic security, resilient consensus mechanisms, and comprehensive real-time monitoring tools. However, the responsibility lies primarily with each market infrastructure, as part of its authorization process, to propose and demonstrate suitable risk mitigation measures tailored specifically to the blockchain it chooses to employ. Regulators should adopt a technologically neutral stance, focusing solely on verifying that the infrastructure achieves the established regulatory objectives—such as security, resilience, transparency, and accountability—regardless of whether a permissioned or permissionless blockchain is selected. This approach ensures flexibility for innovation while maintaining a rigorous and consistent regulatory framework.

- 40) Asset tokenisation concerns the use of new technologies, such as distributed ledger technology (DLT), to issue or represent assets in digital forms known as tokens. Where do you see most barriers to asset tokenisation in Europe?

Please rank each of the potential barriers on a scale of 1-5 (1 denoting ‘least barriers’).

- (a) Member State securities and corporate law:

5. This represents the most significant barrier. The considerable divergence in national securities and corporate laws across EU Member States creates substantial complexity, limiting the capacity of infrastructures to seamlessly offer tokenisation services throughout Europe. Harmonisation of rules governing the issuance, ownership, and transfer of digital securities remains essential to enable scalable and effective pan-European tokenization.

- (b) Member State laws other than securities and corporate law: 1. Outside of securities and corporate laws, no significant additional national legal barriers have been identified as specifically impeding asset tokenisation. Other aspects of national legislation generally do not pose substantial obstacles for tokenised assets
- (c) EU laws that relate to trading and post-trading: 5. EU-level regulations directly governing trading and post-trading (notably MiFID II, MiFIR, and aspects of CSDR beyond the Pilot Regime) present major barriers. These regulations were designed for traditional market infrastructures and, as discussed in previous responses, often lack the flexibility needed for innovative, token-based models. Adjustments to EU trading and post-trading laws are critical to fully enable the potential of DLT-based market infrastructures
- (d) EU laws other than laws that relate to trading and post-trading: 3. There may be additional EU-level barriers outside the scope of trading and post-trading regulations, although these are generally indirect rather than specific to asset tokenisation. One illustrative example is the potential extension of the European Company (Societas Europaea - SE) status to include specific provisions harmonising securities and corporate laws at the EU level. Such an approach could provide a unified legal framework for issuers across Member States, thus mitigating the complexity arising from national variations and facilitating greater adoption of tokenisation throughout Europe.

Question	Answer	
	Yes	No
41) Should public policy intervene to support interoperability between non- DLT systems and DLT systems?		No. In the specific context of a DLT TSS, interoperability with traditional systems (such as an MTF or a CSD) is not inherently desirable or beneficial, as it may undermine one of the fundamental advantages of a DLT TSS—the ability to autonomously execute instantaneous Delivery versus Payment (DvP) settlements internally Interoperability should instead be considered from a broader market perspective. The ultimate

		policy objective should be to ensure simplified, comprehensive, and efficient investor access (both retail and institutional) to the full range of financial instruments available across the EU. Consequently, interoperability is more pertinent to custodians and depositaries, who, by connecting to multiple infrastructures, can ensure seamless investor access. Once efficient investor access is established, bridges between infrastructures—either directly or through custodians and depositaries—may naturally emerge to enable specific financial operations such as collateral management, repos, or liquidity management. However, the market itself should have sufficient time and flexibility to determine the optimal approach to such interoperability. The key issue, therefore, is incentivizing custodians and depositaries to undertake interoperability projects. Given that these projects are resource-intensive, costly, and potentially complex due to the growing number of market actors, support could effectively come from market-driven industry standards, complemented by targeted fiscal incentives or EU subsidies directed at these intermediaries. Such incentives would lower barriers to connectivity, encouraging the establishment of interoperable infrastructure networks that best serve the EU capital markets in the long term.
42) Should public policy intervene to support interoperability between distributed ledgers?	No	
If reply is 'yes': Please explain how this can be done in a manner that is cost-efficient for the industry.		
If reply is 'no': Please explain your response.	For the same reasons as the answer to question 41.	

43) Lack of standardisation acts as a hindrance to interoperability. This is especially the case with a relatively new technology such as DLT. Where is the greatest need for standardisation in the area of DLT?

Multiple replies are possible. Please rank each of your reply from 1-5, with 1 denoting 'least important'

- (a) Business standards applicable to digital assets (for example data taxonomy to describe digital assets) (3/5). Establishing clear business standards could provide additional clarity; however, it does not appear essential. Financial instruments eligible under the Pilot Regime are already well-defined and typically align with existing classifications. Nonetheless, explicit clarification could be beneficial in reassuring investors that holding a listed equity through a traditional CSD or a DLT SS/DLT TSS is legally equivalent. Investors should be concerned solely with the intrinsic qualities of the issuer and the financial instrument, rather than the underlying registry technology.
- (b) Technical standards applicable to digital assets and smart contract-based applications (1/5). Technical standards for digital assets and smart contracts should be left to market participants to determine. Imposing premature standards could introduce unnecessary constraints and limit innovation. The market

itself should identify best practices organically as technology and business models mature.

- (c) Technical standards applicable to links (bridges) between DLTs (1/5). As discussed in the response to Question 41, establishing technical standards for bridges between DLT infrastructures is currently not considered a priority. The market needs sufficient time to explore and develop optimal solutions naturally, before any potential intervention through standardization.
- (d) Other—Standards for connections between intermediaries (custodians and depositaries) and DLT TSS: 5/5. The most critical area for standardisation relates to connections between intermediaries (custodians and depositaries) and DLT-based market infrastructures (DLT TSS). Standardised interfaces or connectivity protocols would significantly enhance interoperability, facilitate broader market participation, and simplify investor access. Given the current immaturity of these connections, standards should ideally be developed collaboratively by the industry to ensure they are practical, effective, and widely adopted.

44) Given how you foresee DLT-based financial market infrastructure to develop, what do you think is the best way of providing interoperability between distributed ledgers?

- (a) regulated financial entities, such as a CSD, that are present on multiple ledgers, acting as a distributed ledger hub for clients
- (b) pure technology companies that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies
- (c) regulated financial entities that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies
- (d) some other model

As previously outlined, direct interoperability between different DLT infrastructures does not appear essential in itself. The core objective should instead focus on ensuring that retail and institutional investors can seamlessly perform desired financial activities—such as investing, trading, custody, collateral management, and others. Achieving these functionalities is best facilitated through intermediaries such as custodians and depositaries. By effectively connecting to multiple DLT-based market infrastructures, these intermediaries can inherently provide the necessary operational interoperability. Thus, investors can benefit from a unified access point, ensuring simplified and comprehensive interaction with various financial instruments, regardless of the underlying ledger technologies. Rather than enforcing direct interoperability between DLT systems, emphasis should be placed on encouraging these intermediaries to establish standardized connections and market-driven solutions. This approach ensures optimal market efficiency, flexibility, and cost-effectiveness, ultimately fulfilling investor needs without imposing potentially premature or unnecessary constraints on the underlying infrastructures.

2. Asset management and funds

Despite [Directive 2009/65/EU relating to undertakings for collective investment in transferrable securities \(UCITS\)](#) and the [Directive 2011/61/EU on alternative investment fund managers \(AIFMD\)](#) enabling funds to be marketed across the EU through a relatively simple notification procedure, national barriers, divergent practices, and regulatory complexities often impede efficient and scalable operations, thereby impacting costs and accessibility for EU citizens. This section seeks to:

- (i) identify obstacles experienced by EU funds and asset managers to accessing the single market
- (ii) gather stakeholder insights on barriers and experiences in managing cross-border investment funds
- (iii) explore the effectiveness of existing authorisation and passport systems
- (iv) and explore possibilities for simplifying current requirements

Stakeholders input on operational challenges, passporting/marketing of investment funds, national supervisory practices and other barriers more generally are welcome. Stakeholders are encouraged to share quantitative data and practical evidence to support positions.

2.1. Operations of asset managers

The responses in this section on “operation of asset managers” will be treated confidentially.

1) What is your total amount of assets under management (AuM) in respect of UCITS funds and alternative investment funds (AIFs)? In EUR (millions) Less than or equal to 100 100 to 500 500 to 1,000 1,000 to 5,000 5,000 to 20,000 20,000 to 50,000 Over 100 billion	For UCITS	For AIFs
2) What is your total number of funds managed in the EU?	Number UCITS	Number EU AIFs
3) In how many Member States do you provide the functions listed in Annex I of AIFMD or Annex II of UCITSD and in which Member States?	For UCITS List of Member States Examples of Member States / functions	For AIFs List of Member States Examples of Member States / functions
4) In what Member States are you authorised as an asset manager?		
5) In how many Member States do you have branches? Please list these Member States and provide examples of functions covered by these branches.	For UCITS: Number of Member States List of Member States	For AIFs: Number of Member States List of Member State
	Examples of functions covered by these branches	Examples of functions covered by these branches
6) In how many Member States do you have authorised subsidiaries? Please list these Member States and provide examples of key activities carried out by these subsidiaries.	For UCITS: Number of Member States List of Member States Examples of key activities carried out by these entities	For AIFs: Number of Member States List of Member State Examples of key activities carried out by these entities
7) Do entities with your group have to maintain the same functions across different EU entities, for instance because these entities are supervised on a standalone basis, for commercial or other reasons?	Yes	No

If yes, what functions are duplicated?		
If yes, please explain why.	<i>[open field]</i>	
8) Do you use the UCITS passport to market your UCITS funds in EU Member States other than the UCITS home Member State?	Yes	No
If yes, how many Member States and which ones?	Number Number of Member States List of Member States	
If yes, do you create different UCITS or units specifically for marketing in certain Member States?	Yes	No
If yes, please briefly explain why	<i>[open field]</i>	
If you do not use the UCITS marketing and management passports, please explain briefly why. • Commercial reasons • Administrative reasons • Regulatory considerations • Other		
9) Do you use the AIFMD passport to market your EU AIFs in other EU Member States?	Yes	No
If yes, how many Member States and which ones?	Number of Member States List of Member States	
If you do not use the AIFMD management passport, please explain briefly why this is. • Commercial reasons • Administrative reasons • Regulatory considerations • Other		
10) Do you have to create different AIFs, or	Yes	No
compartment of AIFs to be marketed in different Member States?		
If yes, please briefly explain why		
11) What is the percentage (estimate) of your total AuM and percentage of total number of UCITS funds and AIFs that have been notified to be marketed in at least one other Member State?	Percent value Percent number of funds	
12) Please provide other information you consider relevant to describe your EU cross-border organisation and functions.		

2.2. Authorisation Procedures

2.2.1. Authorisation of Management Companies (UCITS and AIFMD)

	Answers
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Questions	Yes	No
13) Are the current authorisation / supervisory approval processes for management companies under AIFMD/UCITSD sufficiently clear and comprehensive to enable the smooth provision of asset management and supervision thereof?	Yes	
Please explain.		
14) Is the authorisation process proportionate in circumstances where not all requirements are relevant to the activity envisaged by the applicant?	Yes	
If no, please specify the relevant circumstances and related requirements.		
15) Does the current authorisation process for management companies under UCITSD/AIFMD act as a barrier to the functioning of the single market?		No
If yes, please explain the main barriers, which may encompass EU law, national law, requirements imposed by national competent authorities (NCAs), and operations such as technology and communication channels.		
16) Are the current authorisation processes / supervision for management companies under AIFMD/UCITSD applied in a consistent way across Member States?		No
If no, please present these divergences and explain if these divergences created challenges for operating in the single market?	Some Member States impose additional requirements to AIFMs which market the funds they manage to retail investors (e.g. in terms of number of staff or time they spend in the jurisdiction). Some Member States require that there is no conflict of interest at all (rather than requiring that any conflict is properly managed). Cf. Articles 12 and 14. Some Member States require that the persons who effectively conduct the business of the AIFM are domiciled in their jurisdiction. Some Member States prohibit the performance of their functions by financial managers in different entities of a same group. This should be allowed provided the vigilance required is applied and any conflict of interest is properly managed. This could also be disclosed to investors, where relevant.	
17) Are you supportive of further harmonising and streamlining authorisation requirements and procedures for management companies to increase simplification and reduce fragmentation in the EU's asset management sector?		No
If yes, how should this be done? Please provide a ranking having regard to the impact of proposed solutions as high, medium or low priority.	[open field]	

2.2.2. Authorisation of Investment Funds (UCITS)

Questions	Answers	
	Yes	No
18) Is the current authorisation framework for UCITS effective and proportionate?		

19) Is the authorisation framework for UCITS sufficiently proportionate in circumstances where not all requirements are relevant to the operations of a fund?		
If no, please specify the relevant circumstances and related requirements.		
20) Do divergent practices arise in the authorisation framework for UCITS across Member States?		
If yes, please explain these divergences and whether these divergences create challenges for operating in the single market.	[open field]	
21) Are you supportive of further harmonising and streamlining the authorisation framework, such as requirements and procedures, for UCITS to increase simplification and reduce fragmentation in the sector?		
If yes, how should this be done? Please provide a ranking having regard to the impact of proposed solutions as high, medium and low priority.	[open field]	

2.2.3. Treatment of service providers and Depositaries during the authorisation process

Questions	Answers	
	Yes	No
22) Where the fund authorisation process involves an assessment by the NCA of the fund service providers appointed to a fund, in particular the depositary, is the current framework (requirements and procedures) sufficient and proportionate?		No
Please explain.		
If no, please explain how aspects of the framework could be improved. For example, would you agree that there is scope for further standardisation of the treatment of service providers, including depositaries as part of the authorisation framework?	Appointing depositaries is a significant cost to managers. Depositary requirements are not always relevant in a private equity context.	
23) Should an authorisation process be introduced at the entity level for depositaries, with the understanding that such authorisation would allow them to offer their services across the EU?	Yes	
Please explain.	We support the introduction of a depositary passport.	
24) With the entry into application of Directive (EU) 2024/927, to what extent are barriers still expected to persist for investment funds in accessing competitive, good-quality depositary services for AIFs? Please provide a ranking of the importance of the issues having regard to their impact as high, medium or low priority.	Yes, barriers will remain. We ask for the introduction of a full depositary passport. Requirements applicable to depositaries should be harmonized.	

25) What are the main barriers for UCITS to access competitive and good-quality depositary services? Please provide a ranking of the importance of the issues having regard to their impact as high, medium or low priority.	<i>[open field]</i>
26) What are the main barriers for AIFs to access competitive and good-quality depositary services? Please provide a ranking of the importance of the issues having regard to their impact as high, medium or low priority.	Lack of harmonization of obligations applying to depositaries / lack of passport. Issue of value for money i.e. funds (and ultimately investors) pay fees for services which may not be commensurate.

2.3. EU Passport for Marketing of Investment Funds

Questions	Answers	
	Yes	No
27) In the context of the EU framework, are the current passporting provisions on marketing sufficiently simple and proportionate to enable the smooth marketing of investment funds in the single market?	Yes, generally. However, we would like to highlight that: - the MiFID definition of professional investors used in the context of private equity funds is ill suited. - premarketing obligations may be an issue (CBDF regulatory fees or charges levied by Member States + “blackout period”).	
If no, please explain and suggest areas for improvement.	Issue with premarketing obligations (fees or charges levied by Member States + blackout period) under the CBDF Directive. Definition of professional investors: AIFs cannot be passported to HNWI.	
28) In the context of the EU framework, are the current passporting provisions on marketing for investment funds applied in a consistent way in domestic legislation by Member States?		No
If divergences exist, please explain, describing the impact and suggested areas for improvement.	Applicable fees should be harmonised among Member States + invoicing process should be harmonized.	
29) In the context of national frameworks, where divergences for passporting (marketing notification regime, review of the marketing documents by the host Member States, IT or additional administrative requirements) exist, please elaborate on them, using practical examples.	Member States should not be able to add any requirements for ELTIF marketed to retail investors which add to market fragmentation.	

30) Are there barriers linked to different national requirements on marketing documents?	Yes	
If yes, please explain the key differences, impact and suggestions for improvement.	Divergences between national implementation in terms of marketing documents constitute a key cross-border barrier. For example, some Member States impose additional requirements on ELTIFs marketed to retail investment (the AMF requires an additional warning that they do not comply with its DOC 2020-03). Improvements at EU level could help reduce residual friction across the single market: - Further harmonisation of marketing content rules, disclaimers, and approval requirements across Member States; - Development of a centralised ESMA repository or passport for marketing materials; - Clearer ESMA guidance on the distinction between marketing communications and investor information, particularly in the context of digital distribution channels.	
31) Do national frameworks require the appointment of local physical presence in host Member States	Yes, in some Member States	
to access the same rights as domestic UCITS or AIFs (e.g. as regards taxation, simpler administrative procedures)?		
If yes, please explain impact.	Such requirements seem to be historic barriers	
32) Are there any aspects of the cross-border distribution of funds framework (Directive (EU) 2019/1160 and Regulation (EU) 2019/1156) that have created obstacles to the marketing of investment funds?	Yes	
If yes, please elaborate and explain impact.	The CBDF rule preventing subscriptions into an EU AIF within 18 months following the start of pre-marketing - unless the AIF is covered by a marketing notification - can hinder legitimate fund development. This “blackout” period is particularly rigid when pre-marketing is exploratory and does not result in a fund launch. We suggest removing the ban, given the limited value of this ban from an investor protection perspective and the significant impact it can have on fundraising. As an alternative solution, clarifying with absolute clarity in the Level 1 text that the ban only applies	

	when the manager seeks to recreate the exact same fund (i.e.: harmonising the rules to narrow situations where managers abuse the de-notification) would ensure that the de-notification rules do not act as an unnecessary fundraising barrier. The de-notification process should also cover funds which were not successful in attracting investors. It would be worth clarifying at EU level what is marketing offer / what is not. This would avoid paying fees for marketing when not required (in particular for funds of funds).	
33) Could the central database published by ESMA pursuant to Article 6 of Regulation (EU) 2019/1156 be improved to support compliance with Member State marketing requirements?	Yes	
If yes, please explain.	ESMA database should be updated more frequently (some links direct to missing pages).	
34) Are fees/charges, currently levied by some host NCAs, a significant barrier to the distribution of investment funds in the single market?	Yes	
Please explain.	NCAs are required to publish up-to-date and transparent information on regulatory fees relating to cross border distribution. However, the clarity of fee disclosure is not consistent among Member States, the fees are not standardized at EU level, information may not be available in a language customary to the financial sphere and the accumulation of fees can end up being a high cost. In addition, the invoicing procedure is not standardized at EU level.	
35) Do you think the fees/charges are consistent with the overall cost relating to the performance of the functions of the NCAs in question?		No. What value for money for investors? (what service do they get for paying the fees?). In addition, different payment models are in place in the EU, making paying the fees burdensome and costly, especially for smaller market players.

36) Do you think the fees/charges are consistent with the overall cost relating to the performance of the functions of the NCAs in question?		
37) In relation to the tasks listed in Article 92(1)(a)-(f) of the UCITSD, who performs these tasks on behalf of the fund (e.g. the fund itself, a manager or a third party)?		
Where third parties are involved in the performance of these tasks: - Please state the entity type (e.g. transfer agent, consultancy firm, etc) and the task performed by these entities on behalf of the fund. - Please explain why a third party has been appointed to perform the task(s).		
38) Is the notification requirement for pre-marketing of investment funds creating barriers to the marketing of investment funds in the Union?	Yes	
Please explain.	Cf CBDF “black out” period	
39) Please use this field to describe any operational issues that you would like to report as a de facto barrier to the distribution of investment funds in the single market. For example, the need to follow a specific procedure to submit documents to a NCA or to use a dedicated platform for communication with a NCA.	The MiFID definition of professional investors implies that AIFs cannot be passported to HNWI. A definition of “semi-professional” investors, similar to the definitions in place in different Member States, should be introduced at EU level.	

2.4. EU Passporting for Management Companies

Questions	Answers	
	Yes	No
40) In the context of the EU framework, are the current passporting provisions sufficiently clear, comprehensive and proportionate to enable the smooth operation of fund management companies in the single market?	X	
Please explain.		
41) In the context of the EU framework, are the current passporting provisions for management companies reflected in a consistent way in domestic legislation by Member States?		
Please explain.		
42) In the context of the EU framework, where divergences for passporting of management companies exist, please elaborate on them, using practical examples.		
43) Is the current notification procedure for management companies, which is derived from the EU framework, applied in a consistent way by NCAs?		
Where barriers and/or divergences in NCA regimes exist, please elaborate on them, using practical examples, including reference to impact, such as on costs and resources.		
Where barriers and/or divergences in the notification procedure derive from NCA regimes, how could they be best addressed?		

2.5. Group operations - Eliminating Inefficiencies and Duplication

Questions	Answers	
44) In your view, what are the key obstacles to consolidating functions across entities within the same asset management group, and to reducing duplication and operational inefficiencies across these entities? Please provide an answer on the following topics		
	Yes	No
- Legal barriers in UCITSD		
Please explain		
- Legal barriers in AIFMD		
Please explain		
- Legal barriers in other EU legislative acts		
Please explain		
- Legal barrier in national laws		
Please explain		
- Supervisory barriers		
Please explain		
- Market practices in different EU Member States	Yes	
Please explain	Some Member States prohibit the performance of their functions by financial managers in different entities of a same group. This should be allowed provided the vigilance required is applied and any conflict of interest is properly managed. This could also be disclosed to investors, where relevant.	
- Other barriers (specify which one)		
Please specify which one		
Questions	Answers	
	Yes	No

45) Do you consider that there is scope to streamline authorisation and supervision of asset managers operating in groups by reducing duplication, lowering operational costs, and save resources across entities within a group?	We would like to see the notion of group recognized at EU level for large cross-border asset managers, to reduce the reporting burden and organizational issues. This would enable greater convergence in supervision, with a “lead supervisor” ensuring proximity and responsiveness. Other proposals, such as single supervision by ESMA or collegial supervision involving NCAs and ESMA, do not seem appropriate	
If yes, should this be achieved through group authorisation?		
If yes, should this be achieved through the use of waivers (i.e. authorisation can be issued also where the authorised entity itself does not have the function but another group entity)?		
If yes, please estimate the extent and significance of efficiency gains and cost reductions that a group perspective would bring.		
If yes, please specify the functions you consider most appropriate for group-level authorisation and supervision, using the following suggested functions (Please explain and provide a ranking of the importance of the issue as high, medium or low priority):		
- Compliance		
- Risk management		
- Portfolio management		
- Marketing		
- Distribution		
- Depository		
- All		
- Other (such as, for instance, governance)		

46) Please provide potential solutions and rank the solutions in terms of preference. Suggestions for solutions can include, but are not limited to:	
- legislative changes (specifying which changes are being suggested)	
- supervisory convergence (specifying which tools are being suggested)	
- other	
47) Please provide data on the potential costs and benefits of the suggested solutions with a breakdown for different stakeholders.	
48) What conditions and safeguards would be necessary to allow for the assessment of certain functions at the group level rather than at the level of individual entities?	
49) How should the group be defined for the purposes outlined above?	
50) Do you consider that group-level authorisation and supervision would improve supervision?	

2.6. Other Barriers to Cross-border Operations

Questions	Answers	
	Yes	No
51) Have you encountered other specific barriers than those discussed above when marketing and providing asset management functions across Member States?	X	
- EU financial regulation other than UCITSD/AIFMD	X	
- National financial regulation		
- Supervisory administrative practices	X	
- Corporate law		
- Tax law	X	
- Other		
If yes, how have these barriers impacted your operations?	MIFID questionnaire could be harmonised	
52) Where barriers have been identified, how could they be best addressed? Please provide a ranking having regard to the impact of proposed solutions as high, medium or low priority.		

2.7. Barriers for Investments in Funds

The below questions are addressed specifically to investors, in relation to their investments in funds both nationally and on a cross-border basis.

Questions	Answers	
	Yes	No
53) Have you encountered any specific issues or barriers to accessing investments in EU funds, directly, or a cross-border basis?	X	

If yes, what is this due to?		
- The EU framework		
- Restrictions or differential treatment based on the national framework where a fund is domiciled		
- Supervisory administrative practices		
- Corporate law		
- Tax law		
- Other (please explain)		
54) How have these barriers impacted your investment decisions in funds specifically?		
55) Where barriers have been identified, how could they be best addressed? Please provide a ranking having regard to the impact of proposed solutions as high, medium or low priority.		
56) Do you consider that the scope of investor protection rules under UCITS, and AIFMD are disproportionate for qualified investors?		
57) Do you consider that some investor protection rules should be waived for qualified investors?	Yes	
Please explain	EU lawmakers should seek to harmonise the national “semi-professional” frameworks into a single AIF investor regime. The simple concept, taken from the EuVECA and many existing national regimes, would allow fund managers to consider that any investor committing more than EUR 100k in an EU AIF can be deemed a “knowledgeable investor”.	

2.8. Portfolio Requirements and Investment Limits of Investment Funds

2.8.1. Investment Limits – UCITS

Questions: Investment limits – UCITS	Answers	
	Yes	No
58) Do you believe that Article 53 of the UCITS Directive should be amended to extend the possibility for UCITS funds to benefit from increased investment limits in a single issuer, even when the fund does not aim to replicate the composition of an index?		

If yes, what safeguards should be considered to ensure that UCITS funds continue to meet high standards of quality and investor protection? For instance, A) Should a derogation be limited to funds that use an index as a performance benchmark, in which some equities have weights above 10%?	
B) Should a derogation be restricted to certain indices and in this case which indices?	
C) Should the 40% diversification rule under Article 52(2) of the UCITS Directive be adapted?	
D) Other safeguards?	
59) Do you believe that Article 56(2)(b) of the UCITS Directive should be amended to allow UCITS to invest more than 10% in an issue of a single securitisation?	
If yes, how does the rationale of the 10% issuer limit differ for securitisations compared to corporate bonds issued by a single issuer?	
If yes, what could be an acceptable limit, and why?	
60) Are there any additional concerns or drawbacks to consider regarding the increase of the threshold?	
If yes, how would this risk be mitigated?	
61) Does the 10% issuer limit affect the liquidity management of funds?	
Please explain	
62) What are the potential cost savings for fund managers (e.g. due diligence costs)?	

3. Supervision

This section covers the European Supervisory Authorities (ESAs) with a special focus on the European Securities and Markets Authority (ESMA). It is divided into three parts. The first part focuses on the effectiveness of the current framework. The second part goes into more detail regarding the specific sectors, i.e. central counterparties (CCPs), central securities depositories (CSDs), trading venues, asset managers, and cryptos assets service providers. The last part covers four horizontal areas: the governance framework for new direct supervisory mandates, supervisory convergence, data and funding. Respondents are invited to provide concrete examples to support their responses, and, where possible, include quantitative and qualitative input.

3.1. Effectiveness of the current framework

- 1) How effective are current EU supervisory arrangements in achieving the objectives or performing the tasks below? Please rate each objective from 1 to 5, 1 standing for "least effective" and 5 for "most effective":

	1	2	3	4	5	No opinion
Contributing to financial stability				X		
The functioning of the internal market		X				
The integrity, transparency, efficiency and orderly functioning of financial markets			X			
The enforcement of EU rules			X			

The prevention of regulatory arbitrage and promotion of equal conditions of competition			X			
Supervisory convergence across the internal market			X			
Development of the Single Rule Book				X		
Consumer and investor protection					X	
Support financial innovation in the market				X		
Market monitoring				X		
Supervisory data management including data sharing			X			
Responsiveness, transparency			X			
Stakeholder engagement and involvement			X			
Use of resources			X			
Proportionality of the fees for direct supervision						X

- 2) What prevents the ESAs from reaching the objectives or performing the tasks listed in Question 1?
Please explain your answer.

- Lack of competitiveness mandate

Integrate competitiveness as a specific mission for ESAs, following examples UK, Japan or Singapore. Establish systematic industry workshops and impact assessments led by experts' panels, before new regulations, Results should be publicly available in annual reports issued by such authorities. This mission would foster a more predictable legal environment for industry.

- Insufficient data sharing between NCAs and ESAs

ESAs regulation contends that to avoid the duplication of reporting obligations. Information should normally be provided by the NCAs which are closest to the financial markets and institutions. If ESAs can address a duly justified request for information to market participants, it is only as a last resort. However, the industry faces multiple requests, a phenomenon aggravated by the fact that the same data can be requested under different legal regimes. Data sharing between the relevant supervisory authorities should be fostered to leverage on the existing data submitted. In this regard, the industry welcomes the Better Data Sharing agreement yet regrets that contrary to what was proposed by the Commission, relevant national authorities have been left outside the scope of the legislation. Therefore, any data sharing by them, apart from what is already mandated in sectoral legislation, will remain solely on a voluntary basis. ESAs regulation should be modified to enhance data sharing between competent authorities.

- Insufficient involvement of stakeholders

The decision-making process of ESAs is insufficiently transparent, largely due to the lack of consideration of the contributions stakeholders may make to public consultations. Whereas the stakeholder's group is supposed to provide opinions on any given piece of level 2 and 3 act that's being drafted, it too rarely intervenes. ESMA's annual report for 2023 reveals that the Securities and Markets Stakeholder Group has been consulted in seven instances, which is very little against the entire quasi-normative production of ESMA during that given year. Moreover, its opinions are not published and ESMA's reactions to the said opinions are not known. More transparency would be welcome.

- Partial use of the existing tools.

- Although ESAs are intended to promote supervisory convergence, they instead tend to normalize the use of numerous Guidelines addressed to the industry, detailing very precisely the manner in which financial institutions are intended to interpret and apply level 1 and 2 legislation NCAs. The weight of NCAs with the Board of Supervisors ("BoS"), which gives it an intergovernmental character, partly explains that phenomenon. NCAs voting rights with the BoS lead them to push, at level 3, policies that failed to make their way through the

legislative debate at level 1, whereas level 3 instruments are only meant to further clarify and precise binding legislation. NCAs tend to push for guidelines' production and introduce "gold plating" measures in guidelines these level 3 instruments that further constraint and burden financial institutions without any clear gain in terms of financial stability or integration of the single market. As guidelines remain non-binding instruments, nothing guarantees that NCAs across the EU will abide by their letter especially if the supervisory culture still varies from one member State to another. In this regard, fragmentation is unavoidable.

- We believe that a number of clarifications to the regime of guidelines should be made. It should be clearly stated that guidelines should respect the fundamental principles of EU law such as the proportionality principle as per article 5 of the Treaty of the EU, meaning that guidelines should not exceed what is necessary to reach the objectives they pursue. In this regard article 1(6) of ESAs regulation should be rephrased to recall that the proportionality principle is to be respected not when "relevant" but at all times regardless of the size of the institutions to which guidelines – and beyond, any quasi-normative production of the ESAs - apply. It should also be made clearer that guidelines should not exceed the L1 mandate and result in the introduction of additional constraints for the industry. Their role is to lead to effective convergence in the application of the EU regulatory framework at national level. They should not lead to additional rules. The procedure provided by the existing article 60a of ESAs regulation should be enhanced, as in its current form, it seems to have never been used
 - The use of no-action letters could be widened as a powerful supervisory tool to overcome scheduling difficulties between Level 1 2 texts and to contribute to legal stability.
 - The Breach of Union law procedure should be enhanced. The intergovernmental character of the BoS prevents it from being triggered, and when triggered, to lead to real actions making supervisory practices converge.
- 3) Please assess ESMA's governance model currently in place for the direct supervisory mandates. Currently, the Board of Supervisors adopts supervisory decisions prepared either by ESMA staff (for example for credit rating agencies (CRAs)) or the CCP supervisory committee (for tier 2 third country CCPs). Please rate the effectiveness from 1 to 5 (1 least effective, 5 most effective).
You may want to consider elements, such as ability to take decisions swiftly, independent decision in EU public interest, quality of the decisions being taken, ability to take into account supervised entities and other stakeholders.

3.2. Specific questions on supervisory arrangements for different sectors

- 1) Do you have ideas how EU-level supervision of financial markets could be structured (for example the whole or part of the sector should be supervised at EU level, supervisory decisions could be taken at EU level or national etc.)? What broad changes would that involve in terms of
- supervisory architecture and supervisors' responsibilities,
 - supervisors' approach to exercise their mandates and processes,
 - improved cooperation among supervisors?

The EU needs to work towards ESMA supervision as the single regulator for certain activities subject to a reformed governance structure. Pan-European market infrastructure sees benefits in a single supervision authority to ensure a true level- playing field with subsidiaries of global financial firms operating from a single country. A focus is needed on adjustments that will facilitate the ability of European financial market infrastructure (FMI) to deliver positive and harmonised outcomes for the real economy and citizens. The current complexity for these players prevents value creation commensurate with the potential of European economies.

In the interim, whilst taking steps towards this goal, there is a need to tailor the regulatory regime applicable by acknowledging the concept of a group of FMIs operating in more than one country in the EU. The condition for these groups to fully operate on a consolidated basis is the need for a true single rulebook, no local gold-plating and fully harmonized supervision as referenced above. These consolidated groups should be allowed to organise the group and its functions as if it were one legal entity. Only then can financial market infrastructures create full value and efficiency. This requires a mindset change where national supervisors look for the interests of the total markets across the borders of their own jurisdiction. In addition, it is essential that the governance of ESAs

be reformed, and targeted amendments to the Founding Regulations establishing the ESAs should be adopted regarding the following points:

- Include competitiveness and economic growth in the mandate of the European Supervisory Authorities. The mandate of the 3 authorities (EBA, EIOPA and ESMA) could be extended to include competitiveness and contribution to economic growth as secondary objectives, as has been done in the UK for the financial markets (FCA) and prudential (PRA) regulators.

- Strengthen the power of "no-action letters". This power was introduced in the last reform of the authorities, but its scope was limited. We need to go further.

At this point, supervision of listed companies should remain at national level.

- 2) Some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors. What is your view on building on these NCAs and creating EU centres of supervisory expertise by sectors?
- 3) Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?
- 4) What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants?

3.3. Questions on the supervision of EU CSDs

3.3.1. Identifying costs related to the current supervisory framework and benefits of more integrated EU supervision

- 1) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of CSDs?

Please rate from 1 to 5 (1 very convergent, 5 very divergent)

Please provide examples of divergent outcomes of supervisory practices for CSDs in different Member States.

- 2) Please estimate the regulatory compliance costs (including administrative costs – such as staff costs, facilities costs, travel, IT technology costs –, professional fees – such as legal, accounting, consulting, etc. –, and applicable fees) that arise from engagement with your current supervisor(s). Please separate any details on costs into fees and compliance, one-off cost and on-going costs and per supervisor. Please explain your answer providing, where possible, quantitative evidence and examples.

In particular, please provide, where possible, details on the cost of the following elements:

- a) Applications for the initial authorisation of CSDs;
- b) Applications for the extension of services or outsourcing of core services;
- c) Supervisory processes/approvals, e.g. with regards to provision of services in host Member States, links, provision of banking-type ancillary services;
- d) Involvement and consultations of different bodies, supervisors, central banks, and further authorities in supervisory decisions;
- e) Ongoing compliance with Regulation (EU) No 909/2014, including reports and contacts with bodies, supervisors and authorities;
- f) Lack of consistent processes (e.g. different actors involved) across different supervisory procedures;

- g) Legal uncertainties arising from different implementation or interpretations of EU Regulations in different Member States or between Member State authorities and ESMA;
 - h) Duplicative or conflicting instructions from national supervisory authorities and ESMA;
 - i) Reporting of business and activities;
 - j) Other (please specify).
- 3) Do you consider that the current supervisory framework ensures efficient supervision and legal certainty? Please explain your answer providing, where possible, examples.
- 4) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?
- a. It could reduce EU CSDs' regulatory costs;
 - b. It could enhance the quality of supervision over EU CSDs;
 - c. It could facilitate the provision of cross-border services by EU CSDs, and cross-border issuance by EU issuers;
 - d. It could simplify and accelerate the procedure to apply for authorisation for EU CSDs;
 - e. It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of services or activities offered in the EU or to outsource EU CSD core services);
 - f. It could simplify and accelerate supervisory procedures and approvals, e.g. with regard to the provision of services by EU CSDs in host Member States, links and provision of banking-type ancillary services;
 - g. It could lead to more efficient use of supervisory resources;
 - h. It could decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;
 - i. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;
 - j. It could create a level playing field between EU CSDs;
 - k. It could ensure a harmonised understanding of decentralised technologies and the novel risks they may bring to the EU CSDs to supervise;
 - l. It could improve the resilience of EU CSDs;
 - m. It could reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;
 - n. Other (please specify in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

- 5) Please indicate whether you consider that more integrated EU supervision could also produce negative side-effects.
- 6) Do you have other comments?

3.3.2. How could more integrated EU supervision of CSDs function?

- 7) Please indicate to which extent you support the following possible models of more integrated EU supervision:

a. A single EU supervisor, responsible for the supervision of all EU CSDs	
b. A centralised EU supervisor, responsible for the supervision of only certain, systemic EU CSDs (other CSDs to remain subject to national supervision)	
c. A centralised EU supervisor over all EU CSDs, but with powers in certain key areas with other powers remaining at national level (see questions on areas below)	
d. A centralised EU supervisor, responsible for the supervision of only certain, systemic EU CSDs and with powers in certain key areas (other powers, as well as non-systemic EU CSDs to remain subject to national supervision)	
e. Supervisory colleges with enhanced powers	
f. Other set-up (please explain in the textbox)	

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits.

If you selected option 1 or 2 for question 7 (b), please explain which criteria you would use to determine the most systemic CSDs that would be subject to the supervision at the EU level e.g. ICSDs, CSDs that are substantially important for a certain number of host Member States, passing some pre-defined volume activity threshold. If you replied 'Other', please indicate what was intended. If you selected option 1 or 2 for question 7 (c) or (d), please identify the areas where more integrated EU supervision would provide the most benefits (please indicate the relevant articles of CSDR where applicable)

- 8) Would joint supervisory teams, e.g. under options (c) and (d) in question 7, composed of national experts and representatives of the EU supervisor, under the EU supervisor's lead, be an efficient tool to provide technical support of the supervision by the EU level supervisor?

Please choose between:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer

- 9) To ensure stronger EU-level supervision of CSDs, which of the following authorities or bodies should be closely involved in supervision?
- ESMA;
 - EBA;
 - Relevant authorities as defined in CSDR;
 - The Eurosystem;
 - Competent authorities of other Member States;
 - Supervisory colleges;

- g. The competent authority designated under MiFID;
- h. The competent authority designated under the CRR;
- i. Other (please specify, in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

- 10) How would you expect your compliance cost to change under the supervisory model you chose in question 7:

Strong increase +20% or more	Increase +5-20%	Neutral +/- 0-5%	Decrease -5-20%	Strong decrease -20% or more

Please explain your answer providing, as much as possible, quantitative evidence (e.g. your calculations of the evolution of your costs, splitting them between administrative costs (staff costs, facilities costs, travel, IT technology costs), professional fees (e.g. legal, accounting, consulting, etc), supervisory fees etc.

3.4. Questions on the supervision of EU CCPs

3.4.1. Identifying the costs of the current supervisory framework and benefits of more integrated EU supervision

- 11) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of CCPs?

Please rate from 1 to 5 (1 very convergent, 5 very divergent)

Please provide examples of divergent outcomes of supervisory practices for CCPs in different Member States.

Please estimate the regulatory compliance costs (including administrative costs – such as staff costs, facilities costs, travel, IT technology costs –, professional fees – such as legal, accounting, consulting, etc. –, and applicable fees) that arise from engagement with your current supervisor(s). Please separate any details on costs into fees and compliance, one-off cost and on-going costs and per supervisor. Please explain your answer providing, where possible, quantitative evidence and examples.

In particular, please provide, where possible, details on the cost of the following elements:

- a. Involvement and consultations of different bodies (e.g. colleges), supervisors, central banks, and further authorities in supervisory decisions;
- b. Ongoing compliance with Regulation (EU) No 648/2012, including reports and contacts with bodies (e.g. colleges), supervisors and authorities;
- c. Lack of consistent processes (e.g. different actors involved) across different supervisory procedures;

- d. Legal uncertainties arising from different implementation or interpretations of EU Regulations in different Member States or between Member State authorities and ESMA;
- e. Duplicative or conflicting instructions from national supervisory authorities and ESMA;
- f. Reporting of business and activities other than transaction-level reporting under EMIR Article 9;
- g. Other (please specify in reply to the next question).

12) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

- a. It could reduce EU CCPs' regulatory costs;
- b. It could enhance the quality of supervision over EU CCPs;
- c. It could simplify and accelerate the procedure to apply for authorisation to provide clearing services in the EU;
- d. It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of services or activities offered in the EU);
- e. It could simplify and accelerate validation procedures for risk models and parameters;
- f. It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;
- g. It could lead to more efficient use of supervisory resources;
- h. It would decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;
- i. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;
- j. It would create a level playing field between EU CCPs;
- k. It would create a level playing field between EU CCPs on the one hand and third-country CCPs on the other hand;
- l. It would improve EU capacity to deal with the cross-border risks arising from greater amounts of clearing in the EU;
- m. It could ensure a harmonised understanding of decentralised technologies and the novel risks they may bring to the CCP to supervise;
- n. It could improve the resilience of EU CCPs;
- o. It would reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;
- p. Other (please specify in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

13) Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

14) Please indicate whether you consider that centralised EU supervision could also produce negative side-effects.

15) Do you have other comments?

3.4.2. How could more integrated EU supervision function?

16) Please indicate to which extent you support the following possible models of more integrated EU supervision of CCPs:

a. A single EU supervisor with all supervisory powers, responsible for the supervision of all EU CCPs.	
b. An EU supervisor with powers in certain key areas.	
c. Supervisory colleges with enhanced powers	
d. Other set-up (please explain in reply to question x)	

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits. If you replied 'Other', please indicate what was intended.

If you selected option 1 or 2 for question 7 (c), please identify the areas where more integrated EU supervision would provide the **most benefits** (please indicate the relevant articles of EMIR where applicable)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits.

17) Would joint supervisory teams, composed of experts of national experts and representatives of the EU supervisor, be an efficient tool to provide technical support to the supervision by the single supervisor?

• Please choose between:

• 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

18) To ensure stronger EU-level supervision, which of the following authorities or bodies should be closely involved in supervision?

- European Central Bank and the relevant central banks of issue of Member States;
- ESMA
- Single Supervisory Mechanism and other bank supervisors for non-Banking Union Member States;
- Competent authorities of other Member States
- Supervisory colleges;
- Other (please specify, in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

19) To ensure stronger EU-level supervision, where should the centre of gravity of supervisory activity be allocated?

- European Central Bank and the relevant central banks of issue of Member States;
- ESMA

- c. Single Supervisory Mechanism and other bank supervisors for non-Banking Union Member States;
- d. Competent authorities of other Member States
- e. Supervisory colleges;
- f. Other (please specify, in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits. If you replied 'Other', please indicate what was intended.

- 20) How would you expect your compliance cost to change under the supervisory model you chose in question 8:

Strong increase +20% or more	Increase +5-20%	Neutral +/- 0-5%	Decrease -5-20%	Strong decrease -20% or more

Please explain your answer providing, as much as possible, quantitative evidence (e.g. your calculations of the evolution of your costs, splitting them between administrative costs (staff costs, facilities costs, travel, IT technology costs), professional fees (e.g. legal, accounting, consulting, etc), supervisory fees, etc

3.5. Questions on the supervision of significant EU trading venues

3.5.1. Identifying the pros and cons of the current supervisory framework and possible benefits of a more integrated EU supervision

- 23) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of trading venues?

Please rate from 1 to 5 (1 very convergent, 5 very divergent)

Please provide examples of divergent outcomes of supervisory practices for trading venues in different Member States.

- 24) To which extent do you agree with the following statement about the pros and cons of the current supervisory framework for trading venues in the EU, compared to a possibly more integrated EU supervisory framework?

- a. The current supervisory framework enables an efficient supervision thanks to the proximity of NCAs with the supervised entities;
- b. It results in sufficiently consistent supervision over EU trading venues;
- c. It is optimal in terms of regulatory costs for trading venues (i.e. it allows costs to be kept to a minimum);

- d. It allows an efficient use of national and EU supervisory resources;
- e. It creates an uneven playing field for EU trading venues;
- f. It creates legal uncertainty because of different implementation or interpretation of EU legislation in different Member States or by NCAs and ESMA;
- g. It does not allow an effective supervision for groups operating across EU-borders;
- h. It prevents economies of scale for trading venues with operations cross-border;
- i. It makes it more complex and costly for EU trading venues to develop their activities across borders;
- j. It makes it more difficult for EU trading venues to attract market participants;
- k. Other (please specify in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, examples and quantitative evidence.

25) Please estimate the regulatory compliance costs that arise from engagement with your current supervisor(s) (including administrative costs – such as staff costs, facilities costs, travel, IT technology costs –, professional fees – such as legal, accounting, consulting, etc. –, and applicable fees). Please separate any details on costs into administrative costs, professional and and supervisory fees, and between one-off cost and on-going costs and per supervisor. Please explain your answer providing, where possible, quantitative evidence and examples.

In particular, please provide, where possible, details on the regulatory compliance costs that arise from engagement with your current supervisor(s) on the following elements:

- a. The authorisation to operate an (additional) trading venue;
- b. The development of or changes to the exchange rulebook, including regulatory approval where relevant;
- c. Ongoing compliance with MiFIR/MiFID II and national implementing measures; specify which one;
- d. For groups operating across borders, compliance with different supervisory requirements and procedures;
- e. Legal uncertainties arising from different implementation or interpretation of EU legislation in different Member States or between NCAs and ESMA;
- f. Duplicative or conflicting instructions from NCAs and ESMA;
- g. Duplicative or conflicting reporting obligations towards different supervisors;
- h. Other (please specify in reply to the next question).

26) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

- a. It could reduce EU trading venues' regulatory costs;
- b. It could enhance the quality and consistency of supervision over EU trading venues;
- c. It could facilitate cross-border activities of trading venues;
- d. It could increase the effectiveness of supervision for groups allowing for a comprehensive EU-wide understanding of the activities performed by each individual trading venue;
- e. It could simplify and accelerate the procedure to apply for (additional) authorisation for EU trading venues;

- f. It could simplify and/or accelerate procedures for obtaining supervisory approvals;
- g. It could simplify and/or accelerate the procedure for obtaining the agreement for amendments to the exchange rulebooks;
- h. It could lead to more efficient use of supervisory resources;
- i. It could decrease uncertainties currently arising from different implementation or interpretation of EU legislation in different Member States or by NCAs and ESMA;
- j. It could remove the need for market participants to deal with duplicative instructions from more than one supervisory authority;
- k. It could create a level playing field between EU trading venues in scope;
- l. It could ensure a harmonised understanding of new technology/new types of instruments (e.g. smart contracts) used by EU trading venues and the novel risks they may bring to the EU trading venues to supervise;
- m. It could reduce the need for detailed regulations, extensive rulebooks, as well as the use of Level 3 tools (e.g. Q&As) to achieve harmonised supervision;
- n. Other (please specify in reply to the next question).

Please explain your answer providing, where possible, examples and quantitative evidence, in particular as regards potential costs and savings/benefits. If you replied 'Other', please indicate what was intended.

3.5.2. How could more integrated EU supervision function?

27) Please indicate to which extent you support the following possible models of more integrated EU supervision. (Note: the models are not mutually exclusive (e.g. an EU-level supervisor could be responsible for the supervision of all trading venues and have all or only some of the MiFID/R powers):

a. An EU-level supervisor, responsible for the supervision of all EU trading venues.	
b. An EU-level supervisor, responsible for the supervision of certain EU trading venues according to certain criteria described in the next section.	1
c. An EU-level supervisor with all MiFID/R supervisory powers.	
d. An EU-level supervisor with powers in certain key MiFID/R areas.	
e. Joint supervisory colleges with enhanced powers ¹	
f. Other set-up (please explain)	

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

Please explain your answers providing, where possible, examples and quantitative evidence, including on potential costs and benefits. If you replied 'Other', please indicate what was intended.

We consider that the EU needs to work towards ESMA supervision as the single regulator with a reformed governance structure. Pan-European groups should transition under a single supervision authority to ensure a true level- playing field with subsidiaries of global financial firms operating from a single country. A focus is needed on adjustments that will facilitate the ability of European financial market infrastructure (FMI) to deliver positive and harmonised outcomes for the real economy and citizens. The current complexity prevents value creation commensurate with the potential of European economies. In the interim, whilst taking steps towards this goal, there is a need to tailor the regulatory regime

applicable by acknowledging the concept of a group of FMIs operating in more than one country in the EU. The condition for these groups to fully operate on a consolidated basis is the need for a true single rulebook, no local gold-plating and fully harmonized supervision as referenced above. These consolidated groups should be allowed to organise the group and its functions as if it were one legal entity. Only then can financial market infrastructures create full value and efficiency. This requires a mindset change where national supervisors look for the interests of the total markets across the borders of their own jurisdiction.

28) In the case of a single EU-level supervisor (a, b, c and d in question 27), to which extent would you support the two possible models described below?

a. ESMA is the direct supervisor, with decisions taken by the ESMA Board of Supervisors and certain tasks delegated to NCAs.

b. Within ESMA, a Supervisory Committee composed of representatives of ESMA, relevant NCAs and possibly independent experts is in charge of the on-going supervision. The ESMA Board of Supervisors could retain decision making powers on a limited number of important MiFID/R issues.

Model b would be simpler, clearer and not political, establishing an Executive Board composed of the Chair of ESMA and a small number of full-time independent members. It will take all decisions towards individual supervised entities. The BoS would ensure some NCAs involvement, and it would still be able to provide its opinion on any decision about directly supervised entities. This model would be similar to the one designed for the AntiMoney Laundering Authority (AMLA).

Also, a reformed ESMA governance would facilitate an increased supervision efforts and decision-making process which is simple and efficient. We believe a new ESMA entity alongside the existing body should be formed. ESMA in its traditional set can maintain its rule and policy making powers, which it has been perfecting over the past years. A new body, comparable to the way the ECB is organised should be founded which will have a dedicated governance structure, with technical experts that are not directly representing a member state but are chosen for their competence. This body will exercise direct supervision over the existing firms already under supervision plus the cross border FMIs. Regarding supervisory convergence, given many FMIs' experience with differing interpretations and approaches at local level, we believe the suite of tools that ESMA has to improve supervisory convergence is simply not effective enough to achieve the objective.

Concerning the mandate of the Chair and Executive Director of ESAs, it shouldn't be a political appointment. The duration should not be the most important criteria but there should be a cooling off period so that there are no political incentives while still in the role.

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

¹ Under this model, NCAs would retain supervisory powers. Yet, entity-specific supervisory colleges consisting of representatives of ESMA and the NCAs that are relevant for the trading venue under scrutiny could issue opinions on a pre-defined list of supervisory topics. This would be complemented by the supervisory convergence tools and joint inspections with NCAs and ESMA representatives.

29) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under

ESMA's lead be an efficient tool to achieve a more harmonised and efficient ongoing supervision of trading venues?

- Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer

If you consider that none of the above presented options would be adequate for (certain) trading venues, which alternative supervisory model would you support?

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

- 30) How would you expect your regulatory compliance costs arising from engagement with your current supervisor (as defined in question 25) to change if your trading venue(s) would fall under one of the following models of more integrated EU supervision the:

	Strong increase +20% or more	Increase +5-20%	Neutral +/- 0-5%	Decrease -5-20%	Strong decrease -20% or more
An EU-level supervisor with all MiFID/R powers					
An EU-level supervisor with some MiFID/R powers					
Joint supervisory colleges with enhanced powers					

Please explain your answer providing, as much as possible, quantitative evidence (e.g. your calculations of the evolution of your costs, splitting them between administrative costs (staff costs, facilities costs, travel, IT technology costs), professional fees (e.g. legal, accounting, consulting, etc), supervisory fees, etc. Should the estimation of your costs differ depending on the type of single EU-level supervisor (see question 27), please specify".

3.5.3. How could the potential scope of a possible EU-level supervision be defined?

- 31) Which criteria should be used to define the scope of trading venues that should fall under EU-level supervision?
- Only trading venues that are deemed significant based on their size or owing to their third country dimension (i.e. trading venues belonging to non-EU groups)
 - Only trading venues with a significant cross-border dimension within the EU
 - Only trading venues that fulfil both above criteria
 - other (please specify)

- 32) Assuming competences are split between an EU-level supervisor responsible for the supervision of significant relevant trading venues and NCAs responsible for the supervision of less significant institutions ('LSI'), do you believe that the EU-level supervisor should also have any oversight function with respect to LSI supervision?
- 33) Among the following options to determine if entities belonging to the same group should be in scope of EU-level supervision, please indicate which one you would most support:
- i. if a trading venue belonging to a group is in scope of EU-level supervision, all trading venues located in the EU and belonging to that group should be in scope, irrespective of whether the quantitative criteria for being in scope are met for each of these individual trading venues;
 - ii. only EU trading venues of a group that individually reach the criteria should be in scope;
 - iii. quantitative criteria should be calculated on the basis of a group and hence all EU trading venues belonging to that group should be in the scope;
 - iv. other (please specify);
 - v. Has no view.

Significance criterion based on size

- 34) What should be the appropriate criteria in terms of size to assess the significance of a trading venue(s) for the purpose of EU-level supervision? If you responded (iii) to question 33, the reference to a trading venue should be understood as a reference to a group. Please select any of the following options.
- i. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for all asset classes (e.g. shares, bonds, etc) is equal or higher than a certain percentage
 - ii. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for only some but not all asset classes is equal or higher than a certain percentage.
If you picked (ii), please specify which asset classes.
 - iii. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for at least one asset class is equal or higher than a certain percentage.
If you picked (iii), please specify which asset class.
 - iv. Other [please specify].
- 35) Depending on your reply to question 34, in your view, what should be the appropriate percentage range (5-10%, 10-30%; 30-50%, other). Please explain your reasoning, providing, where possible, quantitative evidence and examples.

- 36) Please indicate whether you consider that the application of the above criteria could also produce negative side-effects or lead to unintended results.

Cross-border criterion

- 37) In your view, what would be the appropriate criteria to assess the cross-border dimension of a trading venue for the purpose of EU-level supervision? Please select any of the following options :
- a) *Cross-market activity*: More than [X %] of the trading activity on the trading venue occurs in

instruments [shares, bonds] whose most relevant market in terms of liquidity is located in another Member State;

- b) *Cross border activity within a group*: Trading venues belonging to a group are located in at least [Y] Member States other than the Member State where the headquarters of the group are located;
- c) *Cross border members or participants*: More than [Z%] of members of or participants in a trading venue are established in Member States other than the Member State where the trading venue is established.
- d) Any of the previous criteria
- e) All of the previous criteria
- f) Other criteria

Please explain your answer and provide quantitative thresholds for your preferred option(s) above, expressed in percentages for X and Z (37 (a) and 37 (c)) and in numbers of Member(s) (States) for Y (37 (b)). Please also provide quantitative evidence and examples. If you indicated 'Other' under Question 37 (f)), please specify what was intended.

38) Should it be possible for a trading venue to opt-in into EU-level supervision even though it does not meet the relevant criteria?

If you answered "yes", who should be able to apply for the opt-in?

- (a) The trading venue directly;
- (b) The NCA responsible for supervising the trading venue, after a request from that trading venue;
- (c) The NCA responsible for supervising the trading venue, without a request from the trading venue;
- (d) other (please specify)

39) Please indicate for the following areas of MiFID II to which extent you agree/disagree that EU-level supervision of (certain) trading venues could provide benefits. Certain powers may be logically bundled. A non-exhausting list of relevant articles is provided in brackets:

- Authorisation/withdrawal of authorisation for regulated market/MTF/OTF (e.g. Articles 5, 7, 8 and 44 of MiFID II)
- Requirements on management bodies, shareholders and members with qualifying holdings and those exercising a significant influence (e.g. Articles 9, 10, 11, 12, 13, 44 and 45 of MiFID II)
- General organisational requirements, conflict of interests and ongoing supervision (e.g. Articles 16, 21, 22, 23, 47, 48, 49 and 54 of MiFID II)
- Trading process in MTF, OTF and regulated market, admission of financial instruments to trading (e.g. Articles 18, 19, 20, 51 and 53 of MiFID II)
- Market transparency and integrity (e.g. Articles 31, 32 and 52 of MiFID II)
- SME growth markets (e.g. Article 33 of MiFID II)
- Rights of investment firms (cross-border provision of services) and provisions regarding CCP and clearing and settlement arrangements (e.g. Articles 34, 36, 37, 38 and 55 of MiFID II)
- Commodity derivatives regime (e.g. Articles 57 (8) and 58 of MiFID II)
- Supervisory powers (e.g. Article 69 of MiFID II):
- Sanctions (e.g. Articles 70, 71, 72 and 73 of MiFID II)
- Group level supervision
- Provisions related to prevention or detection of cases of market abuse pursuant to Regulation (EU)

- 596/2014, e.g. analysing and referring suspicious transactions to NCAs
- Other (please specify)

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

Please indicate for the following areas of MiFIR to which extent you agree/disagree that EU-level supervision of (certain) trading venues could provide benefits. This is notwithstanding that certain powers may be logically bundled. A non-exhausting list of indicative relevant articles is provided in brackets:

- Transparency requirements for equity and non-equity instruments (e.g. Articles 4, 7, 9, 11 and 11a of MiFIR)
- Transmission of data, obligation to maintain recording and report transactions (e.g. Articles 22, 22a, 22b, 22c, 25 and 26 of MiFIR)
- Non-discriminatory access to a CCP and to a trading venue (e.g. Articles 35 and 36 of MiFIR)
- Other (please specify)

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

3.6. Questions on the supervision of funds and asset managers

3.6.1. Identifying costs related to current supervisory framework and benefits of more integrated EU supervision

- 40) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of funds and asset managers?

Please rate from 1 to 5 (1 very convergent, 5 very divergent)

Please provide examples of divergent outcomes of supervisory practices for funds and asset managers in different Member States.

Please estimate the regulatory compliance costs² (including the applicable fees) for UCITS funds, their fund managers and AIFMs that arise from engagement with your current supervisor(s). Please separate any details on costs into fees and compliance, one-off cost and on-going costs and per supervisor.

- 41) Please explain your answer providing, where possible, quantitative evidence and examples. In particular, please provide, where possible, details on the cost of the following elements:

- a) Applications for the initial authorisation as UCITS funds, their fund managers and AIFMs;

- b) Applications for approvals of UCITS sub-funds;
- c) Notifications or applications for the extension of services of an asset manager (e.g. to extend the scope of services or products offered or activities performed in the EU);
- d) Notifications to home Member State NCAs to market UCITS funds and AIFs in host Member States;
- e) Notifications to Member State NCAs relating to UCITS funds' and AIFs' marketing material;
- f) Notifications to Member State NCAs where changes are made to UCITS and AIF fund documentation, e.g. the KIID;
- g) Supervisory approvals for fund managers, e.g. with regard to outsourcing;
- h) Involvement and consultations of different bodies (e.g. colleges), supervisors, central banks, and further authorities in supervisory decisions;
- i) Lack of consistent processes (e.g. different actors involved) across different supervisory procedures;
- j) Legal uncertainties arising from different implementation or interpretations of the EU regulatory framework in different Member States or between Member State authorities and ESMA;
- k) Duplicative or conflicting instructions from NCAs and ESMA;
- l) Other (please specify in reply to the next question).

Please explain your answer providing, where possible, quantitative evidence and examples. Please separate any details on cost into fees and compliance. If you indicated 'Other', please specify what was intended.

² Including administrative costs (staff costs, facilities costs, travel, IT technology costs), professional fees (e.g. legal, accounting, consulting, etc), and supervisory fees

42) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

- a. It could reduce UCITS funds, their fund managers' and AIFMs' regulatory costs;
- b. It could enhance the quality of supervision over UCITS funds, their fund managers and AIFMs;
- c. It could simplify and accelerate the procedure to apply for authorisation of UCITS funds, their fund managers and AIFMs in the EU;
- d. It could simplify and accelerate the procedure for additional authorisations of managers (e.g. to extend the scope of services or activities offered in the EU);
- e. It could simplify and accelerate the procedures for marketing UCITS funds and AIFs in the single market (outside the home Member State of the fund);
- f. It could simplify and accelerate the procedures relating to regulatory notifications and approvals of marketing materials and changes to fund documentation;
- g. It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;
- h. It could lead to more efficient use of supervisory resources;
- i. It would decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;
- j. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;
- k. It would create a level playing field between UCITS funds, their fund managers and AIFMs;
- l. It would create a level playing field between EU authorised funds and fund managers on the one hand and third-country investment funds and managers on the other hand;
- m. It would reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;

n. Other (please specify in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

43) Please indicate whether you consider that more centralised EU supervision could also produce negative side-effects.

44) Do you have other comments?

3.6.2. How could more integrated EU supervision function?

45) Please indicate to which extent you support the following possible models of more integrated EU supervision:

a. A single EU supervisor, responsible for the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision for asset managers with limited or no cross-border activity, UCITS funds and AIFs;	
b. A supervisory college, chaired by an EU supervisor, having the main responsibility for, and taking joint decisions on, the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision of asset managers with limited or no cross-border activity, UCITS funds and AIFs.	
c. A supervisory college, chaired by a "lead NCA", having the main responsibility for, and taking joint decisions on, the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision of asset managers with limited or no cross-border activity, UCITS funds and AIFs	
d. A supervisory coordination college comprised of all relevant national competent authorities and ESMA while supervisory responsibilities remain unchanged.	
e. Other set-up (please explain)	

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits, taking into account experience with voluntary colleges established so far. If you replied 'Other', please indicate what was intended.

AIFMD

In case you support the option described in question 46 (b), please identify the areas where EU-level supervision would provide the most benefits:

- Authorisation, notification of material changes and withdrawal of authorisations of AIFMs (Articles 6 – 11 of AIFMD)
- Delegation of functions (Article 20 AIFMD)
- Appointment and supervision of the depositary (Article 21 AIFMD)
- Transparency requirements (Articles 22-24 AIFMD)
- Pre-marketing (Article 30a AIFMD)
- Marketing of EU AIFs in the home Member State of the AIFM (Article 31 AIFMD)
- Marketing of EU AIFs in Member States other than in the home Member State of the AIFM (Article 32 AIFMD)
- De-notification of marketing arrangements (Article 32a AIFMD)
- Management of EU AIFs established in another Member State (Article 33 AIFMD)
- Management by EU AIFMs of non-EU AIFs not marketed in Member States (Article 34 AIFMD)
- Enforcement and sanctions (Article 48 AIFMD)

UCITS

- Authorisation of UCITS (Article 5 UCITS)
- Authorisation of UCITS management companies (Articles 6 - 8 UCITS)
- Authorisation of UCITS investment companies (Articles 27 – 29 UCITS)
- Delegation of functions (Article 13 UCITS)
- Freedom of establishment and freedom to provide services for UCITS management companies (Articles 16 – 21 UCITS)
- Supervisory reporting (Article 20a UCITS)
- Appointment and supervision of the depositary (Articles 22 – 26a UCITS)
- Marketing of UCITS in other Member States (Articles 91 – 94 UCITS)
- Enforcement and sanctions (Articles 99 -100 UCITS)

Please explain your answers providing, where possible, quantitative evidence and examples.

- 46) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead, be an efficient tool to achieve a more harmonised and efficient supervision of AIFs, UCITS and their fund managers?

- Please choose between:
- 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer

- 47) How would you expect your compliance cost to change under the supervisory model you chose in question 45:

Strong increase +20% or more	Increase +5-20%	Neutral +/- 0-5%	Decrease -5-20%	Strong decrease -20% or more
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Please explain your answer providing, as much as possible, quantitative evidence (e.g. your calculations of the

evolution of your costs, splitting them between administrative costs (staff costs, facilities costs, travel, IT technology costs), professional fees (e.g. legal, accounting, consulting, etc), supervisory fees, etc.

3.7. Questions on the supervision of EU crypto-asset service providers (CASPs)

49) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

- a) It could reduce the CASPs regulatory costs;
- b) It could enhance the quality of supervision over CASPs;
- c) It could simplify and accelerate the procedure to apply for authorisation to provide crypto-asset services in the EU;
- d) It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of crypto-asset services or activities offered in the EU);
- e) It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;
- f) It could lead to more efficient use of supervisory resources;
- g) It would decrease uncertainties that currently arise from different implementation or interpretations of the EU MiCA Regulation in different Member States or by Member States and ESMA;
- h) It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;
- i) It would contribute to creating a level playing field between EU CASPs by eliminating regulatory arbitrage and gold plating;
- j) It would improve EU overview and cooperation over cross border activities;
- k) It could improve the resilience of EU CASPs;
- l) It would reduce the need for detailed regulations, extensive rulebooks and supervisory convergence activities to achieve harmonised supervision;
- m) It could contribute to a harmonised understanding of complex organisational structures and the different CASP business models.
- n) Other (please specify in reply to the next question).

For each point, options to choose from:

1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

50) Please indicate whether you consider that centralised EU supervision could also produce negative side-effects.

51) Do you consider significant crypto-asset service providers to be subject to different risks than smaller crypto-asset service providers? If yes, what are these risks?

52) Can these risks be addressed by supervision of crypto-asset service providers at EU level?

53) Do you have other comments?

3.7.1. How could more integrated EU supervision of CASPs function?

54) Please indicate to which extent you support the following possible models of more integrated EU supervision of CASPs:

a.	A single EU-level supervisor, responsible for the licencing and supervision of all EU CASPs.	
b.	An EU-level supervisor, responsible for the supervision of a subset of CASPs, for example significant CASPs, while NCAs would be responsible for the supervision of not significant CASPs.	
c.	An EU-level supervisor over all EU CASPs, but with powers in certain key areas with other powers remaining at national level (see questions on areas below)	
d.	An EU-level supervisor, responsible for the supervision of only certain, systemic EU CASPs and with powers in certain key areas (other powers, as well as not significant CASPs to remain subject to national supervision)	
e.	A supervisory model for significant crypto-asset service providers, like the one for issuers of significant Asset Referenced Tokens in the current MiCA regime (authorisation by the NCA and if certain criteria are met, supervision passes to EBA with the help of a supervisory college)	
f.	Other set-up (please explain in reply to question x)	

For each model, options to choose from:

1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits. If you agree with the option under point (b), please explain which criteria you would use to determine the CASPs that would be subject to the supervision at the EU level. If you replied 'Other', please indicate what was intended.

If you support the options described in question 54 (c) or (d), please identify the areas where more integrated EU supervision would provide the most benefits (please indicate the relevant articles of MiCA where applicable).

Please explain your answers providing, where possible, quantitative evidence and examples.

55) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead, be an efficient tool to achieve a more harmonised and efficient authorisation, supervision and monitoring of CASPs?

56)

- Please choose between:
- 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Please explain your answer

57) If you supported the option described in question 54 (b), should also the authorisation of this subset of CASPs be conducted at EU level?

58) Please identify under what circumstances more integrated EU supervision would provide the most benefits for CASPs:

- The size of the crypto-asset service provider.
- Whether it is part of an international group/conglomerate with subsidiaries in many different

- Member States and/or third countries.
- Whether it has a complex organisational structure featuring holding companies established in third countries.
 - There is increased cross border activity. What would you consider “increased cross border activity”?
 - A large percentage of its clients reside in a different Member State.
 - The crypto-asset service provider provides certain crypto-asset services deemed more complicated (i.e. operates a crypto-asset platform).
 - The crypto-asset service provider relies on outsourcing arrangements with entities that are not located in the same Member State as the crypto-asset service provider.
 - Whether the crypto-asset service provider is part of a group which includes issuers of asset referenced tokens and e-money tokens.
 - Other (please specify, in reply to the next question).

For each point; options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

- 59) Please explain your answers providing, where possible, quantitative evidence and examples. If you replied ‘Other’, please indicate what was intended.
- 60) Do you consider the threshold for significant CASPs in Article 85(1) of MiCA adequate, high, or too low? (the threshold is currently 15 million active users on average in one calendar year)
- 61) Would a threshold based only on size be an appropriate criterion for supervision at EU level, or would it be more appropriate to consider further nuanced criteria, taking into account the indicators mentioned in question 58.
Please explain.

4. Horizontal questions on the supervisory framework

4.1. New direct supervisory mandates and governance models

- 1) Would you agree that EU level supervision is beneficial to achieve a more integrated market? Please provide your answer by choosing from 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), (no opinion)

	1	2	3	4	5	No opinion
		X				

Please explain your reply highlighting benefits and downsides.

Paris Europlace fully agrees that the EU needs to work towards ESMA supervision as the single regulator with a reformed governance structure. Pan-European groups should transition under a single supervision authority to ensure a true level- playing field with subsidiaries of global financial firms operating from a single country. A focus is needed on adjustments that will facilitate the ability of European financial market infrastructure (FMI) to deliver positive and harmonised outcomes for the real economy and citizens. The current complexity prevents value creation commensurate with the potential of European economies. In the interim, whilst taking steps towards this goal, there is a need to tailor the regulatory regime applicable by acknowledging the concept of a group of FMIs operating in more than one country in the EU. The condition for these groups to fully operate on a consolidated basis is the need for a true single rulebook,

no local gold-plating and fully harmonized supervision as referenced above. These consolidated groups should be allowed to organise the group and its functions as if it were one legal entity. Only then can financial market infrastructures create full value and efficiency. This requires a mindset change where national supervisors look for the interests of the total markets across the borders of their own jurisdiction.

- 2) Are there other sectors of financial services, not covered in section 6 where granting ESMA new direct supervisory powers should be considered?

Y (please provide examples) / N

If the answer to the previous question is 'yes', which entities should fall under its remit and which criteria should they meet? Please specify the area(s) and criteria.

- 3) What should be the key objectives behind a decision to grant direct supervision to the ESMA?

Please provide your answer by choosing from 1 (agree - very important objective), 2 (agree important objective), 3 (neutral), 4 (rather disagree (i.e. less important), 5 (disagree (not important), (no opinion)

	1	2	3	4	5	No opinion
a) Streamlined supervisory process						
b) Single supervisory point of contact and efficiency in the engagement with a single supervisor, instead of multiple NCAs						
c) Reduced volume of Level 2 legislation (technical standards) and supervisory guidelines						
d) Coherent supervisory outcomes for the EU market as a whole						
e) more harmonised application of EU rules						
f) enhanced pool of expertise and resources						
g) building synergies and avoiding duplications,						
h) ensuring a high level of supervision across EU						
i) reduced costs						
j) other						

- 4) What would be the costs (one off costs and ongoing costs) and savings for your organisation associated with new direct supervisory mandates at the EU level?

- 5) Which governance do you consider most suitable for a given model of direct supervision?

- a. A Supervisory Committee. It would be composed of a limited number of independent members (employed by ESMA) and representatives of those NCAs in whose jurisdiction directly supervised entities are operating. This committee will guide the supervisory tasks given to the EU level and carried out by ESMA staff and/or joint supervisory teams. The committee could have different formations/configurations for each of the sectors supervised. In terms of decision making, three alternatives could be envisaged:

1. Final decision making by the Supervisory Committee
 2. Supervisory Committee in charge but Board of Supervisors (BoS) would have a veto right on certain decisions when a set of pre-defined criteria would be met (e.g. particular political sensitivity/importance)
 3. As per the current CCP Supervisory Committee, the new Supervisory Committee would prepare the decisions, but the BoS would be the final decision-making body
- b. Establishing an Executive Board composed of the Chair of ESMA and a small number of full-time independent members. It will take all decisions towards individual supervised entities. The BoS would ensure some NCAs involvement, and it would still be able to provide its opinion on any decision about directly supervised entities. This model would be similar to the one designed for the Anti- Money Laundering Authority (AMLA).
- c. A governance model based on the current setting of direct supervision as for example for CRAs. In this model, ESMA would become the sole direct supervisor without any direct participation of NCAs' staff in the authorisation and ongoing supervision. All EU NCAs would remain involved in all supervisory decisions through the BoS approval process, regardless of whether they are home NCA or not. When it comes to day-to-day supervision, this should be performed by ESMA staff. ESMA would be able to decide to delegate certain tasks to NCAs, but would continue to remain responsible for any supervisory decision.

In your view, which governance model is the most suitable and for which reasons (e.g. speed of decision making, inclusiveness of process)? You may differentiate your reply per sector. Please explain your reply.

B – would be simpler, clearer and not political

Would you envisage a different governance model apart from one of those outlined above? Please explain your reply.

A reformed ESMA governance to facilitate an increased supervision efforts and decision-making process which is simple and efficient. We believe a new ESMA entity alongside the existing body should be formed. ESMA in its traditional set can maintain its rule and policy making powers, which it has been perfecting over the past years. A new body, comparable to the way the ECB is organised should be founded which will have a dedicated governance structure, with technical experts that are not directly representing a member state but are chosen for their competence. This body will exercise direct supervision over the existing firms already under supervision plus the cross border FMIs.

4.2. Supervisory convergence

Please select the ESA for which you are replying, this selection will apply to all questions included in this section.

ESMA / EIOPA / EBA / **all three ESA**

- 6) Please rate the effectiveness of supervisory convergence tools from 1 to 5 (1 least effective, 5 most effective)

	1	2	3	4	5	No opinion
Breach of Union law					X	
Binding mediation				X		

Peer reviews			X			
Emergency powers				X		
Opinions		X				
Recommendations			X			
Product intervention powers			X			
Inquiries		X				
No action letters					X	
Guidelines		X				
Colleges of supervisors			X			
Coordination groups		X				
Collaboration platforms		X				
Warnings			X			
Questions and Answers		X				
Supervisory handbooks			X			
Stress tests			X			
Union strategic supervisory priorities			X			
other, please specify						

4.3. If you would like to differentiate per areas, please make your comments in the Increasing the effective use of supervisory convergence tools

- 7) Do you think that the current supervisory convergence tools are used effectively and to the extent that is possible?

Y/N. If the answer is no, please explain and give examples.

No. In particular, no action letters should be given much more priority than currently the case to avoid goldplating or excessive regulatory initiatives from ESAs.

- 8) Do you think that the current governance and decision-making processes within ESAs provide sufficient incentives for the use of supervisory convergence tools?

In general, given our experience with differing interpretations and approaches at local level, we believe the suite of tools that ESMA has to improve supervisory convergence is simply not effective enough to achieve the objective.

We consider that the existing governance structure of ESMA and its decision-making processes do not provide sufficient incentives for the use of supervisory convergence tools.

There should be a preliminary full review of ESMA mandate that would allow to address current obstacles (both on governance and functioning aspects) to such a move. This should aim at developing and reinforcing ESMA competencies while considering as well appropriate and very clear articulation with NCAs to avoid this leading to an additional layer of supervision. Such set-up would require an in-depth gap analysis in order to assess its effectiveness for the industry. Instead, dialogue between NCAs and between NCAs and ESMA should be encouraged and facilitated to foster convergence and pragmatism in supervision. Competitiveness should be integrated as a specific mission for ESMA, fostering a more predictable legal environment for our industry and ensuring the link between the rule making and the market practices.

Q&A: we observe an absence of consultation on answers provided by the ESAs. The answers, whether formulated by the Authority or Commission, are not binding. They are however substantially reproduced in the explanatory documents of the supervisory authorities (NCAs and ECB), who in practice tend to require their application, or conversely, to reject

them, depending on the circumstances, which generates legal uncertainty. In practice, some Q&As are updated once per trimester, which is inconvenient for financial institutions and entails significant adaptation costs, so that Q&As should be stabilised. Certain Q&As contradict previously published answers, without this leading to a finding of obsolescence, which is also a factor of insecurity and confusion for financial institutions. Last but not least, the reasons why the Authority decides to reject a question are sometimes unclear or inaccurate (Authorities sometimes inaccurately contend they have already responded on the matter at hand). Their legal status and the reasons for their rejection should therefore be rationalised and clarified.

Guidelines: The normative force of guidelines raises difficulties.

ESAs tend to normalize the use, of Guidelines addressed to NCAs. The weight of NCAs with the Board of Supervisors (“BoS”), which gives it an intergovernmental character, partly explains that phenomenon. NCAs voting rights with the BoS lead them to push, at level 3, policies that failed to make their way through the legislative debate at level 1, whereas level 3 instruments are only meant to further clarify and precise binding legislation. NCAs tend to introduce “gold plating” measures in guidelines that further constraint and burden financial institutions. In this regard, fragmentation is unavoidable.

We believe that a number of clarifications to the regime of guidelines should be made. It should be clearly stated that guidelines should not exceed the L1 mandate and result in the introduction of additional constraints. Their role is to lead to effective convergence in the application of the EU regulatory framework at national level, this is what they should achieve. So they should be limited to provide clarity on some aspects that remain uncertain in terms of implementation but not lead to additional rules. Typically the ESMA guidelines on fund naming have resulted in adding structuring constraints on ESG investment funds, which could be assimilated to the review of some SFDR rules. This type of outcome should be avoided.

If your answer is no, what governance changes would you propose to increase the usage of supervisory convergence tools as well as the accountability and transparency of ESAs in using these tools?

- Move supervisory convergence decision to a Supervisory Committee as described above in the governance section
- Move supervisory convergence decisions to an Executive Board as described above in the governance section.
- Other (please explain).

9) How could the mandate of the Chair and Executive Director of ESAs be modified to allow them to act more independently and effectively in promoting supervisory convergence?

- Prohibition of re-election
- Longer term.
- Other (please explain).

It shouldn't be a political appointment. The duration should not be the most important criteria but there should be a cooling off period so that there are no political incentives while still in the role.

10) [For NCAs] Did resource constraints ever hinder or prevent the use of supervisory convergence tools?
Please give examples

4.4. Enhancements to existing tools

11) Do you see limitations or weaknesses in supervisory convergence tools in addressing significant divergences in supervisory practices between NCAs?

Supervisory convergence tool	YES	NO
Breach of Union law		
Binding mediation		

Peer reviews		
Emergency powers		
Opinions		
Recommendations		
Product intervention powers		
Inquiries		
No action letters		
Guidelines		
Colleges of supervisors		
Coordination groups		
Collaboration platforms		
Warnings		
Questions and Answers		
Supervisory handbook		
Stress tests		
Union Strategic Supervisory Priorities		
other, please specify	ESAs' mandate	

If your answer is yes, what concrete changes would you propose to address the limitations or weaknesses flagged and make these tools more effective?

Supervisory convergence tool	Potential improvements
Breach of Union law	The Breach of Union law procedure should also be enhanced. The intergovernmental character of the Board of supervisors prevents it from being triggered, and when triggered, to lead to real actions making supervisory practices converge.
Binding mediation	
Peer reviews	
Emergency powers	
Opinions	
Recommendations	
Product intervention powers	
Inquiries	
No action letters	A global reform of the forbearance tools should be put in place (including the no action letters). Firstly, we propose to introduce a new tool (supplementary to the no action letter) and to give to the ESAs the power, at the request of at least one NCA or upon the ESAs' own discretion, to draft a technical standard relating to the temporary suspension (or the deferral of application) of any provision from a Level 2 text in an accelerated fashion to be adopted by the Commission (the Commission being free not to follow this proposal). Except for the suspension of the provisions of Implementing Technical Standards, the co-legislators (Council and European Parliament) should be granted a fast-track objection period. Secondly, the current no action letter regime should be reformed (i) to make it easier to rapidly deprioritise the supervisory action of National Competent Authorities in specific circumstances, (ii) to partially resolve the issue of market fragmentation and to increase legal certainty for the industry by clarifying the effect of the no action letter. The reformed no action letter should have a shorter timeframe and a larger scope than the suspension

	mechanism mentioned above (i.e., it may deal with issues arising from a text of any level). However, the reformed no action letter would address less effectively the issues of market fragmentation and of effectiveness <i>vis-à-vis</i> third parties. The two above-mentioned proposals: • Should provide for specific use cases in addition to the current ones, which appear too limited; • respect the <i>Meroni</i> case-law according to which the power of the ESAs must not be discretionary but must consist of an implementing/technical power delimited by objective criteria set by the legislator.
Guidelines	1) Limiting and Specifying Mandates for Guidelines • Guidelines should only be adopted based on explicit mandates granted by the legislator in a Level 1 text. • Guidelines should ideally be adopted at least two years before the application date of the corresponding Level 1 texts to allow for proper implementation and consistency. • If ESAs wish to develop a common supervisory culture without a specific mandate for guidelines, they could use non-binding "opinions" as provided for in Article 29 of the ESAs regulations. • Guidelines formulated under a mandate should be drafted more concisely. • Guidelines should explicitly respect the principles of proportionality and subsidiarity. 2) Strengthening Consultation and Transparency • Public consultations should be systematized for guidelines and recommendations, with exceptions only for duly substantiated urgent cases. This is contrary to current practice where consultations are often discretionary. • The effectiveness of the consultation process must be guaranteed by: ○ Allowing appropriate response deadlines and ensuring consultations are not held during major holiday periods. ○ Publishing and updating the timetable for the adoption of Level 2 texts (and by extension, related guidelines) to allow stakeholders to prepare. ○ Ensuring consultations are accessible, providing glossaries and precise definitions in multiple languages if the main text is in English. ○ Allowing "open" answers and confidential submissions by letter for genuine feedback. • Transparency regarding consultation results must be increased: ESAs should systematically publish their observations, comments, and justify why stakeholder suggestions were or were not considered. • ESAs should not include new proposals in the final versions if these were not part of the initial public consultation.

	3) Clarifying the "Comply or Explain" Mechanism • It should be specified that financial institutions are only required to "make every effort to comply" with guidelines to the extent that their National Competent Authority (NCA) has declared its compliance, and provided the guidelines comply with EU law and are compatible with national law. This addresses the current ambiguity where financial institutions might be expected to comply even if their NCA has declared non-compliance. • It should be clarified that financial institutions can achieve the objectives of the Level 1 act by adopting other equivalent practices, provided they explain their approach if necessary, and such practices should not be presumed "bad". • When an NCA declares partial or full non-compliance, all financial institutions in that Member State should benefit from this declaration, regardless of direct ECB supervision. • The systematic publication of the reasons given by NCAs or the ECB for not complying with a guideline in compliance tables and annual reports should be required. • It should be emphasized that no Pillar 2 prudential requirements or sanctions can be adopted solely based on guidelines, as they are Level 3 texts and non-binding. • The "name and shame" practice of marking non-compliant authorities in compliance tables should be abolished, as it exerts undue political pressure. 4) Strengthening Judicial Review of Level 3 Acts • Reasoned Opinion Procedure: ○ The grounds for illegality should be broadened to include non-compliance with Level 1 acts, general principles of Union law, the Charter of Fundamental Rights, and impacts on competitiveness. ○ Admissibility conditions should be clarified to explicitly state that competent authorities and financial institutions to whom guidelines are addressed are entitled to send reasoned advice to the Commission. ○ A procedural framework should be specified, including a deadline for the Commission's response (e.g., two months), and giving the Commission's opinion the power to bind the Authority and invite revision. • The CJEU should conduct a genuinely rigorous review of guidelines, moving beyond a formalistic approach. • Channels of contestation should be strengthened: National judges should be encouraged to comply with their obligation to refer preliminary questions to the CJEU when doubts about EU law validity or interpretation arise. • Pre-litigation appeals should be developed: The scope of acts that can be appealed to the ESAs' Board of Appeal should be broadened, and procedural requirements lightened. The Board's independence and sufficient resources
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	should be ensured. Similar rules should apply to the Single Resolution Board (SRB) Appeal Panel and the ECB's Administrative Board of Review. 5) Improving Accessibility and Classification of Texts • Access to guidelines and Q&As on ESA websites should be facilitated with systematic and standardized presentation formats across all ESAs. • Improved search engines based on keywords, dates, and thematic/chronological classifications. • ESAs should adopt a harmonized taxonomy of their acts.
Colleges of supervisors	
Coordination groups	
Collaboration platforms	
Warnings	
Questions and Answers	The answers, whether formulated by the Authority or Commission, are not binding. They are however substantially reproduced in the explanatory documents of the supervisory authorities (NCAs and ECB), who in practice tend to require their application, or conversely, to reject them, depending on the circumstances, which generates legal uncertainty. It should be explicitly stated that soft law instruments, including Q&As, should not, in practice, be considered legally binding by supervisors and should not be subject to sanctions. In practice, some Q&As are updated once per trimester, which is inconvenient for financial institutions and entails significant adaptation costs, so that Q&As should be stabilised. Certain Q&As contradict previously published answers, without this leading to a finding of obsolescence, which is also a factor of insecurity and confusion for financial institutions. Last but not least, the reasons why the Authority decides to reject a question are sometimes unclear or inaccurate (Authorities sometimes inaccurately contend they have already responded on the matter at hand). Their legal status and the reasons for their rejection should therefore be rationalised and clarified.
Supervisory handbook	
Stress test	
Union Strategic Supervisory Priorities	
other, please specify	The ESAs' mandate should include as secondary objectives the support to the EU competitiveness and its long-term economic growth, as already the case in the UK for FCA's et PRA's mandates

- 12) ESAs founding regulations and sectoral legislation lay down the requirements to delegate tasks and responsibilities both from NCAs to ESAs or from ESAs to NCAs. This tool has been rarely used. What kind of changes would be warranted to increase its usability?

4.5. Possible new supervisory convergence tools

- 13) Do you see limitations in the current supervisory convergence tools to address home/host issues?
- Yes. Except for forbearance tools (see our answer above in this Part 7 - question 11 "No action letters") we believe that ESMA and EBA already have several supervisory convergences tools at its disposal. Many of them are currently underused. Simplification should be addressed by a more efficient use of existing tools instead of creating new supervisory convergence tools. More

practice-sharing between NCAs could also be a bottom-up way to build trust between NCAs. In addition to the no action letters (whose regime should be improved), we propose to introduce a new tool and to give to the ESAs the power, at the request of at least one NCA or upon the ESAs' own discretion, to draft a technical standard relating to the temporary suspension (or the deferral of application) of any provision from a Level 2 text in an accelerated fashion to be adopted by the Commission (the Commission being free not to follow this proposal). Except for the suspension of the provisions of Implementing Technical Standards, the co-legislators (Council and European Parliament) should be granted a fast-track objection period. This new tool should apply to every sector and would allow to bring more legal certainty to financial actors (contrary to the no action letter, the suspensory technical standard would be binding to non-regulated parties).

14) In the context of supervision of products or of conduct of business rules, supervisory convergence powers could be reinforced. The ESAs may identify cases where home supervision is deemed ineffective either through ongoing monitoring or in response to a specific complaint. For example, the ESAs could be given the power to issue an opinion/binding advice regarding ineffective national supervision to avoid that products or entities are granted access to the EU-market without adequate supervision. Do you think that ESAs should be empowered to issue an opinion in cases where national supervision is deemed ineffective? Y/N

15) Do you think that ESAs should be empowered to issue a binding advice in cases where national supervision is deemed ineffective? Y/N.

16) What would be the cost and expected benefit of such a system?

17) Are there additional supervisory convergence tools that should be introduced? Please provide an example and explanation.

The Commission's objective of further integrating the capital markets union cannot be achieved without a coherent, EU-wide legal foundation. Indeed, the persistent fragmentation of national regimes, in many areas of business law but particularly in banking and financial markets law, is restricting effective market integration and generating regulatory asymmetries that are detrimental to investor confidence. A group of legal experts from Association Henri Capitant met to consider how these regulations could be harmonized, and to propose new tools such as the European loan contract or the issue of European bonds. We invite you to have a look at these two texts: for the harmonization of banking law rules, please see [Book-VIII Banking-Law.pdf](#) and for the harmonization of financial market law rules, please see : [Book-IX Financial-Markets-Law.pdf](#). These two texts are part of a more global project: the European Business Code Project carried out by the Henri Capitant association and the Fondation pour le droit continental, and supported by numerous legal and economic players, notably in France, Germany and Italy.

4.6. Data and technology hub

Please select the ESA for which you are replying, this selection will apply to all questions included this section. Which area(s) would benefit most from an ESA(s)' enhanced role as a data and technology hub?

18) In which sectors/areas would the development of supervisory technology tools (suptech, i.e. use of technology by supervisors to deliver innovative and efficient supervisory solutions that will support a more effective, flexible and responsive supervisory system) be most beneficial to enhance efficiency and consistency of supervision? Please give examples.

19) How should ESAs' suptech tools be funded?

- Privately by the supervised sector which would benefit from them
- Charges from NCAs proportionate to the use of the tool
- General budget (EU/NCA)
- Combination of the above

4.7. Funding

- Please select the ESA for which you are replying, this selection will apply to all questions included this section.

ESAs' budget is currently composed of contributions from the NCAs which are complemented by a contribution from the EU budget, with NCAs contributing 60% and the EU budget 40%;

- In case of direct supervisory mandates, also of fees charged to market participants to cover the full costs of direct supervisory activities. ESMA has nine separate fee income streams and they represent approx. 30% of ESMA's revenue;
- other payments from NCAs for ESAs to be able to undertake tasks on their behalf.

20) Do you consider the provisions on financing and resources for the tasks and responsibilities of the ESAs appropriate?

21) ESAs face pressure to fulfil a growing number of mandates while staying within the ceilings of the multi-annual financial framework (MFF). Taking into account the limitations of public financing, should ESAs be fully funded by the financial sector?

No. Irrespective of the number of mandates, in the absence of a direct supervision by the ESAs, we do not see any reason to change the funding arrangement to a direct contribution from the industry. Indeed, direct part- or full-funding of the ESAs by the industry would put into question the impartiality, objectivity and autonomy of the ESAs and raise conflict of interest issues. Also, the development of a contribution key would be difficult to determine and could create significant distortions between entities and sectors.

22) If not fully funded by the financial sector, would you be in favour of targeted indirect industry funding for certain convergence work (indirect fees), e.g. for specific tasks, like voluntary colleges, opinions, etc.?

No. The lack of convergence, which is largely due to unneeded competition between Member States, should not end up being a cost to market participants. That would be the exact opposite of the idea of a Savings & Investments Union.

23) Do you think the current framework includes sufficient checks and balances to ensure that ESAs make efficient and effective use of their budgets?

24) Which of the following measures could be envisaged to ensure efficiency and effectiveness of ESAs budgets?

Measures	
Periodic performance audits assess the organisation's efficiency and effectiveness in executing its mandates, using resources, and achieving its goals.	Y/N
Stronger role for the Commission on budgetary matters (at present, the Commission has no voting rights except the budget where it has one vote)	Y/N

Veto power for the Commission on the budget	Y/N
Transparency and monitoring mechanisms	Y/N
An obligation to publish details on the calculation and use of the fees charged to directly supervised entities	Y/N
Other	Y/N