EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Horizontal policies
Capital markets union

TARGETED CONSULTATION ON INTEGRATION OF EU CAPITAL MARKETS

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This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take. The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

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INTRODUCTION

Implementation of the savings and investments union (SIU) strategy, as presented in the Commission Communication of 19 March 2025, is a top priority of the Commission. The SIU will be a key enabler of wider efforts to boost competitiveness in the EU economy by improving the way the EU financial system mobilises savings for productive investment, thereby creating more and better financial opportunities for citizens and businesses.

The development and integration of EU capital markets should be a market-driven process, but various barriers to that market-driven process must first be removed. Despite the harmonisation of regulatory frameworks and the existence of financial services passports, the persistent fragmentation due to these barriers is limiting the potential benefits of the EU's single market. Financial-market participants cannot fully benefit from scale economies and improved operational efficiency, or are not adequately incentivised to facilitate cross-border investments, raising the costs and restricting the choice of financial services available to businesses and citizens. By delivering better and cheaper financial services, the SIU will be a key element in boosting economic competitiveness.

More integrated and modernised EU capital markets should also allow us to explore and benefit from technological developments and innovation. The use of newer generation technologies such as distributed ledger technology, tokenisation of financial instruments will allow us to empower our capital markets and equip them for the opportunities and challenges ahead.

The Communication on the SIU announced legislative proposals in the fourth quarter of 2025 to remove barriers to cross-border trading and post-trading, cross-border distribution of investment funds and cross-border operations of asset managers. This reflects President von der Leyen's mission letter to Commissioner Albuquerque, which includes the task to "*explore further measures to […] promote scaling up of investment funds, and remove barriers to the consolidation of stock exchanges and post-trading infrastructure*". To this end, the Commission has already launched external studies to identify barriers affecting the consolidation of trading and post-trading infrastructures and the scaling up of investment funds in the EU. These barriers include those of an economic, legal (at national and EU level), technological, behavioural and operational nature.

Divergences in supervisory practices can also act as a specific barrier to capital-market integration, as financial-market participants operating across borders must manage different requirements across the single market. Accordingly, any strategy to integrate EU capital markets naturally leads to the need for more efficient and harmonised supervision. The aforementioned studies also seek to identify barriers to integration that are linked to supervision and the Commission will propose legislative measures in the fourth quarter of 2025 to strengthen supervisory convergence and to transfer certain supervisory tasks for capital markets to the EU level.

As part of implementing the SIU strategy, this targeted consultation seeks stakeholders' feedback on several issues and possible measures, legislative or non-legislative on 2 main areas:

- **barriers in general** to the integration and modernisation of trading and post-trading infrastructures, the distribution of funds across the EU and efficient cross-border operations of asset management

- and **barriers specifically linked to supervision**

In line with the simplification Communication, simplification will underpin all efforts to implement the SIU strategy and respondents are invited to indicate any areas in which regulatory simplification would be appropriate.

As a swift action is required under the savings and investments union strategy to untap EU enormous potential and give it the means to secure its economic future, this consultation must be completed within eight weeks. It is acknowledged that this consultation is extensive and to the extent that not all questions will be relevant to all stakeholders, respondents are invited to reply only to those questions that are most relevant to them.

RESPONDING TO THIS CONSULTATION

In this targeted consultation, the Commission is interested in the views of a wide range of stakeholders. Contributions are particularly sought from financial institutions and other markets participants, national supervisors, national ministries, the ESAs, EU institutions, non-governmental organisations, think tanks, consumers, users of financial services and academics. Market participants include operators and users of trading and post-trading infrastructures in the EU, notably trading venues, broker-dealers, issuers, institutional and retail investors, clearing counterparties (CCPs), central securities depositaries, trade repositories, other financial market infrastructure operators, asset managers, investment funds, regardless of where they are domiciled or where they have established their principal place of business.

This consultation should be seen as a distinct exercise from any targeted queries received by relevant stakeholders in relation to the currently ongoing external studies to identify barriers affecting the consolidation of trading and post-trading infrastructures and the scaling up of investment funds in the EU.

Responses to this consultation are expected to be most useful where issues raised in response to the questions are supported with a clear and detailed narrative, evidenced by data (where possible), concrete examples, legal references and qualitative evidence, and accompanied by specific suggestions for solutions to address them in the Regulation.

Urgent action is required to address persistent fragmentation that limits the benefits to be gained from the EU's single market and contribute to secure EU's prosperity and economic strength. All interested stakeholders are invited to **reply by 10 June 2025 at the latest to the online questionnaires below**: https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-integration-eu-capital-markets-2025_en

Please note that to ensure a fair and transparent consultation process only responses received through the online questionnaires will be taken into account and included in the report summarising responses.

Recognising the comprehensive nature of this consultation, it has been decided to divide it into six key topics: simplification, trading, post trading, horizontal barriers to trading and post-trading, asset management and funds and supervision. This approach aims to streamline the response process and ensure each aspect is thoroughly addressed, thereby making it more manageable for respondents to engage with and contribute their insights effectively. By organising the consultation in this manner, the aim is to encourage detailed and focused feedback on each specific area, ultimately leading to a more robust and inclusive dialogue.

To the extent that not all questions will be relevant to all stakeholders, respondents are invited to reply only to those questions that are most relevant to them within the questionnaires they have chosen to respond to.

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-markets-integration-supervision@ec.europa.eu.

PART 1

1. Simplification and burden reduction

The focus of this targeted consultation is to remove barriers to enhance the integration of the EU capital markets and to support their modernisation. By doing so, it will contribute to simplify the framework of EU capital markets and support the Commission's initiative to make Europe faster and simpler. This section seeks stakeholders' view on general questions regarding simplification and burden reduction of the EU regulatory framework in the trade, post-trade and asset management and funds sectors. Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

1) Is there a need for greater proportionality in the EU regulatory framework related to the trade, post-trade, asset management and funds sectors? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If yes, please explain and provide suggestion on what form it should take.

1	2	3	4	5	No opinion
	X				

The EU regulatory framework for trade, post-trade, asset management, and funds sectors is comprehensive—with multiple legislative instruments addressing various aspects— BUT it also suffers from fragmentation, overlaps, and inconsistencies. For example:

- Fragmentation and Overlap: Multiple instruments (such as EMIR, CSDR, SFTR, and the Shareholders' Rights Directive) address only specific elements of market activities, leading to a patchwork of rules. This fragmentation can result in regulatory burdens that may not always be proportionate to the risks involved.

- Inconsistent Implementation: Differences in national interpretations and the lack of harmonized standards across certain aspects of the post-trade market indicate that regulatory obligations could be simplified and made more proportionate.

Recommendations for Achieving Greater Proportionality:

- Streamlining Regulation: Develop a more integrated framework that consolidates overlapping regulatory requirements where possible. This could involve creating overarching guidelines that unify similar regulatory approaches, thereby reducing complexity and redundant obligations.

- Risk-Based Proportionality: Introduce a tiered or risk-based approach that tailors the regulatory requirements to the specific risks and scale of the activity. Smaller or lower-risk entities could benefit from lighter regulatory burdens, while higher-risk activities are subject to more stringent oversight.

- Enhanced Harmonization: Work towards better harmonization of rules across member states to minimize divergent interpretations and reduce administrative friction. This could involve more prescriptive, EU-wide standards or technical specifications that ensure consistent application of the rules.

Commenté [EC1]: MDT : Comment mesure-t-on le risque? S'il n'y pas de proposition de métriques, nous le laissons à la discrétion de la CE. Est-ce ce que l'on veut?

- Clearer Definitions and Scope: Refine the definitions and delineation of regulatory scopes to ensure that new measures complement existing frameworks without unnecessarily expanding their ambit.

These steps would help ensure that the regulatory burden is not only effective in safeguarding market integrity but also efficient and proportionate to the actual risks posed. But we consider that there is no immediate need for revision of AIFMD and that any revision in the future should follow a pragmatic approach balancing must-have and nice-to-have elements.

2) In particular, in relation to question 1 above, should the AIFMD threshold for sub-threshold AIFMs take into consideration for instance the market evolution and/or the cumulated inflation over the last 10-15 years? Please provide your answer by choosing from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'.

1	2	3	4	5	No opinion
		X			

If you agree, please indicate what could be an appropriate fixed threshold, or whether the threshold should be set in a delegated act to allow easier adjustments based on a methodology that you are invited to outline in your response, and why.

We believe that, as of today, AIFMD is satisfying.

The AIFMD threshold should take into account market evolution and cumulative inflation over the past 10–15 years. A fixed, static threshold risks becoming outdated due to changes in the economic environment, inflation, and the overall growth of asset markets. This could result in either an overly burdensome regime for smaller managers or an insufficient regulatory buffer as market sizes expand.

Recommendation for the Adjustment Mechanism:

1. Delegated Act Mechanism:

Rather than setting a permanently fixed threshold, it would be more flexible and pragmatic to specify the threshold in a delegated act. This would allow for periodic adjustments based on a well-articulated methodology, ensuring that the threshold remains aligned with current market conditions and economic realities.

2. Proposed Methodology:

- Inflation Adjustment: The threshold could be periodically updated using a formula linked to a reliable inflation index.

- Market Evolution Factor: In addition to pure inflation adjustments, the methodology could consider market-specific developments like growth in total assets under management (AUM). A periodic review (e.g., every 3–5 years) could assess whether the relative size and risk profile of sub-threshold AIFMs have changed. If so, an additional scaling factor based on relative market growth could be incorporated.

- Rationale: This dual approach—accounting for both inflation and market evolution—ensures that regulation remains proportionate, avoids unintended entry barriers for genuine market participants, and maintains regulatory effectiveness without overburdening smaller AIFMs.

In summary, setting the threshold in a delegated act with a clear, transparent adjustment mechanism would better respond to both macroeconomic shifts and sector-specific developments, thus preserving the intended balance between investor protection and proportional regulatory oversight. But we consider that there is no immediate need for revision of AIFMD and that any revision in the future should follow a pragmatic approach balancing must-have and nice-to-have elements.

3) Would you see a need for introducing greater proportionality in the rules applying to smaller fund managers under Alternative Investment Fund Managers Directive (AIFMD),? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree, please explain and provide suggestion on what form it should take, indicating if possible estimates of the resulting cost savings.

1	2	3	4	5	No opinion
		X			

There is a clear complexity and one-size-fits-all regulatory approaches causing undue burdens on market participants in various segments. In the case of smaller fund managers under the Alternative Investment Fund Managers Directive (AIFMD), the current rules can sometimes impose disproportionate compliance costs and operational challenges relative to the inherent risks and size of their operations.

Introducing greater proportionality would:

- Align Regulatory Obligations with Risk and Size: Smaller fund managers typically handle lower volumes of assets and engage in less complex transactions. Proportional measures could tailor requirements so that regulatory burdens are commensurate with the actual risks and scale of activities, thereby reducing unnecessary compliance costs.

- Promote Market Competitiveness: Easing the regulatory burden for smaller entities could foster innovation and market entry, helping to diversify the market and stimulate competition without compromising on the core objectives of investor protection.

- Maintain Robust Oversight: While introducing proportionality, it is crucial that fundamental safeguards remain in place. A calibrated approach would ensure that while smaller fund managers are less encumbered by onerous requirements, the regulatory framework still

effectively protects investors and maintains market integrity.

In summary, a strongly proportional approach—where regulatory requirements for smaller fund managers are adjusted based on their scale, activity level, and risk profile—would improve the operational efficiency for these entities while ensuring that investor protection and market stability are not compromised. But we consider that there is no immediate need for revision of AIFMD and that any revision in the future should follow a pragmatic approach balancing must-have and nice-to-have elements.

4) Are there any barriers that could be addressed by turning (certain provisions of) the Alternative Investment Fund Managers Directive (AIFMD), Financial Collateral Directive (FCD), Markets in Financial Instruments Directive (MiFID), Undertakings for Collective Investment in Transferable Securities Directive (UCITSD), Settlement Finality Directive (SFD) into a Regulation? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree, please explain which barriers and how a Regulation could remove the barrier.

1	2	3	4	5	No opinion
		X			

The main challenges imposed by the current framework are the fragmentation and lack of harmonization across the EU due to the nature of directives. This creates several barriers:

- Inconsistent National Implementation: Directives require transposition into national law, often resulting in divergent interpretations and implementations. This can lead to regulatory arbitrage, increased compliance costs, and an uneven playing field across Member States.

- Regulatory Complexity and Uncertainty: The use of multiple directives creates a complex and fragmented regulatory landscape. This complexity can burden market participants, particularly smaller entities, and pose challenges for effective cross-border operations.

By using Regulation instead of directives for future regulatory developments, the following benefits could be realized:

- Direct Applicability: Regulations are directly applicable in all member states, ensuring uniformity in the rules. This would eliminate differences in national transpositions and interpretations, thereby reducing regulatory uncertainty.

- Enhanced Market Integration: A uniform regulatory framework would foster deeper integration of EU capital markets. Some other quick fixes are proposed below. This can facilitate smoother market operations and enhance competitiveness.

- Reduced Compliance Costs: A standardized regulatory approach would lower compliance burdens for market participants by streamlining reporting, disclosure, and operational processes

across the EU.

- Improved Investor Protection and Market Integrity: Uniform application across the board would bolster investor confidence and contribute to a more stable financial market environment within the EU.

On the contrary, converting fully or partially current directives into a regulation may generate potential risks:

- Legal Uncertainty and Complexity: Transitioning from directives to regulations could introduce legal uncertainties, especially if the existing frameworks are not carefully evaluated. The current directives may have been tailored to specific national contexts, and a one-size-fits-all regulation could overlook these nuances, leading to confusion and inconsistencies in application.

- Inconsistent Application: Converting these directives into regulations might not eliminate these inconsistencies and could potentially exacerbate them if not managed properly.

- Increased Compliance Burden: Moving to a regulation could impose a more uniform compliance framework, but it may also lead to higher compliance costs for financial institutions. This is particularly relevant in the context of asset segregation and reporting requirements, where the multiplicity of rules can create additional operational challenges.

- Potential for Market Instability: drastic changes to the legal framework could lead to market instability. Significant alterations to existing laws without clear market demand could disrupt current practices that are functioning effectively.

- Impact on Stakeholder Engagement: The process of converting directives into regulations should involve thorough stakeholder consultation and impact assessments. Without adequate dialogue with affected parties, the resulting regulations may not address the actual needs of the market.

In summary, while there are potential benefits to harmonizing regulations across EU member states, the risks associated with converting these directives into regulations include legal uncertainty, increased compliance burdens, potential market instability, and the need for careful consideration of stakeholder input. Accordingly, any process of converting directives into regulations should involve thorough stakeholder consultation and clear impact assessments.

5) Are there areas that would benefit from simplification in the interplay between different EU regulatory frameworks (e.g. between asset management framework and MiFID)? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree, please explain and provide suggestions for simplification. Also if possible present estimates of the resulting cost savings.

1	2	3	4	5	No opinion

	X				

The EU regulatory framework is highly fragmented, with multiple legislative instruments addressing overlapping areas. This fragmentation creates complexities, redundancies, and potential inconsistencies between different regimes.

Areas for Simplification Include:

- Overlapping Regulatory Objectives: Multiple directives cover aspects that could be streamlined, reducing duplication of requirements and clarifying responsibilities across frameworks. For instance, MiFID's market conduct and transparency rules sometimes intersect with disclosure requirements in the asset management sector.

- Harmonized Reporting and Compliance: Harmonizing reporting obligations across different frameworks would mitigate the administrative burden on market participants. A unified approach or standard across both asset management and MiFID could lead to clearer, more consistent compliance procedures.

- Cross-Border Consistency: Differences in national transpositions and interpretations of overlapping rules have led to inconsistency across the EU. Simplifying the interplay, possibly by aligning key definitions and thresholds, would enhance cross-border market integration and reduce regulatory arbitrage.

Benefits of Simplification:

- Reduced Compliance Costs: Eliminating unnecessary overlaps would lower administrative and operational burdens for firms.

- Enhanced Clarity and Predictability: A simplified framework would provide firms with clear guidance on their obligations, fostering a more predictable regulatory environment.

- Improved Market Efficiency: Streamlined processes can enhance the efficiency of market operations, benefiting both market participants and investors.

In summary, simplifying the interplay between different EU regulatory frameworks, such as that between asset management rules and MiFID, would address key barriers by reducing redundancy, ensuring consistency, and ultimately fostering a more integrated and efficient regulatory environment. This should be the ultimate objective of such a modification and should be balanced with cost of change.

6) Would the key information documents for packaged retail and insurance-based investment products (PRIIPs KID) benefit from being streamlined and simplified? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree, please explain and provide suggestions for simplification. Also indicate what should be prioritised and if possible present estimates of the resulting cost savings.

1	2	3	4	5	No opinion
X					

The current format of PRIIPs Key Information Documents (KIDs) is lengthy, complex, and not sufficiently clear to retail investors. Both future performance scenarios and implicit transaction cost are difficult to grasp from the perspective of a retail investor. While supporting simplification of the PRIIPs KID, FPM believes it is important to consider the developments in the context of the current review of the Retail Investment Strategy that could affect the framework of PRIIPs.

Simplifying and streamlining the KIDs could produce several benefits:

- Enhanced Investor Comprehension
- Reduced Compliance and Administrative Costs
- Increased Competitiveness and Market Accessibility

Suggestions for Simplification:

- Introduce summary sections or bullet points highlighting the most pertinent data, such as key risks, costs, and performance metrics, with further details available in an annex if needed.
- The PRIIPs KID should only integrate past performance within the document, permitting the investor to have a full view on a single document as it is currently maintained in a separate one. This would avoid multiplying access to complete information and will allow streamlining the production of a single synthetic document. Furthermore, future performance based on mathematical models embarking performance scenarios is very uncertain and as a result does not support informed decisions for retail investors. How can a proper comparison across funds take place based on predictive scenarios which are fictional as opposed to facts (past performance)? The objective of PRIIPs has always been to enable an easy comparison between similar products.
- The concept of implicit costs based on the arrival price methodology in the current PRIIPs KID is based on a costly methodology requiring numerous data ultimately paid by investors without any demonstration that it helps their investment decision. Moreover, these implicit costs are in fact an estimate. Eliminating their calculation would be less complex for collecting market data and less expensive to produce. It should be noted that the FCA is currently consulting on the subject, proposing the elimination of these implicit costs.
- The objective for retail investors is to have clear, accurate and non-misleading information while limiting the size of the PRIIPs KID, which should remain synthetic with critical information allowing a clear investment decision-making. KID is currently 3 pages long (versus 2 pages previously under the UCITS KIID format) because of inclusion in report of Transaction Cost Calculation (TCC explicit and implicit costs), future performance scenarios and Risk indicator based on market risk and credit risk. TCC only on explicit costs and Risk indicator looking at past performance are required in the KID.

- Consider incorporating visual aids like graphs or icons to communicate complex information intuitively.

- Look into harmonizing with digital solutions, for instance, a digital "layered" approach where the primary page is brief and essential, with the option to delve deeper into specifics through hyperlinked sections.

Potential Cost Savings Estimates: While precise figures would require a detailed empirical study across market participants, several studies and industry estimates suggest that:

- Simplification of KIDs could reduce the administrative burden by an estimated 20–30% for some firms. If translated into cost savings, and assuming that compliance activities for KID creation and distribution represent a meaningful part of the operational budget, firms might save several thousand Euros annually per product line. For larger asset management firms operating across multiple products, cumulative savings could be substantial, potentially reaching low double-digit millions of Euros industry-wide over time.

7) Do you have other recommendations on possible streamlining and simplification of EU law, national law or supervisory practices and going beyond cross-border provision?
Yes / no / no opinion

If yes, please list your recommendation and suggested solutions. Please rank them as high, medium or low priority.

YES

Recommendation 1. Establish a Periodic Review Mechanism with Sunset Clauses

Priority: High

Suggested Solution: Introduce built-in sunset clauses and periodic reviews for EU legislation to assess whether existing rules remain necessary over time. An independent expert body could evaluate the relevance and efficiency of current provisions at regular intervals. This mechanism would allow outdated or redundant requirements to be streamlined or removed, improving regulatory clarity and reducing compliance costs.

Recommendation 2: Strengthen Coordination Among National Regulatory Authorities via an EU Supervisory/Industry Forum

Priority: Low

Suggested Solution: Create a centralized forum or digital platform for regular communication and coordination among national supervisory agencies, European Supervisory Authorities (ESAs) and Industry. This forum would facilitate the sharing of best practices, harmonize supervisory practices, and address common challenges related to national transposition and implementation. Greater coordination can help lower discrepancies and ensure that simplification at EU level is effectively mirrored at the national level.

Recommendation 3: Leverage Technology for Regulatory Automation and Digitalization

Priority: High

Suggested Solution: Invest in centralized digital platforms for reporting, data collection, and regulatory submissions that can be utilized across Member States. Automation of routine compliance processes would not only reduce administrative burdens on both national authorities and market participants but also enhance transparency and data quality. The development of common data formats and standardized interfaces can further streamline interactions between national and EU-level regulators.

Recommendation 4: Enhance Cross-Sector Coordination to Address Overlapping Provisions

Priority: Low

Suggested Solution: Foster closer collaboration between financial regulators and other relevant policy areas (such as taxation, data protection, and consumer protection) to identify and address overlaps. By establishing cross-sector working groups, the EU can ensure that simplification efforts in financial regulation consider wider policy impacts. This can lead to more coherent lawmaking and the elimination of conflicting requirements across different domains.

8) Does the EU trade, post-trade, asset management or funds framework apply disproportionate burdens or restrictions on the use of new technologies and innovation in these sectors? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. Please explain and provide examples.

1	2	3	4	5	No opinion
		X			

There is no clear evidence that the EU frameworks impose "disproportionate burdens or restrictions" specifically targeting the use of new technologies and innovation.

9) Would more EU level supervision contribute to the aim of simplification and burden reduction? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion' and explain.

1	2	3	4	5	No opinion
		X			

While we believe that the current EU supervision could be improved so that EU regulation is more harmonized, we are deeply convinced that, prior to any strengthening of supervision at the European level, it is important for the current governance of ESMA to be reviewed in its component of developing

level 2 regulatory technical standards (preparation of delegated acts) and level 3 (guidelines, Q&As) ... which is distinct from its supervisory role. Furthermore, we believe that it is important for ESMA to be given a mandate related to competitiveness, which it currently lacks.

These prerequisites completed, centralized supervision could make sense and simplify the supervision of the activities of certain actors, such as CSDs. However, a one-size-fits-all approach would not be appropriate; for example, we believe that a European-level supervision for the asset management sector would not contribute to simplification, particularly for the authorization processes to be introduced at the entity level for depositaries (see question 23 in 5.2.3). At product level, we think that the priority is about supervisory convergence to improve the harmonization of implementation of the EU framework at national level.

2. Trading

This section seeks stakeholders' feedback in the trading space on the nature of barriers to integration, modernisation and digitalisation of liquidity pools and on several issues that can be grouped into two key objectives/areas, as well as their interplay: barriers to cross-border operations in the trading space and barriers to liquidity aggregation and deepening. Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

Please note that regulatory barriers to the operation of groups and their capacity to leverage intra-group synergies is addressed in the separate questionnaire on horizontal barriers.

2.1. Nature of barriers to integration, modernisation of liquidity pools

1) On a scale from 1 (absent) to 5 (efficient), what is your assessment of the current level of integration of liquidity pools across the EU?

1	2	3	4	5	No opinion

If you responded 4 or below to the previous question, what are the barriers that limit the level of integration of liquidity pools in the EU? Please select the relevant items.

	Please select the relevant items
Legal/regulatory barriers at EU level;	
Legal/regulatory barriers at domestic level (including also insolvency law, tax, etc., and including barriers resulting from goldplating of EU law);	
Non-regulatory barriers (market practices);	
Supervisory practices;	
Other barriers (please specify)	

Please explain

2) Please provide concrete examples of the identified barriers. In case of legal barriers (excluding on the "group operations" dealt with in the section on horizontal barriers), please indicate the relevant provisions.

Where possible, please provide an estimate of resulting additional costs and/or impacts on execution quality.

2.2. Regulatory barriers to cross-border operations in the trading space

3) On a scale from 1 to 5 (1 being "insufficient" and 5 being "fully harmonised"), what is your assessment of the current level of harmonisation of EU rules applicable to:

	1	2	3	4	5	No opinion

Regulated markets and their operators.						
Other trading venues and their operators.						
The provision of execution of orders on behalf of clients.						
The provision of reception and transmission of orders.						

If you replied 4 or less to any of the items in the previous question, on a scale from 1 to 5 (1 being "not needed" and 5 being "highly needed"), how necessary would you deem, for the purpose of fostering cross- border operations, an increase in the level of EU harmonisation of rules applying to:

	1	2	3	4	5	No opinion
Trading venues and their operators.						
The provision of execution of orders on behalf of clients.						
The provision of reception and transmission of orders.						

4) For which areas do you believe that further harmonisation would be beneficial (multiple choices possible)?

- Rules of trading venues (i.e. exchange rulebook);
- Approval of rules of trading venues and oversight over their implementation/changes;
- Governance of the market operator;
- Open/fair access provisions;
- Other areas (please specify)

5) Please explain and provide concrete examples of areas where a lack of harmonisation might hamper the full harnessing of the benefits of the single market and, where relevant, differentiate between regulated markets and other trading venues (notably, multilateral trading facilities (MTFs), small and medium enterprises (SME) growth markets and organised trading facilities (OTFs)). Please provide an estimate of costs and benefits of greater harmonisation in each specific case, where possible.

2.3. Non-regulatory barriers (market practices) to liquidity aggregation and deepening

2.3.1. Integrating liquidity pools across the Union

6) Can the use of new digital technology solutions contribute to integrating liquidity pools or connecting different pools across the EU? What barriers do you face in implementing such technology-based solutions? Please explain.

Intermediaries and venues interconnections

7) What is your overall assessment of the level of direct connection (i.e., ability to directly execute orders) of

EU investment firms to execution venues across the Union, especially to execution venues located in a different Member State than that of the investment firm? Please rate it from 1 (absent) to 5 (efficient) and provide an explanation.

1	2	3	4	5	No opinion

Please explain

8) What is your overall assessment of the level of indirect connection (i.e., ability to execute orders via another intermediary) of EU investment firms to execution venues across the Union, especially to execution venues located in a different Member State than that of the investment firm? Please rate it from 1 (absent) to 5 (efficient) and provide an explanation. Please provide a comparison of cost efficiency of direct and indirect connection.

1	2	3	4	5	No opinion

If you replied 4 or less to question 7 and/or 8, and therefore that there is room for improvement in terms of connection of investment firms to multiple execution venues across the Union, how big of a barrier to the creation of deeper and more integrated pools of liquidity in the EU would you consider this suboptimal level of connection? Please rate it from 1 (not a barrier) to 5 (a very significant barrier) and provide an explanation and, where available, estimate(s) of costs that this drives.

1	2	3	4	5	No opinion

Please explain

If you replied 4 or less to question 7 and/or 8, what are in your view the causes of this insufficient level of connection? Please explain. Could the more advanced and developed use of new technology (e.g. API aggregation) and technology-based solutions contribute to achieving higher levels of connection? If so, how?

If you replied 4 or less to questions 7 and/or 8, what is your overall assessment of the potential negative impact of that situation on retail investors in particular (from 1 (absent) to 5 (highly negative) and provide an explanation.

1	2	3	4	5	No opinion

Please explain

9) Are there any barriers to the use of technology-based solutions that contribute to achieving higher levels of connection? Yes/no/don't know

If you responded 'Yes', what are these barriers? Are they of a policy, regulatory or supervisory nature?

10) Are you aware of instances where intermediaries charge their clients higher fees for executing clients' orders on a trading venue in a Member State that is different from the Member State of the intermediary?

Yes/No/Don't know.

If you responded "yes", what are the reasons? Please select one or more of the following options. Please explain your reasoning and provide relevant data, where available.

	Please select the relevant replies
It is more expensive for an intermediary to connect to a trading venue that is located in another Member State, because the trading venue charges more than to an intermediary located in its Member State;	
It is more expensive for an intermediary to connect to a trading venue that is located in another Member State, because of complex cross-border post-trading arrangements;	
Intermediaries are not directly connected to trading venues located in another Member State and therefore need to rely on other intermediaries, hence increasing the cost;	
It is a commercial policy at the intermediary's level to apply different fees to clients depending on whether the order is executed in another Member State, independently from what exchanges charge that intermediary;	
Other (please explain)	

Please explain

Please specify where any of this could also be relevant in the context of the same Member State with multiple trading venues. Please provide detail on costs incurred by intermediaries of establishing multiple connections to trading venues.

11) Are there any barriers that may limit the possibility for trading venues to offer trading in financial instruments that have been initially admitted to trading on another trading venue? Please reply differentiating by type of trading venue.

	Yes	No	No opinion
Regulated markets			
MTF			
SME Growth Markets			

In case you responded "yes" to the previous question for any type of venue, please select one or more of the following options that would explain such situation.

	Please select the relevant items.

Market practices pertaining to investment firms	
Market practices pertaining to trading venues	
Market practices pertaining to CSDs	
Barriers linked to interoperability between CCPs	
Supervisory practices	
Other barriers (including legal barriers at EU level, legal barriers at national level, tax).	

Please explain your answer.

In case of legal barriers, please indicate the relevant provisions and what legislative measures you would recommend to solve this issue. Please provide concrete examples, and where possible estimates of costs.

Focus on ETFs

12) How would you rate the impact of multiple ETF listings in the EU on the attractiveness of the market in comparison to other third-country markets, from 1 (very negative) to 5 (very positive)?

1	2	3	4	5	No opinion

13) In your view, which of the following are the most relevant drivers for multiple listings of ETFs in the EU? Please explain. In case of legal barriers to a more integrated trading landscape for ETFs leading to necessary multiple listings, please indicate the relevant provisions and what legislative measures you would recommend to solve this issue.

	Please select the relevant items.
Market practices pertaining to investment firms (e.g. lack of direct connection to venues situated in a different Member State than the one where the investment firm is located)	
Market practices pertaining to trading venues	
Market practices pertaining to CSDs	
Barriers linked to interoperability between CCPs	
Supervisory practices	
Other barriers (including legal barriers at EU level, legal barriers at national level, tax)	

Please, explain and provide concrete examples, and where possible estimates of costs.

Means to improve the consolidation of liquidity through better interconnections

14) In your view, should any intermediary offer its clients the possibility to trade, on any EU regulated market, MTF and SME growth market, in all shares and ETFs admitted to trading in the EU?

Yes/No/No opinion

Please explain your reasoning and provide where possible estimates of costs and benefits.

14.1) If you responded "No" to the previous question, please specify whether your answer would change if:

	Please select the relevant items.
the scope of instruments was limited to only a subset of all shares and ETFs admitted to trading in the EU, based on certain characteristics (e.g. market capitalisation above a certain threshold).	
the scope of trading venues was limited to only a subset of trading venues (e.g. only EU regulated markets and MTFs having a significant cross-border dimension).	

Please explain

14.2) If you replied "No" to question 14, do you believe any intermediary should ensure, in relation to those shares and ETFs it offers for trading to its clients, the possibility to trade such shares and ETFs on any EU regulated market, MTF and SME growth market? To note, while the previous question concerned *all* shares and ETFs admitted to trading in the EU, this question limits the scope of instruments considered to those the intermediary decides to offer for trading to its clients.

Yes/No/No opinion

Please explain your reasoning and provide where possible estimates of costs and benefits.

14.2.1) If you responded "No" to the previous question, please specify if your answer would change if:

	Please select the relevant items.
the scope of instruments was limited to only a subset of those shares and ETFs that an intermediary offers for trading to its clients, based on certain characteristics (e.g. market capitalisation above a certain threshold).	
the scope of trading venues was limited to only a subset of trading venues (e.g. only EU regulated markets and MTFs having a significant cross-border dimension).	

Please explain

14.3) Intermediaries may offer their clients the possibility to trade either directly by executing the orders, or indirectly, i.e. through another intermediary. In case you selected "Yes" to questions 14 or 14.1, would a direct, indirect or mixed model be the most appropriate?

Yes/No/No opinion

Please explain under which conditions and provide an estimation of the expected costs and benefits for the selected model.

15) Do you believe that intermediaries could improve clients' access to liquidity across the EU by using Smart Order Routing or other similar technologies? What would be the potential costs associated with it and what are the most useful/promising technologies in your view?

Yes/No/No opinion

Please explain.

16) Beyond membership and execution fees, trading venues may charge connection fees. To the extent this information is available to you, could you provide figures on the amounts charged by individual trading venues or types of trading venues (e.g. regulated markets, MTFs, etc.)?

17) Increased access to financial instruments on a cross-border basis can also be ensured by improving the interconnection between all relevant EU regulated markets and MTFs. To that end, would you consider important to ensure an increased level of interconnection between trading venues in the EU?

Yes/ Yes, provided it is funded/co-funded by public funds/ No/ Don't know.

In case you answered "yes" or "yes, provided it is funded/co-funded by public funds" to the previous question, which of the following options do you prefer?

	Please select the relevant option.
Requiring every EU regulated market and MTF to offer the possibility to trade any share or ETF that has been initially admitted to trading on a regulated market across the EU	
Requiring every EU regulated market and MTF to collect the orders and reroute them to one of the venues where a given share or ETF is traded (i.e. without requiring all venues to directly offer trading in all shares and ETFs)	
Leaving the choice of the option to each EU regulated market and MTF	

Please explain and clarify if you would see merit in limiting the options to only a subset of regulated markets/MTFs (e.g. MTFs with a cross-border dimension). In that case, please clarify what the criteria should be and provide details concerning possible implementation costs.

In case you answered "yes" or "yes, provided it is funded/co-funded by public funds" to question 17, what would be the impact in terms of building cross-border liquidity? What would be the potential estimated costs or savings associated with such a measure (where relevant, for each respective type of market participant)?

If you replied 'yes' or "yes, provided it is funded/co-funded by public funds" to question 17, do you see any post-trade challenges associated with this?

Yes/No/No opinion

Please explain.

18) Which of the options referred to in questions 14 and 14.1 (better access to trading venues by intermediaries, option A) and question 17 (increased interconnection between trading venues, option B) would better achieve the following objectives:

For each line, select the most appropriate option.	Option A (better access to trading venues by intermediaries)	Option B (increased interconnection between trading venues)
Increasing the level of liquidity for shares and ETFs		
Improving the quality of execution		
Increasing the speed of execution		
Reducing the cost of execution for clients		
Delivering a more efficient EU trading landscape		

19) In other jurisdictions, notably the US, an increased level of interconnection at the level of trading venues resulted from the application of the 'order protection rule' (Rule 611 of the Regulation National Market System) that established intermarket protection against trade-throughs for certain shares. Do you have any experience with this rule?

Yes / No / No opinion
Please explain

If so, on a scale from 1 (low) to 5 (high), please assess the effectiveness of this rule in terms of:

	1	2	3	4	5	No opinion
Guaranteeing the best price for clients/investor protection						
Speed of execution						
Level of execution fees						
Split of liquidity						
Interconnection between trading venues						
Efficiency of the price formation process						
Modernising trading protocols (e.g. digitalisation/electronic trading						

Are you aware of any issues that can arise from this rule? Please provide specific examples.

Yes / No / no opinion

20) Where implemented, the order protection rules required technological adaptations, so to allow the swift rerouting of the orders. On a scale from 1 (insufficient) to 5 (completely adequate), what is your assessment of the ability of the current state of connections among trading venues in the EU to cater for the rerouting of orders to venues offering the best price, as required by the order protection rule in the US?

1	2	3	4	5	No opinion

21) Do you consider that geographical dispersion of EU trading venues would pose issues to an effective implementation of similar rules and, if so, are there any means to tackle them.

Yes / No / No opinion

Please explain

22) If the current set-up does not allow for it, what are in your view the necessary arrangements to allow for sufficiently fast connections, and what would be the associated costs? Please provide cost estimates where possible.

23) Crypto-markets have seen the emergence of a market architecture whereby retail investors have direct access to a crypto-asset trading venue. Do you see merit in allowing or promoting the direct access of retail participants to trading venues for financial instruments, without an intermediary?

Yes/No/Don't know

If your response is 'yes', please explain the advantages and disadvantages of such a model, as well as the risks and how they could be mitigated.

[free text]

2.4. Ensuring fair access to market infrastructure to foster deep and liquid EU-wide markets

24) What is your assessment of the effect of the removal of exchange-traded derivatives from the so-called 'open access' to CCPs and trading venues provision under Articles 35 and 36 of the reviewed MiFIR? Please include elements in terms of costs of trading and clearing, depth of market, switch to OTC.

25) On a scale of 1 (not at all functioning) to 5 (perfectly functioning), what is your assessment of the effectiveness of the open access provisions under Articles 35 and 36 of the reviewed MiFIR on other financial instruments, notably equity?

Please explain

1	2	3	4	5	No
					opinion

26) Have you identified any barriers to the proper functioning open access provisions under Articles 35 and 36 of the reviewed MiFIR? If so, please specify such barriers and, where appropriate, suggest the necessary legislative amendments to address them.

[Yes, No, No opinion]

YES

Open access can play a key role in reducing vertical silos and fostering competition among CCPs. This should be accompanied by greater transparency in CCP margin models, while also ensuring a balance with the overall risk distribution within the EU's clearing system.

Facilitating access for CCPs to trading venues and establishing interoperability arrangements is crucial, if no additional costs associated with CCPs interacting with one another are generated. While we acknowledge the importance of a secure CCP system, the margins posted by interoperable CCPs to each other should account for the nature of the counterparties and recognize that default risk is mitigated through the posting of initial margins by clients and a complete risk waterfall mechanism.

27) Have you identified other barriers in terms of fair access relating to trading infrastructure, beyond those addressed under Articles 35 and 36 of the reviewed MiFIR?

YES

The cost of accessing market data remains a significant barrier in EU capital markets. Data providers, including incumbent exchanges, can impose unjustifiably high charges due to a lack of effective competition. The current regulatory framework and technical standards on "reasonable commercial basis" are insufficient to address the core issue of limited competition and oversight for data providers.

We believe that the Commission's focus on competitiveness and simplification presents an opportunity to re-examine the cost of market data. There is an opportunity to introduce a framework that effectively compels data providers to align their pricing with the actual cost of producing and disseminating data.

2.5. Enhanced quality of execution through deeper markets

28) When the same financial instrument is traded on multiple execution venues, the best execution rule plays a key role. The rule seeks to protect investors, ensuring the best possible result for them, while also enhancing the efficiency of markets by channelling liquidity towards the most efficient venues. On a scale from 1 (insufficient) to 5 (completely efficient), what is your assessment of the effectiveness of the best execution rules in the EU?

Please explain

29) There are important differences between best execution rules in the EU and in the US. In particular, in the EU, the obligation to obtain the best possible result for the clients lies on the intermediary. In the US, the quality of execution is guaranteed also through the aforementioned "order protection rule" that prevents trading venues from executing orders if a better execution price can be found on another exchange. Which of the following options would most accurately reflect your assessment of the best execution framework in the EU vis-à-vis the US?

Please explain your choice.

	Please select the relevant option
The EU framework is better suited than the US framework to obtain the best results for clients	

The US framework is better suited than the EU framework to obtain the best results for clients	
Both models are equally effective	
Both models are equally ineffective	

Please explain

30) For equity instruments, the consolidated tape will disclose the European Best Bid Best Offer (EBBO) in an anonymised form. The tape will allow to have increased and integrated visibility on the different pools of liquidity available. On a scale from 1 (not effective) to 5 (very effective) how effective would lifting the anonymity of the EBBO be in achieving the following objectives? Please explain and provide a cost/benefit assessment.

	1	2	3	4	5	No opinion
Improving the ability of investment firms to assess the quality of execution						
Ensuring a more integrated market whereby investment firms are able to direct their order to the most efficient options						
Contributing to the efficiency of the price formation mechanism						
Other (please specify)						

Please explain and provide a cost/benefit assessment

31) For equity instruments, the consolidated tape will disclose the EBBO only in relation to one layer of quotes (i.e., show only the best bid and offer, but not the second, third, etc.) On a scale from 1 (not needed) to 5 (essential), how important do you deem expanding the depth of the EBBO displayed by the equity tape? Please explain and provide a cost/benefit assessment.

	1	2	3	4	5	No opinion

Please explain and provide a cost/benefit assessment

32) Under the current MiFIR, the speed at which core market data is disseminated by the equity consolidated tape is not regulated. On a scale from 1 (not needed) to 5 (essential), how important do you deem defining in legislation the speed at which core market data should be disseminated by the equity consolidated tape? What should be the adequate speed? Please explain.

1	2	3	4	5	No opinion

Please explain

33) Which of the following options reflects your assessment of the impact on the consolidated tape of requiring systematic internalisers to contribute to the equity pre-trade consolidated tape?

	Please select the relevant option.
It would improve the quality of the data displayed by the tape.	
It would reduce the quality of the data displayed by the tape, also considering that systematic internalisers, under certain conditions, can trade at prices that are better than the quoted prices.	
It would be irrelevant.	

Please, explain your answer

34) Which amendments to their regulatory framework would be required to effectively include systemic internalisers as contributors of equity pre-trade data? Are there other hurdles (e.g. technical)?

Please explain

2.6. Building quality liquidity for EU market participants: impact of recent trends

2.6.1. Non-transparent ('dark') trading (for equity instruments)

35) The EU's trading landscape is witnessing a decrease of lit order book equity trading (i.e. order book trading with pre-trade transparency). In your view, what are the main reasons that explain such a trend? Please select one or more of the options below and explain your reasoning.

	Please select the relevant options.
Regulation (please specify)	
Liquidity fragmentation	
Order flow competition (e.g. development of EMS/OMS)	
Technological developments (e.g. algorithmic trading/HFT)	
Surge in ETFs and passive management	
Other (please explain)	

Please explain

36) On a scale from 1 to 5 (1 being "too low to harm price formation" and 5 being "excessive and very harmful for price formation") what is your assessment of the impact of the current levels of dark trading in the EU on orderly markets and sound price discovery? Please explain your reasoning.

	1	2	3	4	5	No opinion

Please explain

37) In your view, how does a more sophisticated use of equity waivers by trading venues (i.e. the design of equity waivers is becoming more complex) affect the business model of these trading venues vis-à-vis bilateral trading systems? Please explain your reasoning.

38) Do you believe that the existing provisions on the reference price waiver (RPW) are fit for purpose? Please explain you reasoning

[Yes, No, No opinion]
Please explain you reasoning

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate.

39) Do you agree with the current criteria to determine the reference price?
[Yes, No, No opinion]

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate.

40) Do you believe that the existing provisions on the negotiated trade waiver (NTW) are fit for purpose? Please explain you reasoning
[Yes, No, No opinion]

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate. If possible, please provide estimates on the costs and benefits associated with the changes.

41) The current state of EU legislation does not allow a trading venue to benefit from the negotiated price waiver for negotiated transactions that take place with the assistance of a system or trading protocol operated by the trading venue. This is in contrast to current trends observed in other jurisdictions (for example, in the United States, where "multilateral percentage of volume" or "trajectory crossing" venues are allowed). Do you think that trading venues should be allowed to use the negotiated price waiver to execute negotiated transactions that take place with the assistance of a system or trading protocol operated by the trading venue? Please explain your reasoning.
[Yes, No, No opinion]
Please, explain your reasoning

If you answered 'Yes' to the previous question, please specify what legislative amendments would be appropriate.

42) Do you think that the existing provisions on the order management facility waiver (OMFW) are fit for purpose? Please explain your reasoning.

[Yes/No/No opinion]

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate and why. If possible, please provide estimates on the costs and benefits associated with the changes.

Closing auctions

43) In your view, what are the main reasons that explain the rising importance of closing auctions? Please select one or more of the options below and explain your reasoning.

	Please select the relevant options.
Rise of index investing/passive management	
Growing use of quantitative investment strategies benchmarked to the close.	
Increased emphasis on best execution under MiFID II.	
Move away/protection from HFTs	
Other (please explain)	

44) On a scale from 1 to 5 (1 being "no competition" and 5 being "very high level of competition"), what is your assessment of the current level of competition on closing auctions, including between trading venues that offer trading for the same financial instrument?

1	2	3	4	5	No opinion

If you assessed that the level of competition is below 4, please point to the main causes for such a situation and to the main implications on the broader functioning of EU markets. Please specify which changes to the EU legislation would increase competition? Do you believe that the consolidated tape could play a role in that regard? Please explain your reasoning.

45) On a scale from 1 to 5 (1 being "very low" and 5 being "excessive") what is your assessment of the level of fees charged by trading venues for orders submitted during a closing auction, compared to any other time of the trading day? Please explain your reasoning, in particular as regards the potential impact of these costs on the attractiveness of EU capital markets, should the concentration of trading in closing auctions continue to increase.

1	2	3	4	5	No opinion

If you assessed that the level of fees is 4 or above, do you believe that measures should be taken to reduce costs for investors? If so, could you please specify these measures.

46) Have you identified other challenges linked to the raising importance of closing auctions? Have you identified other measures to be taken to address such challenges?

24-hour trading

47) On a scale from 1 to 5 (1 being "not significantly positive", 5 being "extremely positive"), how positive do you deem extended trading hours / 24-hour trading for the development and competitiveness of EU markets? Please explain your reasoning.

	1	2	3	4	5	No opinion
			X			

An extension of the trading hours may appear quite desirable to offer more opportunities to investors and eventually develop the European market. However, the prerequisite remains the intention of issuers to be listed on such market and on the investors to benefit from trading late in the evening. The interest in such an extension will rely on the offer but first on the demand, therefore such a move should be fully left in the hands of the industry. It should not be part of a regulation. The cost of such an extension should prompt players to review their TOM.

48) On a scale from 1 to 5 (1 being "very advantageous", 5 being "highly risky"), how advantageous or risky do you deem extended trading hours/24-hour trading for the orderly functioning of EU capital markets? If you attribute a score pointing at a risk, please explain these risks and, where relevant, differentiate between different categories of investors (e.g. professional investors and retail investors). If you provide a score pointing at advantages, please explain those advantages.

	1	2	3	4	5	No opinion
			X			

Such a decision would bring about drastic changes in the trade and / or post-trade area. Indeed, such evolution may require considering for example an "atomic T0 settlement" or the introduction of "trading cut-offs". The former will redesign the complete landscape (as explained by the industry when answering the ESMA's call for evidence). The latter will mean that at a point in time during the day, what is traded will settle 2 days after (with a trading date being the same day or already the day after), thus retail investors regularly presented as the ones trading "late" (between 6pm and 10pm) would no longer benefit from the shortening of the settlement cycle.

49) In your view, do the advantages of extended / 24h trading outweigh the potential risks?

The role of multilateral vis-à-vis bilateral trading

We do not believe such a question could be answered so far. Bearing in mind the consequences such an extension may have: we strongly advocate for an in-depth impact assessment analysis before any decision is taken by a market to extend its trading hours.

50) Based on the current legal framework, and considering developments in technology and market practices (including the development of smart order routing systems), is the dividing line between multilateral trading facilities and bilateral trading sufficiently clear?

Yes, No, Don't know.

Please explain and provide concrete examples.

51) In your view, what are the benefits stemming from competition between bilateral and multilateral execution venues? Please explain your reasoning and differentiate between different categories of clients (professional investors vs retail investors)?

52) In your view, what are the main drawbacks stemming from competition between bilateral and multilateral execution venues? Please explain your reasoning and differentiate between different categories of clients (professional investors vs retail investors)?

53) In your view, do benefits stemming from competition between bilateral and multilateral execution venues outweigh the associated drawbacks? Yes/No/No opinion. Please explain your reasoning and differentiate between different categories of clients (professional investors vs retail investors)?

If you responded "no" to the previous question, would you see merit in requiring that retail orders be executed on multilateral and lit venues? Yes/No/don't know. Please explain your reasoning, in particular please specify any impact that such a measure would have on the quality of execution of retail orders.

If you responded "yes" to the previous question, do you believe that any measures would be necessary to avoid an increase in execution costs for retail orders? Yes, No, Don't know. Please explain your reasoning.

54) Does the emergence of DLT-based/tokenised asset markets bring in a new element or dynamic, compared to bilateral versus multilateral venues? If so, how? Should our regulatory framework be adapted to reflect this change? If so, how?

As of today, we do not consider that the emergence of DLT-based/tokenized asset markets brings in a new element or dynamic.

DLT is a technology primarily characterized by a decentralized protocol for transferring ownership of financial assets. The notary function is no longer centralized with a trusted third part but rather distributed across all node holders of the underlying blockchain through a consensus mechanism.

As such, it is fundamentally intended to challenge the role and responsibilities of post-trade platform operators, most notably the regulatory framework established by CSDR.

2.6.2. Single market maker venues

55) In your view, what are the main benefits and drawbacks associated with so-called "single market maker venues" (i.e. where the venue operator limits market making to one participant)? Please explain your reasoning, in particular when it comes to quality of execution.

56) Are you aware of any existing practices that may restrict the presence of multiple market makers/liquidity providers on these venues? Yes, No, don't know. Please explain and provide concrete examples and specific restrictions or costs obstacles.

If you responded "yes" to the previous question, please clarify whether, in your view, these practices are justified and flag any potential risks in terms of efficiency of trading.

2.6.3. Ghost liquidity

57) Market developments have led to changes in the order submission strategy by certain high frequency traders, such as the submission of more orders than the amount that is really intended to be executed. This may imply that 'consolidated' liquidity (measured as the simple aggregate of a given financial instrument available

across all trading venues) is likely to be an overstatement of the actual liquidity that an average trader can access. The difference between measured liquidity and tradeable liquidity is often referred to as 'Ghost Liquidity'. Do you believe that practices associated with Ghost Liquidity are conducive to adequate levels and 'quality' of liquidity and price formation on trading venues? Yes, No, don't know. Please explain your reasoning.

If you responded "no" to the previous question, what measures would you suggest to balance the legitimate need for traders to cancel quotes under certain circumstances and the need to preserve sound price formation on venues? Please explain your reasoning.

2.7. Other issues on trading

58) Please provide any further suggestions to improve the integration, competitiveness, simplification, and efficiency of trading in the EU. Please provide supporting evidence for any suggestions.

3. Post-trading

Issues with respect to post trading identified to date fall into three main areas:

- barriers to cross-border settlement
- barriers to the application of new technology and new market practices
- unharmonised and inefficient market practices and application of law, as well as disproportionate compliance costs.

This consultation aims to further specify the above barriers, as well as understand current market practices and costs borne by market participants, be they fees or other compliance costs. This section seeks feedback on possible measures, legislative or non-legislative, to achieve more integrated, modern post-trading infrastructures. Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

3.1. Barriers to cross-border settlement and other CSD services

3.1.1. Cross-border provision of CSD services and freedom of issuance

Questions (please note that the term barrier also includes difficulties or challenges)	Answers
1) What are the main barriers to the provision of cross-border CSD services in the EU and to freedom of issuance in any CSD in the EU? Please consider all of the following elements (including additional ones, if relevant): - procedures mandated by EU or national laws (e.g. passporting); - other legal or regulatory requirements (national or EU); - lack of clarity and/or complexity on the applicable legal or regulatory framework (national or EU); - supervisory practice (national or EU); - market practice (national or EU); - operational requirements (national or EU); - differences in national legal, regulatory or operational requirements; - technical/technological aspects; - language.	Several barriers related to post-trade still exist; however, they represent a limited factor in issuance and investment decision-making. The latter are mainly driven by liquidity pools and ROI opportunity. It is important to note that substantial cross-industry efforts have been made to document these barriers in detail, such as the EPTF Report of 2017, and the upcoming AMI-SeCo SEG report. Despite these efforts, limited progress has been achieved in effectively addressing and eliminating these barriers. Therefore, we welcome the renewed momentum from policymakers aimed at bringing about significant change.

	We strongly emphasize the necessity for a holistic approach across the entire ecosystem. Removing the barriers is crucial for creating an ecosystem where true competition exists between CSDs. Ultimately, such competition is essential to provide market participants with genuine choice and, in moreover, to improve outcomes for issuers and investors by reducing costs, enhancing efficiency, and fostering innovation.	
	Yes	No
2) Are there barriers to the **freedom of issuance** in the EU (e.g. requirements to use domestic central securities depositories (CSD) for issuance/immobilisation/dematerialisation of securities, requirements in the corporate or similar law of the Member State under which the securities are constituted)?	**X**	
3) Are there barriers to **cross-border asset servicing and processing** of corporate actions, e.g. how Member States compile the list of key relevant provisions of their corporate or similar law, which apply in the context of cross-border issuance (Article 49, Central Securities Depositories Regulation (CSDR))?	**X**	
4) Are there **barriers stemming from national laws, regulatory/supervisory or operational requirements**? (for example: • setting out **restrictions for the place of settlement** for primary or secondary market transactions • preventing securities issued by entities from **other EU Member** States from being issued, maintained or settled in the national CSD • imposing **additional requirements on CSDs**, established in another Member State, wishing to provide services to national issuers and/or participants)	**X**	
5) Are there any **additional barriers** to the provision of cross-border CSD services which are not mentioned above?		**X**

For question 1 complete the following fields as appropriate. **For questions 2 to 5**, if 'yes' complete the following fields as appropriate. **For questions 2 to 5** where your reply is 'no' justify your reply, in particular identifying potential risks.	Please explain your answer (and where relevant clarify the type of barrier (i.e. barrier or a difficulty/challenge)). Please provide the following information, as well as any additional information relevant: an explanation of the barrier; the reason(s) why it is a barrier; the specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level); the supervisory or market practice(s) (national or EU level) that create the barrier, if relevant; - the operational requirements that create the barrier (national or EU level); - the technical/technological aspect(s) related to the barrier, if relevant; - specify the Member State(s) in which the barrier exists, if relevant.	The major barriers to cross-border investments include withholding tax provisions, shareholder identification rules, general meeting regulations, tender offer rules, and varying standards used by infrastructures, which can differ significantly.
	Please provide a ranking of the priority of addressing the barrier: - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs of the barrier.	
	Please provide potential solution(s) to remove or lower	
	the barrier. If you provide multiple solutions, please rank them in terms of preference. Suggestions for solutions can include, but do not have to be limited to: - legislative changes (specifying which changes are being suggested); - use of supervisory convergence tools (specifying which tools are being suggested); - centralised EU supervision; - adoption of market practice(s); - other.	
	Please provide data on the potential costs and benefits of the suggested solution(s).	

3.1.2. Links

Questions (for the questions below, please note that the term barrier also includes difficulties or challenges)	Answer	
6) What are the main barriers to building an efficient network of links between EU CSDs? Please consider all of the following elements (please include additional ones, if relevant) o legal or regulatory requirements (or lack thereof); o fiscal requirements. o supervisory practice; o market practice; o operational requirements; o differences in national legal, regulatory or operational requirements; o technical/technological aspects; o other.	Creating new links between CSDs introduces an additional layer in the custody process between the investor CSD and the issuer CSD. The potential introduction of a requirement to establish a minimum number of links could lead to substantial costs, which would ultimately be passed along the custody chain, affecting investors. It is vital to assess whether such requirements offer additional value to investors; if there is no market demand for them, enforcing such requirements could unnecessarily complicate the post-trade environment. We believe that it is essential for all CSDs to be connected to T2S, as this is not yet the case.	
	Yes	No
7) Are there barriers related to the establishment of links?		
8) Are there barriers related to the maintenance of links?		
9) Are there barriers related to the classification (i.e. customised, standard indirect, interoperable) and/or whether they are unilateral or bilateral links?		
10) Are there barriers related to the improper use of existing links?		
11) Is the cost of settlement via links taken into account when negotiating securities transactions?		
12) In view of the growing use of 'relayed links', does Art. 48, CSDR adequately capture current market practice?		

13) Is the use of relayed links creating barriers to cross-border settlement?		
14) Does the use of relayed links improve cross-border settlement?		
15) Who should be involved in the process for the authorisation of establishing a link as well as the ongoing supervision thereof?		
	Yes	No
16) Should all links be standard links?		
17) Should all links be interoperable links?		
18) Should all links be bilateral?		
19) Should all CSDs be mandated to establish a minimum number of links with other EU CSDs?		
20) Should the comprehensive risk assessment for the validation of a link be carried out by ESMA?		
21) Are there any barriers or material challenges to the establishment of links between CSDs and other infrastructures? If yes, please explain what could be done to reduce the costs of settlement through CSD link.		

For questions 6 and 15 complete the following fields as appropriate. **For questions 7 to 13 and 21**, if 'yes', complete the following fields as appropriate. **For questions 7 to 11, 13 and 21** if 'no', justify your reply, in particular identifying potential risks.	Please explain your answer (and clarify, where relevant, the type of barrier (i.e. barrier or a difficulty/challenge)). Please provide a clear explanation of the barrier, and the reasons for this being indicated as a barrier, including - the specific legal or regulatory 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 (national or EU level); - the operational requirements that create the barrier (national or EU level); - the technical aspect(s) related to the barrier, if relevant; - information on the costs, if the level of costs is considered a barrier.	
	Please provide a ranking of the importance of the issue as: - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs of the barrier and an explanation of how these costs could be reduced.	
	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); - centralised supervision; - adoption of market practice(s); - other.	

	Please provide data on the potential costs and benefits of the suggested solutions.	

Questions pertaining to links refusals	Answers	
	Yes	No
22) Have you had a request for a link refused?		
If you answered yes to the previous question, please answer the next follow-up question		
What reason(s) was (were) given for the refusal?		
Did you file a complaint to the competent authority of the receiving CSD?		
Was a referral to ESMA needed to solve the problem?		

3.1.3. Settlement services in the EU

23) How could settlement in T2S be further enhanced in order to build a deeper and more integrated market in the EU and facilitate cross-CSD settlement?

There is a big confusion between the concept of EU market integration and cross CSD settlement. The illusion is to see the integration via the settlement. Cross border settlement which is behind the cross-border investment, is currently mainly provided by custodians through access via local agents. Cross border settlement by this channel works very well. When looking to the T2S experience, it appears clearly that pure cross CSD settlement is marginal because cross border settlement is operated efficiently via local connection to each CSD through local agents. If the cross CSD settlement was the solution we should have experienced the end of local agents' channel on major markets in Europe because they are already interlinked via T2S and appropriated technical links. There is only one experience of that kind which is the specific ESES zone where Euroclear Netherland, Belgium and France are able to propose a CSD settlement without friction.

On the contrary when technical links are in place with two T2S CSD, the cross CSD settlement still be marginal when the cross border settlement via local agents is mainly used As a matter of fact, the integration of the market is less to be improved via the settlement channel but much more via the asset servicing ones (local legal obstacles, differences in tax procedures and regimes, ...).

24) Should links between CSDs participating in T2S no longer be required to enable settlement in T2S in any of the financial instruments available in T2S?

The notion of links is a technical one. T2S is pure settlement engine but it needs to have a technical link to make operational the settlement between a CSD and another in T2S.

25) Are there any national market practices, laws, rules/regulations, or operational requirements which hinder the participation in T2S or cross-CSD settlement? Please provide details.

There are examples of operational functionalities that implies to subscribe to a given service to operate settlement or adopt specific scheme to manage corporate events. For instance, "tax box" service subscription to operate a portfolio transfer between Germany and another country, specific requirements leading to segregating assets for General Meetings in Denmark.

26) What can be done to ensure progress and take-up by T2S participants of already agreed harmonised standards and market practices (e.g. market standards for corporate actions, SCoRE corporate actions standards, T2S corporate action standards, other T2S harmonisation standards, other relevant global or European market standards and market practices)?

It is to be noticed here that the question refers to asset servicing aspects more specifically to Corporate Actions. There are differences in levels of compliance between the different markets.
A first step could be to highlight obstacles resulting from local legal or regulatory rules and to leverage them. Furthermore, there is a need for stability to avoid to always run after compliance rules that are evolving.

27) Do you comply with the abovementioned standards and market practices (e.g. market standards for corporate actions, SCoRE corporate actions standards, T2S corporate action standards, other T2S harmonisation standards, other relevant global or European market standards and market practices)?
If not, which ones do you not comply with. Please explain why.
[Yes/No]

YES

France is one of the best ranking markets in terms of compliance to European standards. Huge efforts have been made since 2010 to implement European standards and adapt the market, including legal reforms etc.

However, few non-compliance cases may be the result of a rigorous approach of the market. For instance, payment of corporate actions is made after a green light in France given to be sure of the payment on due date.

It could lead to late payment in the day that is considered to be non-compliant. On the contrary, other countries display a time schedule in line with standards but operate a systematic payment order (compliant with standards timeline) but leading to reversal and a new payment date day after...

It is to be noticed that the approach in terms of monitoring is a full 100% compliance without taking in account volumes in regards.

Furthermore, the Corporate Events standards has evolved to meet the collateral management requirements giving priority to collateral aspects and forgiving that the rational of a corporate event rule is basically the event and its securities themselves.

28) Should T2S harmonisation standards be applied more widely across the EU, in order to create a more harmonised settlement environment across the EU? If yes, which standards are most needed in the non-T2S EU settlement environment?

[Yes/No]

YES

There are two reasons for that.
The first one is matter of coherence to have a common approach in EU at least under an operational point of view. To be noticed that the T2S standards (globally monitored by the T2S AMISECO SEG) have less friction on settlement side than on asset servicing side. The main frictions find their origin in legal, regulatory and tax differences.

29) Should the costs of settlement be reduced?
If yes, please explain what could be done to reduce the costs settlement.
[Yes/No]

YES

Introducing additional transparency requirements for CSD services to enhance comparability between CSDs may foster competition and ultimately lead to reduced costs. Despite the implementation of T2S, the cost of settlement has not decreased over the years; instead, it has added an additional layer on top of already substantial CSD costs.
While the increasing volumes processed through T2S should theoretically bring efficiencies to participants in the long term, this has not yet translated into a reduction in recharged fees, which have continued to rise over time. The anticipated benefits of having a pan-European platform have not fully materialized as expected.

30) Should the transparency of settlement pricing and CSD services be improved (in substance and format), for example with a standard template that would facilitate comparison of prices and service offering?
[Yes/No]

YES

There are difficulties to be able to make clear comparison between the different CSD fees schedules. In this context, a standard template is an interesting idea that should be further pursued and discussed.

31) Should all CSDs settling the cash leg in Euro be required to connect to T2S?

[Yes/No]

YES

While harmonisation remains a key objective and we recognise the clear value of all CSDs offering settlement in Central Bank Money (CeBM), it is equally important to preserve flexibility in how CSDs manage the settlement of the cash leg in Euros.

Requiring ICSDs to connect to T2S could result in increased costs, as they would still need to maintain legacy platforms to support functionalities not yet available on T2S. Furthermore, Euro Commercial Bank Money (CoBM) continues to play a crucial role in the liquidity pools of ICSDs.

Although the direction should be towards further harmonisation and integration, this should not come at the expense of market efficiency or operational flexibility. Therefore, we believe further analysis is needed to carefully evaluate the benefits of broader T2S participation against the operational realities and differing business models across CSDs.

32) Are there difficulties in accessing settlement in foreign currencies, not only in the T2S environment? If yes, how could the settlement of transactions in foreign currency be facilitated? Please provide a quantitative assessment of the main benefits and costs of such a solution.

[Yes/No]

YES

The main challenges lie in time zone differences, the potential link with foreign exchange operations, and access to local settlement systems, including their specific rules and operating hours.

33) Is there a need for additional currencies to be settled in T2S?

[Yes/No]

YES

The inclusion of additional currencies in T2S would benefit to cross-settlement operations.

34) Should T2S be able to provide other CSD services, including issuance services and asset servicing services?

[Yes/No]

NO

An evolution of the services proposed by T2s should be carfefuly assessed on cost and governance matters. This option could be explored at the condition that it would have to guarantee a balance between competition and reducing post trade costs which T2S has not delivered as of today.

35) What improvements (e.g. organisational, operational, contractual, etc.) could be introduced to T2S to support a broader and more resilient use of it?

[Yes/No]

3.1.4. Legal certainty

Questions (nb. 'barrier' includes difficulties or challenges and consider legal certainty aspects deriving from the use of DLT (where relevant))	Answers	
	Yes	No
36) Are there barriers from national legal or regulatory requirements that affect legal certainty of acquisitions and dispositions in financial instruments, or cash or cash equivalent cross-border?	X	
37) Does the law applicable to the assets and to the CSD influence a decision to acquire or dispose of financial instruments cross-border?	X	
38) Are there barriers for issuers to obtain legal certainty on the ownership of the securities issued in a CSD or any other registrar?	X	

39) Are there barriers for investors to obtain legal certainty on their rights and powers (e.g. ownership rights, rights in relation to corporate events) and for intermediaries to have legal certainty on their duties in relation to financial instruments, cash or cash equivalent, issued in/maintained in/settled by a CSD? Are the barriers the same or are there different barriers where the provision of CSD services are made through DLT.	X	
40) Are there any barriers to pool assets from different jurisdictions?	X	
41) Are there barriers, e.g. due to the lack of certainty on the applicable law, to the cross-border provision of services (e.g. issuance or asset servicing) and/or use of services?	X	
42) Are there barriers to the cross-border provision or use of CSD services due to the lack of certainty on the applicable law?	X	
43) Are there barriers to pooling assets from different jurisdictions?	X	
44) Are there legal certainty barriers to the provision of cross-border asset servicing?	X	
45) Are there barriers stemming from national laws affecting the legal certainty of acquisitions and dispositions in financial instruments, or cash or cash equivalent?	X	
46) Are there new barriers that create legal uncertainty in the provision of issuance / maintenance / settlement services via new technologies (e.g. where bridges are used between different distributed ledgers in the issuing and minting process)?	X	
47) Is there a legal certainty barrier due to the absence of a conflict of law rule, related to proprietary, contractual and system-related aspects, under the CSDR (to complement those under the SFD/FCD etc.)? Are the barriers the same or are there different barriers where DLT is used, considering the divergences and uncertainties on the substantive law on the creation, holding and transfer of digital assets/tokens?	X	
48) Can the existing approach to conflict of laws under the SFD and the FCD be applied to DLT based networks/systems and collateral transactions?	X	
49) What is the preferred connecting factor in relation to (a) proprietary (b) contractual (c) system-related aspects related to transactions on a DLT system? - the law chosen by the participants to a transaction; - the law chosen by the network participants; - the law of the legal entity operating the DLT-based system on which digital assets are recorded; - in relation to a digital asset of which there is an issuer, the domestic law of the State where the issuer is established; - the place of the relevant operating authority/administrator (PROPA); - the primary residence of the encryption private master keyholder (PREMA); - any other? Would the differences between permissioned and permissionless DLT systems, warrant different rules on conflict of laws)?	X	

50) Considering various new types of settlement assets (including tokenised central bank money, electronic money tokens and tokenised commercial bank money) and the different nature of native (only created and represented on the DLT) and non-native (existing outside of the DLT) assets, should the same conflict of law rules apply to all these settlement assets?	X	
51) Are there any other barriers to legal certainty which are not mentioned above?	X	

For questions 36 to 47, and 51 where your reply is 'yes' complete the following fields as appropriate. **For questions 36 to 47, and 51** where your reply is 'no' justify your reply, in particular identifying potential risks.	Please explain your answer (and, where relevant, clarify the type of barrier (i.e. barrier or a difficulty/challenge)). Please provide a clear explanation of the barrier, and the reasons for this being indicated as a barrier, including, but not limited to: - the specific legal or regulatory requirement(s) that create(s) the barrier, if relevant (national or EU level); - which financial instrument the barrier refers to; - supervisory or market practice(s) that create(s) the barrier, if relevant (national or EU level); - the operational requirements that create the barrier (national or EU level); - the technical/technological aspect(s) related to the barrier, if relevant; - the type of intermediary structure(s)/chain(s)	

	that create(s) the barrier, if relevant.	
	Please provide a ranking of the priority of addressing the barrier as: - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs of the barrier and a description of where the additional costs come from and how much they are.	
	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); - adoption of market practice(s); - other.	

	Please provide data on the potential costs and benefits of the suggested solutions.	

36/ National legal and regulatory requirements can indeed create barriers and a non-uniform system uncertainty in cross-border transactions involving financial instruments, particularly for book entry securities.

Key points include:

- The absence of harmonized EU rules on dealings in book entry securities means that many aspects—such as the acquisition and disposition of these securities and the determination of good faith acquisition—are governed by disparate national laws. This creates legal uncertainty in cross-border transactions.
- There is uncertainty about which national laws apply due to differences in conflict of laws rules. For example, while some directives (like the Financial Collateral Directive) attempt to offer guidance (e.g., via the "relevant account" concept), their formulation may lead to confusion because they rely on national interpretations.
- The fragmented legal framework has been identified as a barrier, highlighting that the lack of harmonized rules on ownership rights, third party effects of assignment of claims, and related issues can undermine the legal certainty expected by market participants.

In summary, the reliance on national legal frameworks—without a unified EU-wide approach—introduces barriers uncertainties to achieving legal certainty in the acquisition and disposition of financial instruments.

Given these potential barriers and considering the absence of harmonisation, uncertainty and fragmented legal framework, financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often structure transactions with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty as much as possible. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated the list of definitions. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

37/ The law applicable to the assets financial instruments and the Central Securities Depository (CSD) significantly influences decisions to acquire or dispose of financial instruments on a cross-border basis (this more relevant for professional investors rather than retail investors). Here are some key points:

1. Heterogeneity of Laws: There is considerable variation in the legal frameworks governing securities transactions across different jurisdictions. This variation can create uncertainty, particularly in cross-border contexts, and may discourage market participants from engaging in cross-border transactions.
2. Conflict of Laws Rules: The applicable law for rights in securities can depend on factors such as:

o For equity securities, the law of the issuer (lex societatis) typically governs the investor-issuer relationship.
o For debt securities, the law of the issuing agreement (lex contractus) is usually applicable.
o The law governing the material rights associated with the securities is determined by the lex rei sitae rule,

which can vary based on where the securities are held.
3. Impact of Insolvency: The treatment of pending transfer orders and the status of accounts held by insolvent participants with the CSD can differ significantly between jurisdictions. Some jurisdictions may put transfer orders on hold or cancel them, while others may block accounts. This inconsistency can lead to legal uncertainty and affect cross-border transactions.
4. Regulatory Frameworks: The Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) provide some harmonization regarding the treatment of securities transactions, but their scope is limited. Expanding these rules to cover all proprietary aspects of securities holdings could enhance legal certainty in cross-border transactions.
In summary, the applicable laws and the operational framework of CSDs are crucial factors that can influence the decision-making process for acquiring or disposing of financial instruments across borders. Market participants need to be aware of these legal implications to navigate cross-border securities operations effectively.

In relation with CSD, the treatment of pending transfer orders and the status of accounts held by insolvent participants with the CSD can differ significantly between jurisdictions. Some jurisdictions may put transfer orders on hold or cancel them, while others may block accounts. This inconsistency can lead to legal uncertainty and affect cross-border transactions. However, these inconsistencies have been mitigated by the collective agreement between European central banks and CSD (here: Collective Agreement), and links created between CSD are assessed on a bilateral basis.

In summary, considering the absence of harmonisation and general conflict of laws rule (The Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) provide some harmonization regarding the treatment of securities transactions, but their scope is limited. Expanding these rules to cover all proprietary aspects of securities holdings could enhance legal certainty in cross-border transactions), financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often structure transactions with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated its national law applicable to the financial instruments. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

38/ Issuers may face some in obtaining legal uncertainties regarding the ownership of securities issued in a CSD or any other registrar may be highlighted:
• Lack of Harmonization: Different jurisdictions have varying registration procedures and investor identification requirements. This fragmentation can create inconsistencies in how ownership is recorded and confirmed, adding legal uncertainty for issuers.
• Nominee Accounts and Bearer Securities: In many markets, the name on the register may belong to a nominee or agent rather than the actual beneficial owner. Furthermore, for bearer securities, the traditional practice of not recording ownership on a register makes it difficult for issuers to ascertain who truly holds the securities.
• Operational Complexities: Even when issuers have the legal right to know who owns their securities, the practical processes for collecting, updating, and reconciling investor information across diverse systems and national practices can be challenging.

• Cross-Border Issues: In a cross-border context, the differences in national legal frameworks and registration rules can further complicate the confirmation of ownership, potentially increasing operational risks and costs.

In essence, these barriers uncertainties—stemming from legal, procedural, and operational differences—may complicate issuers' ability to achieve clear and consistent legal certainty on the ownership of securities issued on a cross-border basis.

However, in summary, considering the absence of harmonisation, issuers typically engage with legal experts in relevant jurisdictions, and often structure transactions with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated the rules on the ownership of the securities issued in a CSD. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

39/ Several barriers that can undermine legal certainty for both investors and intermediaries may be highlighted.

1. Existing Barriers in Traditional CSD Models:
   o For Investors:

The report highlights that the current EU legal framework does not provide a harmonised or fully clear basis for the ownership rights of end investors in book-entry securities. Because of differences in national laws and the absence of uniform rules on the end investor's legal position, investors may face legal uncertainty about their rights and powers (including participation in corporate events). In cross border settings, these differences can even lead to conflicting interpretations of who is deemed the "legal owner" of the securities.

   o For Intermediaries:

Intermediaries face uncertainties regarding how their duties (such as the proper crediting and debiting in the custody chain) relate to the protection of client assets. For example, the principles of "no credit without credit" and "no credit without debit" are essential to prevent shortfalls, yet their application may vary by jurisdiction. In cases of intermediary insolvency or cross border settlement, there is legal uncertainty about liability and the proper allocation of costs in the event of discrepancies or shortfalls.

However, considering the absence of harmonisation, intermediaries typically engage with legal experts in relevant jurisdictions, and often structure custody services with flexibility to adapt to evolving regulatory landscapes, where the intermediary wants to provide service in a new European market (and keeps such assessment up to date on a regular basis afterwards). This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess, and treatment of some administrative tasks (e.g. withholding taxes or corporate events like general meetings) is still a pain point.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated the rules on the ownership of the securities issued

in a CSD. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

2. Considerations for DLT-based CSD Services:
o the issues of legal uncertainty in relation to both investor rights and intermediaries' duties are fundamental. When it comes to the provision of CSD services through Distributed Ledger Technology (DLT), many of these foundational challenges remain:
 Legal Recognition and Harmonisation:
Even in a DLT environment, the underlying issue of harmonising legal rules across jurisdictions remains. It will be crucial for legislation to explicitly recognise digital tokens or ledger entries as carrying the same (or comparable) legal rights as traditional securities.
 New or Nuanced Challenges:
DLT may in some respects simplify the chain-of-custody or enhance transparency. However, its distributed, immutable nature can also introduce new questions about:
 When and how ownership is definitively transferred,
 How rights (e.g., participation in corporate actions) are embedded and enforced on a digital ledger, and
 How regulators and courts interpret digital records in insolvency or dispute scenarios.
In summary, while the core legal barriers on legal certainty for investors and intermediaries exist in the conventional CSD context, moving to a DLT based system does not automatically resolve these issues. In fact, although some operational aspects may be streamlined, DLT introduces its own set of legal and regulatory questions that will need to be addressed through updated and harmonised rules. It is primordial to await the conclusions of the experiences of the Pilot Regime in this area.

40/ There are several barriers' difficulties to pooling assets from different jurisdictions for global custodians. Here are some key points:
1. Inconsistent Application of Asset Segregation Rules: Different jurisdictions have varying rules regarding asset segregation for securities accounts. This inconsistency creates operational complexities and risks for market users and end-investors, making it challenging to pool assets effectively.
2. Legal Uncertainty: The absence of a unified EU framework for the treatment of interests in securities leads to legal uncertainty, which inhibits cross-border transactions. There is also a lack of broad rules regarding which country's legal system applies in ownership rights disputes.
3. Fragmented Legal Framework: The current EU legal framework for book-entry securities is fragmented, leading to deficiencies in the protection of client assets. This fragmentation complicates the process of pooling assets across borders.
4. Collateral Mobility Issues: There are challenges related to the movement of collateral between different jurisdictions, which can affect the ability to pool assets. Factors such as regulatory requirements and market preferences create friction in collateral management processes.
5. Lack of Standardization: The differences in operational approaches and segregation requirements across jurisdictions lead to increased costs and risks, making it less attractive to pool assets.
In summary, considering the absence of harmonisation and general conflict of laws rule (The Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) provide some harmonization regarding the treatment of securities transactions, but their scope is limited. Expanding these rules to cover all proprietary aspects of securities holdings could enhance legal certainty in cross-border transactions), financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often

structure custody services with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated its national law applicable to the financial instruments. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

41/ There are significant barriers difficulties to the cross-border provision of services, such as issuance and asset servicing, due to the lack of certainty regarding the applicable law. Here are some key points:

1. Legal Uncertainty: The lack of a harmonized legal framework across jurisdictions creates uncertainty regarding the enforceability of agreements, particularly in cross-border settings. For instance, the Financial Collateral Directive (FCD) does not sufficiently protect close-out netting agreements, which means parties must perform due diligence to determine enforceability in the event of insolvency.
2. Inconsistency in National Laws: There are substantial variations in how national laws are applied, particularly concerning collateral arrangements and the treatment of securities. This inconsistency leads to legal uncertainty, which can inhibit the cross-border use of services and the flow of collateral necessary for transactions.
3. Complexity of Registration and Investor Identification: Different registration requirements and investor identification processes across Member States create operational complexities and costs for cross-border investments. This is particularly evident in the investment fund industry, where varying national rules can impede efficient service provision.
4. Obstacles to Delivery versus Payment (DvP) Services: New regulatory restrictions, such as those imposed by the CSD Regulation (CSDR), could hinder the provision of cross-border DvP services in non-domestic currencies. This adds another layer of complexity and uncertainty for service providers operating across borders.
5. Lack of Standardized Practices: The absence of standardized and machine-readable formats for sending and receiving disclosure requests contributes to inefficiencies in the cross-border provision of services. Legal uncertainties regarding the sharing of client data among intermediaries also pose significant barriers.

Overall, these barriers highlight the need for enhanced legal clarity and harmonization of regulations to facilitate smoother cross-border service provision in the financial sector.
In summary, considering the absence of harmonisation, financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often structure custody services with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated its national law applicable to the financial instruments. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

42/ There are barriers difficulties to the cross-border provision or use of Central Securities Depository (CSD) services due to the lack of certainty regarding the applicable law. Key points include:
1. Regulatory Restrictions: New restrictions imposed by the CSD Regulation (CSDR) have created obstacles for settlement agents in providing cross-border delivery versus payment (DvP) services in non-domestic currencies. The requirement for CSDs to create separate legal entities to offer cash accounts for DvP transactions complicates the landscape and introduces uncertainty.
2. Heterogeneity in Rules: There is considerable variation in the rules and procedures followed by CSDs across different jurisdictions, primarily due to the differing transpositions of the Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) into national laws. This lack of uniformity generates legal uncertainty, which acts as a barrier to cross-border securities transactions.
3. Conflict of Laws Issues: The existing legal framework does not adequately cover all proprietary aspects of securities holdings in cross-border contexts. Variations in national conflict of laws rules, including the recognition of renvoi (the referral to foreign conflict of laws rules), add further legal uncertainty, potentially complicating transactions involving intermediated securities.
4. Impact on Service Provision: The uncertainty surrounding applicable laws can discourage market participants from executing cross-border trades. For example, if a jurisdiction's laws are unclear regarding the treatment of pending cross-border transfer orders or settlement instructions, it could lead to delays or cancellations, further complicating cross-border service provision.
5. Consequences of Non-Compliance: If no credit institution is authorized as a designated credit institution under the CSDR, non-bank CSDs may be unable to provide DvP settlement in foreign currencies. This could force transactions to be processed on a free of payment (FoP) basis, undermining the objectives of the CSDR and affecting the overall efficiency of cross-border securities markets.

In summary, considering the absence of harmonisation and general conflict of laws rule (The Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) provide some harmonization regarding the treatment of securities transactions, but their scope is limited. Expanding these rules to cover all proprietary aspects of securities holdings could enhance legal certainty in cross-border transactions), financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often structure transactions with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in this area. This measure would only require limited administrative resources to develop and then keep updated its national law applicable to the financial instruments. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

43/ Please refer to the answer to question 40 above.

44/ Please refer to the answer to question 40 above.

45/ Please refer to the answer to question 40 above.

46/ New barriers that create legal uncertainty in the provision of issuance, maintenance, and settlement services via new technologies, particularly in the context of distributed ledger technology (DLT) may be highlighted. Here are the key points:

1. Regulatory Challenges: The emergence of DLT poses significant regulatory challenges, particularly concerning investor protection, financial stability, and market integrity. The existing legal and regulatory frameworks may not adequately address the unique characteristics and risks associated with DLT.
2. Insufficient Legal Framework: The current legal framework lacks comprehensive substantive rules governing ownership and the treatment of rights over book-entry securities when using DLT. This absence of harmonization leads to uncertainty regarding how acquisitions and dispositions of financial instruments are treated across different jurisdictions.
3. Complexity of Cross-Border Transactions: The use of bridges between different distributed ledgers in the issuing and minting process can complicate cross-border transactions. The lack of clear rules on which jurisdiction's laws apply can create legal ambiguities, particularly when multiple ledgers and intermediaries are involved.
4. Inadequate Risk Mitigation: Existing risk mitigation techniques, such as close-out netting agreements, may not be sufficiently protected in cross-border settings involving DLT. This uncertainty can deter parties from engaging in transactions or lead them to seek additional security or collateral, which can further complicate the issuance and settlement processes.
5. Impact on New Market Participants: The introduction of new infrastructure-type services enabled by DLT may not align with existing legal and regulatory rules, creating uncertainty for both new and existing market participants. This can inhibit innovation and the adoption of DLT in financial services.
6. Potential for Disintermediation: The potential for DLT to disintermediate traditional financial intermediaries raises questions about the roles and responsibilities of new players in the market. The regulatory framework may not adequately address these new dynamics, leading to further legal uncertainty.

In summary, the integration of new technologies such as distributed ledger technology into issuance, maintenance, and settlement services introduces several barriers that create legal uncertainty. Addressing these challenges will require a comprehensive review and potential reform of existing legal frameworks to ensure they accommodate the unique aspects of DLT and other emerging technologies. It is primordial to await the conclusions of the experiences of the Pilot Regime in this area.

47/ Please refer to the answers to questions above, in particular answers to questions 42 and 46.

48/ The existing approach to conflict of laws under the Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) may face challenges when applied to distributed ledger technology (DLT) based networks and systems, particularly in the context of collateral transactions. Here are the key points regarding the applicability and barriers:

1. Fragmented Legal Framework: The SFD and FCD provide some conflict of laws rules, but they are limited in scope and do not comprehensively cover all aspects of ownership rights, particularly in the context of DLT. This fragmentation can lead to legal uncertainties when dealing with cross-border transactions involving digital assets or tokens.
2. Inadequate Coverage of DLT Transactions: The existing conflict of laws rules under the SFD and FCD may not adequately address the nuances of DLT transactions, such as the principles of finality, transfer orders, and the legal status of digital assets. DLT introduces new operational models that may not fit neatly into the traditional frameworks established by these directives.
3. Ambiguity in Relevant Accounts: The SFD and FCD reference the "relevant account" for determining ownership rights, but the concept of the relevant account can be ambiguous in DLT systems where assets may be recorded across multiple ledgers or where ownership is represented differently than in traditional systems.

This ambiguity can complicate legal determinations regarding ownership and transfer of assets.
4. Need for New Legal Provisions: Given the unique characteristics of DLT, there may be a need for new legal provisions that specifically address the challenges posed by DLT in relation to ownership, transfer, and collateralization of digital assets. Existing directives may require amendments or new regulations to provide clarity and legal certainty in these emerging contexts.
5. Divergent National Laws: The application of the SFD and FCD is further complicated by the divergent national laws concerning digital assets and DLT. Different jurisdictions may have varying interpretations of how these directives apply to DLT-based transactions, leading to inconsistencies and legal risks.
6. Recommendations for Comprehensive Reform: a comprehensive reform of the legal framework governing securities and collateral transactions is necessary to accommodate the developments brought about by DLT. This reform should include the introduction of clear conflict of laws rules that address proprietary, contractual, and system-related aspects of DLT.
In summary, while the SFD and FCD provide some foundational conflict of laws rules, their applicability to DLT-based networks and collateral transactions is limited and may lead to significant legal uncertainties. Addressing these challenges will require the development of new legal frameworks that are specifically tailored to the unique aspects of DLT and digital assets. However, it is primordial to await the conclusions of the experiences of the Pilot Regime in this area.

49/ Please refer to the answer to question 48 above. It is primordial to await the conclusions of the experiences of the Pilot Regime.

50/ Please refer to the answer to question 48 above. It is primordial to await the conclusions of the experiences of the Pilot Regime.

51/ Additional barriers to legal certainty that were not explicitly mentioned above may be identified:
1. Lack of Harmonization of Registration and Investor Identification Rules: The differences in registration processes and investor identification across jurisdictions create friction in cross-border investments. This variability can lead to uncertainty regarding ownership rights and the ability to enforce them.
2. Uncertainty in Collateral Arrangements: There is legal uncertainty surrounding the acquisition and disposition of collateral in cross-border contexts. This includes ambiguities about the "possession" or "control" tests required for financial collateral arrangements, which can complicate enforcement in insolvency situations.
3. Inconsistent Treatment of Insolvency: The treatment of insolvency proceedings can differ significantly across jurisdictions, which may lead to uncertainty regarding the enforceability of rights in the event of a participant's insolvency.
4. Operational Processes in CSDs: The operational processes for setting up and maintaining securities in CSDs, including the creation of issuance accounts and updating shareholder registers, can vary. These differences can impact the legal certainty surrounding ownership and transferability of securities.
These barriers highlight the complexities involved in achieving legal certainty in the context of cross-border securities transactions and the provision of services via new technologies. Addressing these issues may require further harmonization of laws and regulations across jurisdictions.
As well, considering the absence of harmonisation in these areas, financial institutions typically undertake rigorous due diligence, engage with legal experts in relevant jurisdictions, and often structure transactions or services with flexibility to adapt to evolving regulatory landscapes. This helps in mitigating risks and ensuring legal certainty. Cost of such mitigations is difficult to assess.

As a quick fix (rather than a full harmonization), it is proposed that each Member State identifies and discloses its national legal and regulatory requirements in these areas. This measure would only require limited

administrative resources to develop and then keep updated its national law applicable to the financial instruments. A similar approach is provided by Article 49(1) of CSDR and already provides that the relevant company law provisions are identified by each Member State and reported to ESMA. Given this and its lack of legislative intervention, it could be considered as an interim solution while deciding how much deeper harmonization would be feasible and desirable. (Priority: High).

3.1.5. Barriers and other aspects under the SFD

Questions (for the purpose of the questions below, please note that the term barrier also includes difficulties or challenges)	Answers	
52) What are the main barriers to the smooth operation of the settlement finality framework in the EU?		
	Yes	No
53) Are there any aspects of the SFD that have created barriers for the market or market participants, in particular in a cross-border environment?		
54) Do the definitions, in particular the definition of a "system" and "transfer orders", result in barriers related to the change in market practice in the set-up of systems as well as the use of DLT?		
55) Is SFD protection important for settlement systems, such as those based on DLT, that settle trades instantly and atomically, and not on a deferred net basis or in settlement batches?		
56) Should settlement systems that achieve probabilistic (operational) settlement finality be designated and benefit from SFD protections? If yes, please explain how settlement finality could be achieved in such a case and why this would be desirable.		
57) Are the criteria that need to be met for a system to be designated under the SFD creating unjustified barriers to entrance?		
58) Do diverging national practices for notifying systems create an uneven level playing field or legal uncertainty?		
59) For the purposes of designating a system under the SFD, are the current list of participants, the designation process and the focus on entities rather than on the service provided creating barriers for new entities to provide settlement services in a system designated under that Directive?		
60) Does the non-aligned definition of 'collateral security' (SFD) and 'financial collateral' (FCD) create complexities for efficient collateral management?		
61) Is there legal certainty on the scope of the settlement finality protection under SFD?		
62) Is the lack of harmonised settlement finality moments in SFD (i.e. leaving it to the rules of the system or national law) creating legal uncertainty and preventing the development of a single capital market?		
63) The SFD does not apply to third-country systems, however, Member States can extend the protections in the SFD to domestic institutions participating directly in third-country systems and to any relevant collateral security ('extension for third- country systems'). Is the lack of transparency related to Member States extending for third-country systems creating barriers to the provision of services in the single market or creating a non-level playing field for EU entities?		

64) Stakeholders have indicated they would like to have an overview of all participants in different SFD designated systems, e.g. shared on one website publicly accessible. Is the lack of transparency related to the participants of designated systems creating barriers to the single market?		
65) Has the fact that SFD designation is not mandatory for all systemically important systems (except when mandated under Art. 2(1) and 2(10) CSDR and Art. 17(4)(b) EMIR), including payment systems, created barriers to the single market?		
66) Are there any national barriers in relation to legal certainty arising from how the SFD is transposed in the Member States?		
67) Some stakeholders suggested a centralised overview over the insolvency of participants of all SFD designated systems is needed, ie. published on a common centralised website. Is a lack of transparency related to the insolvency of participants of designated systems creating barriers to the single market?		
68) Are there any other barriers created by the SFD which are not mentioned above?		
69) How should irrevocability of "reserved" or "booked" digital assets be achieved?		
70) Is the point in time when a disposition becomes irrevocable problematic to pinpoint in DLT-based settlement systems, and in particular those with probabilistic settlement?		

For question 52 please complete the following fields as appropriate. **For questions 53 and 54, 57 to 60, and 62 to 68** where your reply is 'yes' please complete the following fields as appropriate.	Please explain your answer (and, where relevant, clarify the type of barrier (i.e. barrier or a difficulty/challenge)). Please provide a clear explanation of the barrier, and the reasons for this being indicated as a barrier, including, but not limited to, - the specific legal or regulatory 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	

For questions 53 and 54, 57 to 60, and 62 to 68 where your reply is 'no' please justify your reply, in particular identifying potential risks.	(national or EU level); - the operational requirements that create the barrier (national or EU level); - the technical/ technological aspect(s) related to the barrier, if relevant.	
	Please provide a ranking of the priority of addressing the barrier as: - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs of the barrier.	

	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); - adoption of market practice(s); - other.	
	Please provide data on the potential costs and benefits of the suggested solutions.	

3.2. Barriers to the application of new technology and new market practices

3.2.1. Applicability of the CSDR to DLT-based CSDs and the provision of services

Questions (for the purpose of the questions below, please note that the term barrier also includes difficulties or challenges)	Answers
71) Considering the core functions of a CSD, i.e. those of notary, central maintenance and settlement, is the current legal framework appropriate to mitigate and control risks that could arise from the use of DLT?	The legal framework governing the role of CSDs as defined under CSDR is potentially challenged by DLT, as this technology enables the decentralization of the notary function across the network of node holders on the underlying blockchain.
72) What are **the main barriers** in the EU framework to the use of DLT for the provision of CSD services, also in light of the experience gained through the DLTPR? In answering this question please consider all, but not limited to, the following: - legal or regulatory requirements (or lack thereof); - lack of clarity in the applicable legal or regulatory framework; - supervisory practice; - market practice; - operational requirements; - differences in national requirements; - Technical/technological aspects; - Type of instrument; - other.	• French-law funds circulate in a CSD model; applying DLT to the same fund shares requires the involvement of multiple centralizers (DLT and CSD) and an aggregator. • Lack of interoperability between infrastructures. • Difficulties in transferring French or foreign funds to DLT. • DLT or centralizer management models that are not uniform (e.g., Iznes, Funds DLT, Allfunds Blockchain). • At this stage, the ramp-up

	of platforms remains limited. • The arrival of new DLT players who lack knowledge of market practices related to investment funds.

	Yes	No
73) Are there any legal barriers to ensure the integrity of the issue, segregation and custody requirements also in the context of DLT-based issuance and settlement?	X	
74) Does the definition of cash need to be refined to take into account technological developments affecting the provision of cash, in particular the emergence of tokenised central bank money, tokenised commercial bank money and electronic money tokens? If 'yes', please specify how the use of such settlement assets can be facilitated while maintaining a high level of safety for cash settlement in DLT market infrastructures?	X	
75) Could the use of DLT help reduce the reporting burden?	X	
76) Would a per-service authorisation of CSD services, with compliance requirements proportionate to the risk of the individual service, make the CSDR more technologically neutral and contribute to removing barriers to adoption of new technologies, such as DLT?		
77) Are there any legal barriers for DLT service providers in providing trading, settlement and clearing in an integrated manner, within one entity?		
78) Are there any other barriers that you consider relevant for the DLT based provision of CSD services?		
79) In particular in permissionless blockchains, validators have the ability to choose which transactions to prioritise for validation and decide on the order of transaction settlement. Can this feature negatively affect orderly settlement and how can it be mitigated?		
80) Does the emergence of DLT-based tokenised financial instruments require changes to the provision of CSD services or the requirement to use a CSD?		
If so, which CSD roles or requirements could be meaningfully impacted in a DLT environment?		

81) Can certain functions normally assigned to or reserved for a CSD be safely, securely and effectively be performed by other market participants in a DLT environment?		
If 'yes', please specify which functions and which market participants, and state reasons.		If the blockchain is deemed reliable enough to eliminate the need for a CSD to perform a notary function, then the responsibility for maintaining first-level accounts could remain with the issuer (and no longer the CSD). However, the current role of the CSD as the operator of the Settlement System should likely be maintained, to ensure proper synchronization and finality of both payment and delivery flows.

For question 72 please complete the following fields as appropriate. **For questions 73, 77 and 78**, where your reply is 'yes' complete the following fields as appropriate.	Please explain your answer (and, where relevant, clarify the type of barrier (i.e. barrier or a difficulty/challenge)). Please explain the barrier and the reasons for this being indicated as a barrier, including, but not limited to - the specific legal or regulatory requirement(s) that create(s) the	**73/** Let us first recall that the concept of custody differs significantly depending on whether tokenized assets fall under MiCA or MiFID regulations. In the case of *security tokens* governed by MiFID, the legal obligation for custodians to return assets held in custody may become problematic on blockchains that do not support the reversal of erroneous transactions. It would therefore be necessary for regulation to define the required conditions that blockchains and their operators must meet to offer a true custody service for *security tokens*. **74/** In theory, a similar approach should be applicable to tokenized cash as to tokenized financial instruments. The use of DLT should not alter the economic or legal nature of financial assets, but only the technology used to record and transfer ownership. Accordingly, tokenized cash

		should, like tokenized assets, be handled within a regulatory framework that remains very close to that governing traditional cash. **75/** Yes—but only if the regulator has direct access to market information recorded on blockchains. This would enable much faster access to relevant data without requiring requests to market participants, potentially simplifying regulatory reporting obligations in some cases.

For questions 73, 77 and 78, where your reply has been 'no' justify your reply, in particular identifying potential risks.	barrier, if relevant (national or EU level); - the supervisory or market practice(s) that create(s) the barrier, if relevant (national or EU level); - the operational requirements that create the barrier (national or EU level); - the technical/technological aspect(s) related to the barrier, if relevant.	
	Please provide a ranking of the priority of addressing the barrier as: - high priority; - medium priority; - low priority.	
	Please provide an estimation of the costs resulting from the barrier.	

	Please provide potential solutions to issues identified, including the potential risks, 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.	

3.2.2. Detailed questions on the applicability of the CSDR and SFD to DLT-based CSDs

82) Are there barriers or concerns with the technological neutrality of the CSDR definitions listed below or any other definitions or concepts included in CSDR and SFD in particular in the context of DLT?

	1 (not a concern)	2 (rather not a concern)	3 (neutral)	4 (rather a concern)	5 (strong concern)	No opinion
'central securities depository'						
'securities settlement system'						
'securities account'						
'book entry form'						
'dematerialised form'						
'settlement'						
'delivery versus payment (DVP)'						
Any other definitions or concepts in CSDR and SFD.						

For each of the definitions or concepts for which you expressed concern, please explain the exact nature of your concern and suggest potential solutions to address it (including drafting suggestions for a new definition, where available).

83) Would you have any concerns about the technological neutrality of the following CSDR rules?

	1 (not a concern)	2 (rather not a concern)	3 (neutral)	4 (rather a concern)	5 (strong concern)	No opinion
Rules on measures to prevent settlement fails						
Rules on measures to address settlement fails' (e.g. cash penalties, monitoring and reporting settlement fails)						
Rules on organisational requirements for CSDs						
Rules on outsourcing of services or activities to a third party						
Rules on communication procedures with market participants and other market infrastructures						
Rules on the protection of securities of participants and those of their clients						
Rules regarding the integrity of the issue and appropriate reconciliation measures						
Rules on cash settlement						
Rules on requirements for participation						
Rules on requirements for CSD links						
Rules on access between CSDs and access between a CSD and another market infrastructure						
Rules on legal risks, in particular as regards enforceability						
Any other rules						

For the rules for which you expressed concern, please explain the exact nature of your concern, provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks.

3.3. Barriers and other aspects under the FCD

Questions (for the purpose of the questions below, please note that the term barrier also includes difficulties or challenges)	Answers

84) What are the main barriers to the integration of EU markets and/or consolidation of financial market infrastructures related to the FCD?	• National and heterogeneous transposition of the Directive depending on the country • Multiplicity of actors, especially CSDs, each with their own national specificities • Layering of regulations and operational practices over the years, which has complicated the modalities of collateral exchange
85) Is there sufficient clarity regarding the use of tokenised assets as financial collateral in the context of financial collateral arrangements under the FCD?	To the extent that DLT-based systems must be compatible—and even interoperable—with traditional systems, we believe there is no real need to challenge the existing definitions. However, these definitions likely need to be expanded. What appears to be missing, for example, is the concept of a *"security wallet"*, which could also be referred to as a *"DLT securities account"* to align terminology with that of the Pilot Regime, which refers to *"DLT infrastructures"*. The originality of *security wallets* lies in their ability to support two forms of asset holding: • Hosted wallets (or custodial wallets), which provide a similar type of holding as traditional securities accounts. • Self-hosted wallets, where tokenized assets are considered to be held directly by the

	investors themselves (as is the case with native crypto-assets). It may also be desirable to clarify the relationship between the concepts of *dematerialised form* and *digital form*, as we consider that dematerialisation inherently relies on a digital representation of information.	
86) In the last FCD consultation, the addition re-insurers, alternative investment funds (AIF), institutions for occupational retirement provision (IORPs), crypto-asset service providers, all non-natural persons, non-financial market participants which regularly enter into physically or financially settled forward contracts for commodities or EU allowances (EUAs) was suggested by stakeholders. It was also asked if payment institutions, e-money institutions and CSDs should be added to the scope. Please provide any views you may have of one or several of the suggested potential additional participants.		
	Yes	No
87) Are there barriers related to the scope of the FCD (i.e. parties eligible as collateral taker and collateral provider, definition of financial collateral, definition of cash)?		
88) Do you see legal uncertainty related to the recognition of tokenised financial instruments as collateral under the FCD? If yes, please describe these uncertainties.		
89) Do the definitions and concepts in the FCD, including the notion of 'possession and control', 'accounts' and 'book-entry' result in barriers or legal uncertainty, e.g. due to the change in market practices, the use of DLT?		

90) Is the list of collateral providers and collateral takers limiting the applicability of the FCD in a detrimental manner for DLT-based financial collateral arrangements?		
91) Do you think that collateral other than cash, financial instruments and credit claims should be made eligible under the FCD, in particular in light of DLT based financial collateral arrangements? If yes, please list what other forms of collateral should be considered as eligible and explain why.		

92) Do you see the need to change the current approach that only financial collateral arrangements should be protected where at least one of the parties is a public authority, central bank or financial institution? Please explain		
93) Is the non-aligned definition of 'collateral security' and 'financial collateral' under the FCD creating barriers?		
94) Are the opt-out provisions for Member States creating any barriers to the single market?		
95) Have you encountered problems with the recognition/application of close-out netting provisions under the FCD (both national and cross-border)?		
96) As noted in the Commission report on the review of SFD and FCD (COM(2023)345 final), given the FCD deals primarily with financial collateral and only peripherally with netting (only as one of the methods that can be used to enforce collateral arrangements), do you consider that there is a need for further harmonisation of the treatment of contractual netting in general and close-out netting in particular?		
97) Are there any other barriers created by the FCD which are not mentioned above?		
98) Are there any other issues you would like to address regarding FCD financial collateral in a DLT environment?		

For questions 84, complete the following fields as appropriate. **For questions 84, 87, 93, 94, 95, and 97**, where your reply is 'yes' complete the	Please explain your answer (and, where relevant, clarify the type of barrier (i.e. barrier or a difficulty/challenge)). Please provide a clear explanation of the barrier, and the reasons for this being indicated as a barrier, including, but not limited to: - the specific legal or regulatory 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 (national or EU level); - the operational requirements that create the barrier (national or EU level);

following fields as appropriate. **For questions 84, 87, 93, 94, 95, and 97**, where your reply is 'no' justify your reply, in particular identifying potential risks.	- the technical/technological aspect(s) related to the barrier, if relevant.
	Please provide a ranking of the priority of addressing the barrier as: - high priority; - medium priority; - low priority.
	Please provide an estimation of the costs of the barrier
	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); - adoption of market practice(s); - other
	Please provide data on the potential costs and benefits of the suggested solutions with a breakdown for different stakeholders.

3.4. Uneven/inefficient market practices and disproportionate compliance costs

3.4.1. Internalised settlement

99) Does the current reporting obligation of internalised settlement allow for an accurate identification of the risks stemming from settlement outside of a CSD?

If no, which additional information (for example the identification of the trading venues where the respective financial instruments are admitted to trading or traded) should be included in the internalised settlement reporting.

If no, what would be the operational implications for supervisors of expanding these reporting obligations? Should the reporting be done directly to ESMA and not to national competent authorities?

What would be the cost implications of such additional reporting?

Yes, to our knowledge, the current format is adequate. As already highlighted, we are deeply convinced that priority should be given to measures that will immediately or in the short term be beneficial to issuers and / or investors. In this context we consider that any change to the current reporting should be avoided unless strong concerns are raised by NCAs on its use. For example, the identification of the trading venue would impose new developments and costs thus being ultimately detrimental to the end investors.

100) Should settlement internalisers with very high internalised settlement activity (in terms of value and volume) be required to publish information on their internalised settlement activity including settlement fail rates (similar to the annual data on settlement fails published by

CSDs)?

Again, we consider that any change to a set-up in place since almost 6 years should be carefully assessed regarding the objectives of the SIU, i.e. a shift of the savings to the markets. We strongly believe that such information will not take part of any investor's decision-making process.

101) Would you identify additional risks other than operational and legal risks stemming from internalised settlement?

This question belongs to NCAs. Anecdotally, internalized settlement may even reduce settlement risks.

102) Should some/all rules pertaining to settlement discipline and/or other CSDR requirements currently applicable to settlement at CSD level be also applicable to internalised settlement?

As stated above, measures stemming from this consultation should help issuers and investors want to participate to the European financial market. Putting internalized settlements under the same regulatory requirements as CSDs' settlement may be seen as a fair measure. However, this should not be significant to either issuers or to investor transactions which are executed on regulated markets as they are not object of internalized settlement. Eventually such proposal would raise the issue of costs and benefits for investors.

3.4.2. Information sharing

Question	Answer	
	Yes	No
103) Is the role of the CSDR college as envisaged in CSDR refit sufficient to ensure efficient and complete information sharing between different authorities under CSDR?		
104) Are there barriers to information sharing between authorities and/or authorities/market participants that hinder the smooth provision of CSD services and the supervision thereof? If yes, should the document and information flows supporting the process for authorisation of CSDs and the review and evaluation of CSDs and their activities be simplified and streamlined, for example through the use of a central platform in a way that ensures all authorities involved are well informed and able to identify risks and take action to address them in accordance with their roles?		

105) Are there duplications and/or overlaps in the reporting requirements between national, European competent or relevant authorities?		

Please justify all your answers to the above questions. If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose.

3.4.3. Authorisation procedures

Question	Answer	
	Yes	No
106) Is the authorisation procedure for CSDs too long and/or burdensome? If yes, how could the process be simplified?		
107) Is the procedure for the extension of CSD authorisation and for outsourcing of services and activities too long and/or burdensome?		
108) Is the procedure for the authorisation to provide banking ancillary services too long and/or burdensome? If yes, how could the process be simplified?		
109) Are the current authorisation/supervisory approval processes under CSDR suitable, or could it benefit from some refinements/streamlining and/or clarifications?		
110) Are the current authorisation processes/supervisory approval under CSDR creating legal barriers for (potential) new entrants wishing to provide CSD services?		
111) Do you consider that market participants, who provide only one core service (for example, notary, central maintenance or settlement) should be covered by some/all elements of CSDR? If yes, what would be the benefits or risks?		
112) Could there be benefits to a tiered authorisation (i.e. per service) for CSDs being introduced, e.g. to enable the requirements to reflect the different nature of different core services? If yes, should there be a process to enable requests to extend the authorisation for additional services?		

Please provide a clear justification for all your answers to the above questions. If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose.

These questions should directly be answered by CSDs

3.5. Interaction between the CSDR and other EU legislation

113) Are there are issues between the CSDR and other EU legislation? Please explain.
Yes/No

If there is an issue, please clearly describe the issue, which piece of legislation should be amended to resolve it, the solution(s) to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose.

3.6. Other issues on post-trading

114) Other matters that could potentially contribute to removing barriers to the consolidation of post- trading infrastructure, to improving the EU's capital markets attractiveness while reducing fragmentation and to improving integration in post-trade services might also be important.

Please provide any further suggestions to improve the integration, competitiveness, and efficiency of post-trade services (including clearing and settlement) in the EU. Please provide supporting evidence for any suggestions.

We have carried out a pre-analysis of the AMI-SeCo report. Certain elements in terms of barriers to the consolidation of post-trade infrastructures may be taken from this document once it is published, in order to initiate more specific discussions. France Post-Marché members are taking part in this initiative.

PART 2

4. 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 (European Post Trade Forum)
- 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.

4.1. EPTF barriers

1) How do you assess the continuing importance and the urgency of their resolution of the barriers identified by the EPTF report and those put on EPTF watchlist (WL) 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)	**X**				**YES**
Lack of convergence and harmonisation in information messaging standards (EPTF 2)		**X**			**YES**
Lack of harmonisation and standardisation of ETF processes (EPTF 3)	**X**				**YES**
Inconsistent application of asset segregation rules for securities accounts (EPTF 4)		**X**			**YES**
Lack of harmonisation of registration rules and shareholder identification processes (EPTF 5)	**X**				**YES**
Complexity of post-trade reporting structure (EPTF 6)	**X**				**YES**
Unresolved issues regarding reference data and standardised identifier (EPTF 7 (formerly Giovannini Barriers 8 and 9, redefined and combined)		**X**			**YES**

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)			X		YES
Deficiencies in the protection of client assets as a result of the fragmented EU legal framework for book entry securities (EPTF 9) (formerly Giovannini Barrier 13)			X		YES
Shortcomings of EU rules on finality (EPTF 10)		X			YES
Legal uncertainty as to ownership rights in book entry securities and third-party effects of assignment of claims (EPTF 11) (formerly Giovannini Barrier 15)	X				YES
Inefficient withholding tax collection procedures (the lack of a relief-at-source system) (EPTF 12)	X				YES
National restrictions on the activity of primary dealers and market makers (WL1)			X		YES
Obstacles to DvP settlement in foreign currencies at CSDs (WL2)			X		YES
WL3: Issues regarding intraday credit to support settlement (WL3)			X		YES
Insufficient collateral mobility (WL4)		X			YES
Non-harmonised procedures to collect transaction taxes (WL5)			X		NO

- EPTF 1: Distinction between Corporate Actions and General Meetings as a lot of progress has been made on Corporate Actions for 10 years whereas harmonization is still required for General Meetings regarding voting systems/processes and legal framework/requirement. VoteAccess is a great vote system.
- EPTF 2: Standards are different from one domain to another:
    - 20022 for General Meetings and Shareholder Identification
    - Mix of 150022 and 20022 for Corporate Actions in Europe, which if efficient
- EPTF 3: The default settlement model leads to realignments on the local CSD. CSD issuer does not necessarily correspond to the place of settlement of the transaction: in this case, cross CSD settlement should be favored.
- EPTF 5: Harmonization of Registration Rules is weak, which is a real barrier. However, the harmonization of Shareholder Identification processes has been strengthened by SRD2 and is now working rather well.
- EPTF 6: The points made in the report (2017) are still relevant and the proposals for improvement are still necessary.

- EPTF 7: Efforts regarding LEI must be maintained.
- EPTF 12: The ETPF report (May 2017) made the following propositions on Barrier 12: inefficient withholding tax collection procedures. Simplifying and harmonizing tax relief and recovery procedures are crucial elements to the European single market to improve post-trade activities, in facilitating the clearing and settlement of securities across EU Member States.

  In this regard, several aspects should be considered:

  - Governments should take steps to implement a standardized and harmonized system for tax relief at source and simplified tax refund procedures
  - The following elements should be considered to improve the current system:
    - Standardized investor documentation.
    - Standardized tax reclaims 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 to provide relief at source services.
    - Member States should consider harmonization of the fiscal status of market claims across the EU so that all market claims on dividend payments are treated as indemnities, and not as taxable dividends.
    - Standardized communication forms, possibly machine readable.
    - Electronic communication with tax authorities to submit reclaims.
  - While fully agree with the2017 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).
    - 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. For instance, the FASTER system will be mandatory for many financial intermediaries that will not be free to choose whether to provide relief at source services (with a huge liability on their shoulders but no clear and subjective definition of due diligence, and very burdensome reportings to file within very short delays). The standardized and harmonized system is greatly weakened in FASTER Directive by many 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.
- WL2: The model works within T2S perimeter. It is more complicated outside the T2S perimeter.
- WL3: Specific attention should be given when moving to T+1.

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

This section should directly be answered by CSDs.

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

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

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.

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)?

Please explain

Questions	Answers	
4) 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 other barriers		
	Yes	No
5) Are there barriers to consolidation due to the structure of the regulatory reporting mandated in the CSDR?		

6) Are there barriers to consolidation due to the organisational requirements (e.g. on outsourcing) mandated in the CSDR?		
7) Are there obstacles to consolidation related to the current CSD supervisory and oversight framework?		

For question 4 complete the following fields: **For questions 5**	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;	

to 7, where your reply is 'yes' complete the following fields as appropriate. **For questions 5 to 7** where your reply is 'no' justify your reply, in particular identifying potential risks.	- 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.	
	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.	

4.3. Issuance

Questions	Answers
8) Please describe the steps and how long it takes to issue securities (and, if applicable other financial instruments) in your Member State, and indicate which steps could work better, in particular if undertaken cross-border (i.e. CSD and/or trading venue is in another Member State).	

9) 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.		
	Yes	No
10) Are there barriers related to the settlement period of primary market operations?		
11) 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?		X

12) Should the attribution of ISIN be further regulated, e.g. 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?		X
13) Should measures be taken to create more competition in the area of ISIN attribution and, if so, please explain what measures?		X
14) Are there barriers related to the lack of a harmonised approach for investor identification and classification?	X	
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?	X	
17) Are there any other barriers related to issuance which are not mentioned above?	X	

For questions 8 to 11, and 14 to 17, where your reply is 'yes' complete the following fields as appropriate. **For questions 8 to 11, and 14 to 17,** where your reply is 'no' justify your reply, in particular identifying potential risks.	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?	[OBJ][OBJ]
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 you think the level of transparency of fees structures is unsatisfactory, 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.	

4.4. 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?		
24) Do you believe that the scope of assets eligible within the DLTPR should be extended?		
25) Do you believe that the DLTPR should be extended to cover other types of systems, such as clearing systems?		

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)	
	Please provide a ranking of the importance of the issue as: - high priority - medium priority or - low priority	
	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.	

For questions 23 to 25, where your reply is 'no' please explain your reply, in particular identifying potential risks.	

23/ As the DLT Pilot Regime (DLPR) is intended to be an experimental framework, it is entirely legitimate to seek to limit its associated risks. However, doing so through the use of maximum thresholds on the value of tokenized assets does not necessarily appear to be the most appropriate approach. We are convinced that the tokenization of financial instruments governed by MiFID must remain reversible. When de-tokenization is possible at any time, the imposition of maximum thresholds becomes largely irrelevant.

24/ Yes—for the same reason stated in our response to the previous question. If a financial instrument can be de-tokenized at any time, it should be eligible for inclusion within the scope of the Pilot Regime.

25/ In light of our analysis of DLT (see question 2.54), we believe that the main infrastructures impacted by the DLTPR are *settlement systems*, as they are the effective venues for the decentralized transfer of ownership. Upstream infrastructures—namely trading venues and clearing systems—are far less affected by tokenization and can process financial instruments in tokenized or traditional form in much the same way.

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)?		
Please explain your reply, noting in particular the risks and the benefits.	The key question is whether CSDR and MiFID are truly technology-neutral. If that were the case, there would indeed be no need to amend them. The Paris Europlace working group on the Pilot Regime did not identify any major incompatibilities that would challenge the existing regulatory frameworks. However, over time, these regulations have become particularly complex and burdensome, making them difficult and costly to implement—especially for new entrants. It has therefore become increasingly necessary to explore	

	ways of streamlining these frameworks, notably by adopting an approach similar to that of the Pilot Regime: reaffirming the regulator's objectives while no longer mandating a single way to meet them.

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?

A uniform DLT deployment framework needs to be implemented

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

Please explain your reply. Where possible, please include examples from other jurisdictions that can serve as a model.

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?
[YES/NO]

Please explain your reply.

As of today, EMTs are not sufficiently widespread to allow for a conclusive assessment. There would likely be significant challenges in deploying the full range of cryptocurrencies listed worldwide while ensuring compliance with security requirements.

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/NO]

Please explain your reply

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

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.

YES

As explained in our response to question 26 (section 4), the regulator should primarily ensure that key principles are upheld by all market participants, particularly in terms of investor protection and market integrity. However, it should allow these actors the flexibility to propose the most appropriate means of achieving those objectives. Of course, any proposed solution would need to

be reviewed and approved by the regulator before implementation.
This is particularly relevant for regulations intended to be compatible with DLT, which is a complex technology and falls outside the core technical expertise expected of regulators. But this principle also holds true more broadly: since regulation is meant to remain technologically neutral, any legislative framework that begins to tailor requirements based on the underlying technology runs the risk of exceeding its remit and introducing provisions that may prove irrelevant or even counterproductive.

Question	Answer	
	Yes	No
31) Do you believe that DLT is a useful technology to support trading services in financial instruments?		
Please explain your response.		

32) 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?		
If 'yes': Please specify and explain these regulatory barriers		

.

33) 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?

34) 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?

35) 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/NO.]

Please explain your reply.

36) 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?

[YES/NO.]

Please explain your reply.

37) 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/NO]

Please explain your reply.

YES and NO.

YES, insofar as DORA appears to focus solely on operational resilience. Other regulations should therefore be used to address additional risk dimensions—particularly the need to reverse erroneous transactions, regardless of the underlying IT system.
It is worth recalling that a reversal (extourne) does not imply deleting a record but rather introducing a new entry that cancels out the effects of the previous one.
NO, because legislators should strive to remain as technologically neutral as possible. From that perspective, we do not believe it is appropriate to draw a distinction in legislation (such as DORA and others) between permissionless blockchains and permissioned blockchains.

38) 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
(b) Member State laws other than securities and corporate law
(c) EU laws that relate to trading and post-trading
(d) EU laws other than laws that relate to trading and post-trading

Please explain your reply, pointing to concrete examples in areas beyond the SFD, FCD and CSDR.

Question	Answer	
	Yes	No
39) Should public policy intervene to support interoperability between non-DLT systems and DLT systems?		
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.		
40) Should public policy intervene to support interoperability between distributed ledgers?		
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.		

41) 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)

(b) Technical standards applicable to digital assets and smart contract-based applications
(c) Technical standards applicable to links (bridges) between DLTs
(d) Other

Please explain your reply.

42) 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?

Please rank each of your reply from 1-5, with 1 denoting 'least important'

(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

Please explain your reply.

5. Asset management and funds

Despite Directive 2009/65/EU relating to undertakings for collective investment in transferrable securities (UCITSD) 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.

5.1. 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.		
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		
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 both 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.		

5.2. Authorisation Procedures

5.2.1. Authorisation of Management Companies (UCITS and AIFMD)

Questions	**Answers**	
	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?		
Please explain.		
14) Is the authorisation process proportionate in circumstances where not all requirements are relevant to the activity envisaged by the applicant?		
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?		
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?		
If no, please present these divergences and explain if these divergences created challenges for operating in the single market?		
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?		

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.	

5.2.2. 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.		
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.		

5.2.3. 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?	X	
Please explain.	In France, there is a robust framework regulated by the AMF's doctrine that sets the rules for the creation and functioning of funds throughout their life cycle based on their legal form (product instructions: 2011-19 for UCITS, 2011-20 for general-purpose investment funds (FIVG – Fonds d'Investissement à Vocation Générale), alternative fund of funds and general-purpose professional fund (FPVG - Fonds Professionnels à Vocation Générale), 2011-21 for employee savings fund (FES -Fonds	

		d'Epargne Salariale), 2011-22 for private equity funds, 2011-23 for real estate funds, and 2012-06 for declared funds). These texts also provide standard templates for prospectuses. Under this doctrine, the depositary must issue a letter of acceptance of the depositary function (covering the safekeeping of assets, the control of the regularity of AM's decisions and the cash monitoring) for each fund that is part of the AMF file. The depositary is also governed by a formal validation of its depositary specifications in accordance with EU directives and regulations, thus allowing it to act independently and in a sufficient and appropriate manner in the context of investor protection.
	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?		
	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?		X
	Please explain.	FPM understands that the introduction of an authorization process at the entity level for depositaries leads to the creation of a passport for depositary activities across the EU. The industry has already discussed the introduction of such a passport in the remit of the recent AIFMD review for those Member States where local depositaries offering is scarce or nonexistent. After in-depth discussions and consideration of all perspectives and viewpoints, the AIFMD review led to the introduction of a derogation clause allowing asset managers from countries with a depositary market under 50 billion € to appoint a depositary outside the AIF's country of domicile under certain conditions. Directive 2024/927 amending the AIFMD has been published in March 2024 and is currently being transposed by the Member States. A specific assessment is planned in 2029 to evaluate the use of this derogation clause. It is important to wait for	

	valuable feedback as assessment/cost benefit analysis is a prerequisite put forward by the European Commission prior to any new regulatory provision. Moreover, having the fund, its asset manager and its depositary potentially located in three different EU countries would overcomplicate supervision. In addition, the combined effects of potentially three different legislations could also create legal uncertainty to identify which law will apply to actors and investors. There is no evidence that the introduction of a depositary passport would bring significant benefits. We do think that this would hamper the SIU strategy which aims at requiring regulatory stability, promoting European competitiveness, and ensuring good quality financial services in the best interest of EU investors. Introducing such a passport is likely to reduce competition for this service due to the concentration of depositaries and could therefore generate greater systemic risks and potentially increased fees. Except in some Member States where the size of depositary market is low, EU investors, whether retail or institutional, already benefit from a broad range of depositary services thanks to providers complying with all relevant rules and national specificities ultimately ensuring investor protection. Depositaries outside the AIF's country of domicile cannot master national specificities (the fund's authorization is just one of the national regulated rules) with the same knowledge and expertise as local depositaries. Reaching this level of expertise pre-supposes the existence of a continuous dialogue with the competent local authorities, other actors of the fund (accountant, external auditors) and between the professional associations located in the home country of the fund. For all these reasons, FPM is of the view that the introduction of an EU passport for depositories activities is not appropriate. We thus align with the position developed by the European Trustee and Depositary Forum (ETDF)

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.	As stated above in question 23, it is suggested to wait for feedback on the use of the derogatory clause by the countries that have authorized it before drawing conclusions. The directive 2024/927 also provides for an assessment of the use of this clause in April 2029. Depositary fees have never been a barrier to competitiveness in France and the good quality of depositaries is also recognized. A policy driven solely by low costs for the investor would be counterproductive in terms of the duty to protect investors and the reliability/trust in the asset management market.
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.	As stated above in question 23, we do not currently identify any barriers for UCITS to access competitive and good-quality depositary services.
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.	As stated above in question 23, we do not currently identify any barriers for AIFs to access competitive and good-quality depositary services. For small depositary markets, an assessment in April 2029 will evaluate the use of the derogation clause allowing under conditions to appoint a depositary outside the fund's country of domicile.

5.3. 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?		
If no, please explain and suggest areas for improvement.		
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?		
If divergences exist, please explain, describing the impact and suggested areas for improvement.		

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.		
30) Are there barriers linked to different national requirements on marketing documents?		
If yes, please explain the key differences, impact and suggestions for improvement.		
31) Do national frameworks require the appointment of local physical presence in host 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.		
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?		
If yes, please elaborate and explain impact.		
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?		
If yes, please explain.		
34) Are fees/charges, currently levied by some host NCAs, a significant barrier to the distribution of investment funds in the single market?		
Please explain.		
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?		
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?		
Please explain.		
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?		
Please explain.		
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.		

5.4. 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?		
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?		

5.5. 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 barriers in national laws		
Please explain		
- Supervisory barriers		
Please explain		
- Market practices in different EU Member States		
Please explain		
- Other barriers (specify which one)		
Please explain		
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?		
If yes, should this be achieved through group authorisation?	We do not understand the question regarding the depositary, as this is not an activity within the scope of the management company unlike the other activities listed (compliance, risk management, portfolio management …). Regarding the opportunity to introduce an authorization process at the depositary entity level, please refer to the answer provided to question 23 in section 5.2.3 of part 5 of the consultation.	

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	
Please provide data on the potential costs and benefits of the suggested solutions with a breakdown for different stakeholders.	
47) 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?	
48) How should the group be defined for the purposes outlined above?	
49) Do you consider that group-level authorisation and supervision would improve supervision?	

5.6. Other barriers to cross-border operations

Questions	Answers	
	Yes	No
50) Have you encountered other specific barriers than those discussed above when marketing and providing asset management functions across Member States?		
- EU financial regulation other than UCITSD/AIFMD		
- National financial regulation		
- Supervisory administrative practices		
- Corporate law		
- Tax law		
- Other		
If yes, how have these barriers impacted your operations?		
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.		

5.7. Barriers for investments in funds

The questions in section 5.7 are addressed specifically to investors, in relation to their investments in funds both nationally and on a cross-border basis.

Questions	Answers	
	Yes	No
51) 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	X	
- Supervisory administrative practices		
- Corporate law		
- Tax law		
- Other (please explain)		
How have these barriers impacted your investment decisions in funds specifically?		
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.		
52) Do you consider that the scope of investor protection rules under UCITSD, and AIFMD are disproportionate for qualified investors?		
53) Do you consider that some investor protection rules should be waved for qualified investors?		
Please explain		

51/ Some asset managers create Luxembourg-domiciled funds to facilitate distribution, driven by both pricing and tax advantages.
While Luxembourg investors are generally accustomed to the TA model, the **CSD model** should be favoured for large-scale distribution to retail clients.
CSD model vs TA model
The TA model entails heavier administrative processes, including:

- KYC procedures
- Maintenance of register accounts
- Separate payment and subscription flows

5.8. Portfolio requirements and investment limits of investment funds

5.8.1. Investment limits – UCITS

Questions: Investment limits – UCITS	Answers	
	Yes	No

54) 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?		
55) 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?		X
If yes, how does the rationale of the 10% issuer limit differ for securitisations compared to corporate bonds issued by a single issuer?	Depositaries are calling for the stability of the UCITS label as it exists today and refer to the response provided in the context of the consultation on the revision of the Eligible Asset Directive (EAD). It also seems important to us to wait for the final report that ESMA is expected to publish shortly on the EAD. More broadly, depositaries are asking that the level 1 texts of both AIFM and UCITS directives (which have just been reviewed in 2024 and whose modifications are currently being transposed into national laws) not be reopened again. This is necessary for the sake of regulatory stability and investor confidence.	
If yes, what could be an acceptable limit, and why?		
56) Are there any additional concerns or drawbacks to consider regarding the increase of the threshold?		
If yes, how would this risk be mitigated?		
57) Does the 10% issuer limit affect the liquidity management of funds?		
Please explain	Please refer to question 55	

58) What are the potential cost savings for fund managers (e.g. due diligence costs)?	

6. 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:

1. The first part focuses on the effectiveness of the current framework
2. 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
3. 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.

6.1. 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			This rating of 3 implies that while the supervisory arrangements contribute to financial stability to some extent, there is significant scope for improvement to fully achieve this core objective.
The functioning of the internal market			X			This rating reflects that, while there are foundational elements aimed at market unification, the practical challenges and regulatory

						overcomplexity significantly limit the arrangements' effectiveness in fully supporting the internal market.
The integrity, transparency, efficiency and orderly functioning of financial markets		X				This score reflects that, despite foundational principles being set, the practical shortcomings significantly hinder the achievement of these key objectives.
The enforcement of EU rules		X				This score reflects significant challenges that hinder consistent and coherent enforcement, despite some foundational regulatory structures being in place.
The prevention of regulatory arbitrage and promotion of equal conditions of competition			X			This score reflects significant challenges that increase regulatory complexity and create potential loopholes, thus limiting the achievement of these key objectives.

Supervisory convergence across the internal market			X			This score reflects the significant gaps that remain in harmonizing supervisory practices, despite the presence of foundational guidelines aimed at enhancing convergence.
Development of the Single Rule Book			X			This score reflects that, although there are foundational elements in place and proposals for reform, the existing structure remains too fragmented to meet the objective fully.
Consumer and investor protection		X				This rating reflects that while the framework has the core objectives in place, significant challenges remain in delivering robust and consistent consumer and investor protection across the EU.
Support financial innovation in the market			X			This rating reflects that, while some

						foundational measures exist, significant improvements are required to foster a regulatory environment that more actively encourages and supports financial innovation.
Market monitoring		X				This rating reflects that, while some foundational elements for market monitoring are in place, significant enhancements are needed to achieve a more proactive and coordinated approach.
Supervisory data management including data sharing			X			This score indicates that while some foundational structures exist, significant improvements are necessary to achieve a robust, harmonized, and effective data management and sharing framework across the EU supervisory landscape.

Responsiveness, transparency			X			This rating reflects that, although there are foundational mechanisms intended to achieve these objectives, significant improvements are needed to streamline processes and promote greater openness and timely reactions in the supervisory framework.
Stakeholder engagement and involvement			X			This indicates that, while there are mechanisms in place, significant improvements are necessary to foster a more inclusive and participatory regulatory process.
Use of resources			X			This rating reflects that, while basic supervisory structures are in place, significant improvements are needed to streamline operations and achieve a more cost-efficient deployment of resources.

Proportionality of the fees for direct supervision			**X**			This score indicates that significant improvements are needed to align fee structures more closely with the actual scope, risk, and complexity of direct supervision.

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

Several interrelated factors that hinder the ESAs from effectively achieving their supervisory objectives may be identified. Key challenges include:

1. **Regulatory Fragmentation and Complexity:**
   - **Multiple Regulatory Layers:** The coexistence of Level 1, Level 2, and Level 3 instruments creates an intricate and sometimes contradictory regulatory landscape. This fragmentation makes it difficult to establish uniform supervisory standards and coherent enforcement.
   - **Conflicting Norms:** Overlap and inconsistency between different layers lead to legal uncertainty and make it challenging for the ESAs to provide clear guidance to market participants.
2. **Inefficient Oversight of Delegated Acts:**
   - **Volume and Complexity:** The high volume of delegated acts—coupled with complex review procedures—strains supervisory capacity. This makes it difficult to ensure that all delegated or soft law measures are adequately scrutinized.
   - **Limited Upstream Control:** Fragmented oversight means that issues in the delegated acts process might not be sufficiently identified or addressed in a timely manner.
3. **Insufficient Stakeholder Engagement and Transparency:**
   - **Limited Consultation Processes:** The consultation processes often involve short windows and limited pathways for meaningful input, reducing the opportunity for market participants and regulators to provide feedback.
   - **Opaque Decision-Making:** A lack of transparency in the standard-setting process reduces accountability and undermines the trust needed for effective supervision.
4. **Duplication and Inefficient Use of Resources:**
   - **Overlapping Responsibilities:** The fragmented structure leads to duplication of efforts and inefficiencies, with resources spread thinly across multiple, sometimes redundant, processes.
   - **Administrative Burden:** Increased complexity translates into higher administrative costs and efforts, which could otherwise be focused on core supervisory tasks.
5. **Challenges in Harmonizing Supervisory Practices:**
   - **Divergent National Implementations:** The absence of robust coordination mechanisms across EU member states leads to divergent approaches in supervision, undermining both convergence and the functioning of the internal market.
   - **Lack of Unified Tools:** Although proposals exist for a Single Rule Book and more harmonized tools, the current framework still lacks the necessary mechanisms to ensure a truly unified supervisory approach.
6. **Impact on Proportionality and Cost-Efficiency:**

- **Resource Allocation Issues:** The complexity and inefficiencies inherent in the current system affect not just the supervisory capacity but also the proportionality of fees and overall cost management, deteriorating the efficient use of available resources.

In summary, the combination of regulatory fragmentation, complex delegated act processes, inadequate stakeholder engagement, inefficient resource use, and coordination challenges collectively prevents the ESAs from fully reaching their objectives or performing their tasks at the desired level of effectiveness.

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.

1. **Strengths:**
   - **Technical Expertise and Quality:**
     Decisions for areas like CRAs and tier 2 third-country CCPs are prepared by experts (ESMA staff and dedicated supervisory committees). This specialization helps ensure that the decisions are technically informed and, in many cases, of solid quality.
   - **Centralized Oversight:**
     The Board of Supervisors retains final decision-making authority. This central oversight is intended to safeguard the EU public interest and promote consistency in supervisory actions.
2. **Challenges:**
   - **Decision-Making Speed:**
     The process can be slowed by the need to consolidate inputs from different preparatory bodies and by the complexity inherent in delegated decisions. The involvement of multiple layers means that responses may not always be swift.
   - **Independence and Public Interest:**
     While the model aims to ensure decisions are made in the EU public interest, the reliance on internally prepared decisions and limited stakeholder consultation may raise questions about the full independence of the process.
   - **Stakeholder Engagement:**
     As highlighted in the broader critiques, the model does not always provide robust mechanisms for engaging supervised entities and other relevant stakeholders. Limited consultation and short timelines can affect the perceived legitimacy of the decisions.
   - **Transparency:**
     The preparation process, while expert-driven, can be somewhat opaque, which might impact perceptions of accountability and the openness of the decision-making process.

Overall Rating:
Considering the balance between the technical quality achieved through specialized decision preparation and the shortcomings in terms of speed, stakeholder engagement, and transparency, the governance model can be rated **3 out of 5**.
This rating indicates that while the model has solid technical underpinnings and central oversight, improvements in responsiveness, transparency, and the integration of stakeholder input would enhance its overall effectiveness in serving EU public interests.

6.2. Specific questions on supervisory arrangements for different sectors

4) 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?

Several ideas emerge on how EU-level supervision of financial markets might be restructured. The proposals span changes to supervisory architecture, processes, and cross-border cooperation. Here are some broad changes to consider:

1. Supervisory Architecture and Supervisors' Responsibilities

- **A More Integrated EU Supervisory Authority:**
  One approach is to centralize key supervisory functions at the EU level for sectors that are inherently cross-border (for example, large banks, credit rating agencies, or central counterparties). This could mean that a single authority—potentially an empowered ESMA or a reformed unified supervisory body—would have direct supervisory responsibilities over these entities.
- **Clear Demarcation Between EU and National Roles:**
  In an alternative dual model, core supervisory decisions (or those affecting risk and strategic issues) would be taken at the EU level, while operational or day-to-day supervision remains with national authorities. A clear division of labor, with harmonized mandates and accountability frameworks, would help reduce fragmentation and promote consistent enforcement across the single market.
- **Development of a Single Rule Book:**
  A streamlined legislative framework—a single, coherent set of supervisory requirements—could reduce inconsistencies. This would require revisiting existing regulations to remove overlaps, define clear priorities, and possibly introduce a common risk taxonomy for financial institutions.

2. Supervisors' Approach to Exercise Their Mandates and Processes

- **Harmonized Decision-Making Processes:**
  Supervisory decisions could be standardized across the EU through common methodologies for risk assessments, supervision processes, and enforcement actions. This might involve moving toward common impact assessments, standardized consultation procedures, and unified analytical tools.
- **Enhanced Transparency and Accountability:**
  Improving the openness of decision-making (for example, through more comprehensive stakeholder consultations and public reporting) would ensure that decisions are seen as independent and in the EU public interest. More transparent processes could help to build trust among market participants and citizens alike.
- **Proportionality and Tailored Supervision:**
  A more nuanced approach could involve tailoring supervision to the size, complexity, and risk profile of the institution. This means developing flexible supervisory frameworks where regulatory burdens (including fees and reporting requirements) are proportionate to the activities and risks of each entity.
- **Leveraging Digital Tools and Data Management:**

A modern supervisory framework should capitalize on technological advancements. That would involve enhanced data sharing platforms, real-time risk monitoring tools, and robust IT systems to support timely and coordinated decision-making.

3. Improved Cooperation Among Supervisors

- **Enhanced Coordination Mechanisms:**
  To overcome fragmentation, establishing permanent, formalized channels for cooperation between EU-level and national supervisors is critical. This could include inter-agency working groups, joint risk committees, or even a central command centre for cross-border financial stability issues.
- **Joint Supervision and Shared Responsibilities:**
  For entities with pan-European significance, a model of joint supervision—where both national supervisors and the EU authority hold shared responsibilities—could be established. This would allow for pooling expertise and resources while providing consistent oversight across borders.
- **Cross-Border Data Sharing and Reporting Standards:**
  Improving cooperation also means developing standardized data reporting and sharing frameworks. Uniform data requirements and a centralized database accessible to both EU-level and national supervisors can ensure that risk assessments are better coordinated, and that emerging vulnerabilities are identified promptly.

Conclusion

In summary, defining an effective EU-level supervisory structure could involve:

- Moving either toward a centralized EU authority or clarifying the balance between EU oversight and national implementation.
- Streamlining the regulatory framework into a Single Rule Book with harmonized processes.
- Adopting decision-making practices that are more transparent, proportional, and responsive.
- Strengthening formal coordination and data sharing between national and EU supervisors.

These broad changes would help resolve the fragmentation, duplication, and inefficiencies currently observed, ultimately reinforcing the stability, competitiveness, and resilience of EU financial markets.

5) 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?

Building on the advanced expertise developed by some national competent authorities (NCAs) and creating EU centres of supervisory expertise by sector could offer several important benefits:

1. **Enhanced Technical Specialization:**
   By leveraging the deep, sector-specific knowledge of NCAs that have already established advanced expertise, the EU could create dedicated centres that concentrate best practices, advanced methodologies, and specialized insights in fields like banking, credit rating agencies, CCPs, insurance, or fintech. This would help raise the overall standard of supervision across the EU.
2. **Improved Consistency and Harmonization:**
   Centrally organized EU centres of expertise could serve to harmonize supervisory practices across member states. By institutionalizing expertise at the EU level, supervisory decisions and risk assessments can be better aligned, which would reduce fragmentation and ensure a more consistent approach to enforcement, even when implementation at the national level varies.
3. **Efficient Resource Allocation:**
   Concentrating expertise in dedicated centres could mitigate duplication of efforts among NCAs. Instead of each national authority developing its own approaches from scratch, a centralized hub

could support shared research, analytical tools, and supervisory frameworks that all NCAs could adopt and adapt to their local context.

4. **Facilitating Innovation and Adapting to Market Changes:**
   With the pace of financial innovation continually accelerating, the creation of EU centres of expertise by sector can drive forward the development and sharing of innovative tools and digital solutions. This shared approach could help supervisors keep pace with emerging risks and technological shifts more effectively than isolated national initiatives.
5. **Strengthening Cross-Border Supervision and Crisis Management:**
   Financial markets have become increasingly interconnected. EU centres of supervisory expertise would be well placed to both analyze interconnected risks and coordinate responses to cross-border financial instability. This would enhance the overall resilience of the financial system and help ensure timely and coordinated actions during periods of stress.
6. **Potential Challenges and Considerations:**
   - **Coordination and Governance:** The success of such centres would depend on clearly defined mandates and robust coordination mechanisms between the EU-level centres and national supervisors.
   - **Maintaining Local Knowledge:** While centralizing expertise has many benefits, it is vital to ensure that local market nuances and national regulatory insights continue to inform supervisory practices.
   - **Resource and Institutional Integration:** Establishing EU centres of expertise would imply organizational changes, the harmonization of methodologies, and the pooling of resources, which might require significant initial investments and governance adjustments.

In conclusion, building on the strengths of specialized NCAs by creating EU centres of supervisory expertise by sector appears to be a promising approach. It could enhance the quality, consistency, and responsiveness of EU-wide supervision while addressing some of the fragmentation and duplication issues currently observed. **With proper coordination and integration of local insights,** these centres would support both EU-level decision making and the overall stability and competitiveness of the financial markets

6) Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?

Pooling resources and expertise from individual NCAs in regional hubs could offer several clear benefits for the supervision of EU financial markets. Based on the observations in the documents, here are the key points supporting this approach, along with some challenges to consider:

Benefits

1. **Enhanced Expertise and Specialization:**
   - **Pooling Best Practices:** Individual NCAs often develop high levels of expertise in specific sectors or market segments. By pooling these skills in regional hubs, the EU can leverage collective intelligence and specialized knowledge, creating centers of excellence that benefit all member states.
   - **Improved Analytical Capacity:** Regional hubs can provide advanced analytical tools, joint research, and dedicated resources that may be too costly for single authorities to maintain independently.
2. **Increased Consistency and Harmonization:**
   - **Uniform Application of Standards:** A hub model could promote a more harmonized supervisory approach across regions, reducing discrepancies in how supervisory standards are applied across national borders.

- **Shared Methodologies:** Standardized supervision methodologies and data-sharing systems can lead to more consistent risk assessments and regulation enforcement, addressing some of the fragmentation issues highlighted in the current supervisory framework.

3. **Resource Efficiency:**
   - **Cost Synergies:** Pooling resources can help avoid duplication of effort and reduce administrative overhead. This would allow NCAs to focus more on high-value tasks rather than maintaining parallel structures.
   - **Better Allocation of Capital and Human Resources:** Regional hubs can provide a platform for targeted training and can facilitate the cross-border exchange of experts, which contributes to more efficient use of available supervisory resources.
4. **Enhanced Cross-Border Coordination:**
   - **Timely and Coordinated Responses:** In cases of financial distress or emerging systemic risks, having regional hubs that already collaborate closely can improve the speed and coordination of supervisory interventions.
   - **Improved Crisis Management:** Regional hubs, equipped with shared data and insights, tend to be better prepared for joint crisis response, thereby increasing overall financial system resilience.

Challenges to Consider

1. **Institutional and Legal Barriers:**
   - **Diverse National Regulations:** There might be differences in national regulations and supervisory mandates that could complicate the creation of uniform regional hubs.
   - **Sovereignty Concerns:** Member states could be reluctant to fully pool resources or cede some supervisory independence, which might require adjustments in governance structures and legal frameworks.
2. **Operational Integration:**
   - **Harmonizing Processes:** Bringing together various NCAs requires a concerted effort to align methodologies, reporting standards, and decision-making processes.
   - **Maintaining Local Nuances:** While regional hubs offer a more unified approach, ensuring that local market conditions and idiosyncrasies are not neglected will be a key challenge.

Conclusion

Overall, supervision of EU financial markets could significantly benefit from pooling the resources and expertise of individual NCAs into regional hubs. This approach has the potential to enhance technical expertise, promote consistency, improve resource efficiency, and strengthen cross-border coordination—all of which are critical for addressing the increasingly complex challenges of today's financial landscape.

However, realizing these benefits will require careful attention to coordinating governance, harmonizing regulatory practices, and ensuring that local insights are incorporated into the broader supervisory framework.

7) What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants?

Please explain your reply highlighting benefits and downsides

Benefits

1. **Enhanced Engagement and Tailored Communication**
    - **Closer Proximity:** Regional hubs would allow ESMA to be more accessible to market participants. This proximity can enable more frequent and informal interactions, helping market participants clarify regulatory expectations and voice concerns more directly.
    - **Tailored Regional Expertise:** Different regions may exhibit distinct market behaviors, risks, and cultural aspects. Regional hubs can offer insights tailored to these local dynamics, ensuring that supervisory policies are better informed by regional specifics.
2. **Improved Transparency and Trust**
    - **Open Communication Channels:** By establishing permanent points of contact, ESMA can increase transparency in its supervisory decision-making. Regular interactions can foster trust between regulators and the industry.
    - **Feedback Loop:** Direct interaction facilitates a two-way exchange of information, where market participants can provide timely feedback on new regulations or emerging risks, helping ESMA adapt its guidance as market conditions evolve.
3. **Fostering Innovation and Best Practices**
    - **Raising Supervisory Standards:** Regional hubs could serve as centres for disseminating best practices and innovations across markets. This would help ensure that newer supervisory techniques and collaborative approaches are shared quickly among market players.
    - **Enhanced Cooperation:** They can also stimulate cooperation with local supervisory bodies, academic institutions, and industry associations, further enriching ESMA's regulatory framework.
4. **Faster Issue Resolution and Early Warning**
    - **Local Signals:** Regional hubs are likely to be more in tune with localized market developments, helping identify emerging risks or concerns sooner. This early detection can lead to more prompt regulatory interventions when needed.
    - **Efficient Crisis Management:** In times of market stress, having a regional presence can lead to quicker coordination with local authorities and market participants, thereby improving crisis response and management.

Downsides

1. **Risk of Fragmentation**
    - **Potential Inconsistencies:** Creating regional hubs might inadvertently lead to variations in how supervisory policies are interpreted or implemented in different regions. This could threaten the uniformity and consistency of ESMA's approach across the EU.
    - **Overlapping Competence:** There is the risk that regional activities could overlap or conflict with national supervisors' functions, thereby complicating the overall supervisory landscape.
2. **Operational and Resource Challenges**
    - **Increased Complexity:** Managing multiple hubs across diverse regions increases operational complexity and requires robust coordination mechanisms to ensure that decentralized activities are aligned with central ESMA policies.
    - **Resource Allocation:** Establishing and maintaining regional hubs would necessitate additional financial and human resources. These resources need to be justified by tangible improvements in market engagement without diluting the overall mission of EU-wide supervision.
3. **Potential Bureaucratic Delays**
    - **Additional Layers:** The creation of regional hubs might introduce new administrative layers, potentially slowing down decision-making processes if coordination between regional and central offices is not effectively calibrated.
    - **Divergent Priorities:** Balancing local input with the overarching EU public interest may not always be straightforward. Reconciling divergent regional priorities with EU-wide rules could prove challenging and, if not managed well, might compromise the overall effectiveness of supervision.

Conclusion

In summary, setting up regional hubs of ESMA has the potential to significantly improve engagement with market participants, foster better regional specialization, and enable faster issue resolution. However, these benefits must be weighed against the risks of operational fragmentation, increased complexity, and potential delays in decision-making. For such an initiative to succeed, robust coordination mechanisms, clear demarcation of roles between regional hubs and national authorities, and dedicated resources to manage potential disparities would be essential. Balancing these factors carefully would help ensure that closer interaction with market participants translates into enhanced, consistent, and effective EU-level supervision of financial markets.

6.3. Questions on the supervision of EU CSDs

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

8) 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.

9) 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).

10) Do you consider that the current supervisory framework ensures efficient supervision and legal certainty? Please explain your answer providing, where possible, examples.

11) 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.

12) Do you consider that more integrated EU supervision could also produce negative side-effects?

13) Do you have other comments?

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

14) 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 replied 'Other', please indicate what was intended.

If you selected option 1 or 2 for question 14 (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 selected option 1 or 2 for question 14 (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)

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

15) Would joint supervisory teams, e.g. under options (c) and (d) in question 14, 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

16) To ensure stronger EU-level supervision of CSDs, which of the following authorities or bodies should be closely involved in supervision?
   a. ESMA;
   b. EBA;
   c. Relevant authorities as defined in CSDR;
   d. The Eurosystem;
   e. Competent authorities of other Member States;
   f. 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.

17) How would you expect your compliance cost to change under the supervisory model you chose in question 14?

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.

6.4. Questions on the supervision of EU CCPs

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

18) 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.

19) 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).

20) 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)

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

21) Do you consider that centralised EU supervision could also produce negative side-effects.

22) Do you have other comments?

6.4.2. How could more integrated EU supervision function?

23) 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)	

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 23 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.

24) 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)

Please explain your answer

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

a. European Central Bank and the relevant central banks of issue of Member States
b. 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)

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

a. European Central Bank and the relevant central banks of issue of Member States;
b. 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.

27) How would you expect your compliance cost to change under the supervisory model you chose in question 23:

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

6.5. Questions on the supervision of significant EU trading venues

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

28) 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.

29) 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.

30) 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).

31) 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).

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, in particular as regards potential costs and savings/benefits. If you replied 'Other', please indicate what was intended.

6.5.2. How could more integrated EU supervision function?

32) 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.	
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.

33) In the case of a single EU-level supervisor (a, b, c and d in question 32), 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.

[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.

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.

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)

34) 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.

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

	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 33), please specify.

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

36) Which criteria should be used to define the scope of trading venues that should fall under EU-level supervision?

i. 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)
ii. Only trading venues with a significant cross-border dimension within the EU
iii. Only trading venues that fulfil both above criteria
iv. other (please specify)

37) 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?

Yes
No
Please explain

38) 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.

Please explain

Significance criterion based on size

39) 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 38, 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].

40) Depending on your reply to question 39, 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.

41) Do you consider that the application of the above criteria could also produce negative side-effects or lead to unintended results?

Cross-border criterion

42) 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 (42 (a) and 42 (c)) and in numbers of Member(s) (States) for Y) (42 (b)). Please also provide quantitative evidence and examples. If you indicated 'Other' under Question 42 (f)), please specify what was intended.

43) Should it be possible for a trading venue to opt-in into EU-level supervision even though it does not meet the relevant criteria?
Yes
No

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)

44) 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.

45) 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 11aof 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.

6.6. Questions on the supervision of funds and asset managers

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

46) 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.

47) Please estimate the regulatory compliance costs[2] (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. 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;

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

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.

48) 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.

49) Do you consider that more centralised EU supervision could also produce negative side-effects?

50) Do you have other comments?

6.6.2. How could more integrated EU supervision function?

51) 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.

Please identify the areas where EU-level supervision would provide the most benefits:

AIFMD

- 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)

UCITSD

- Authorisation of UCITS (Article 5 UCITSD)
- Authorisation of UCITS management companies (Articles 6 - 8 UCITSD)

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

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

Regarding the integration of supervision concerning the appointment and supervision of the depositary (Article 21 AIFMD), Depositaries believe that NCAs are best placed to understand and monitor their market and its participants. Depositaries believe that ESMA plays its role perfectly in the implementation and application of the AIFM and UCITS directives by publishing associated Q&As when necessary.

52) 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

53) How would you expect your compliance cost to change under the supervisory model you chose in question 51?

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

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

54) 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.

55) Do you consider that centralised EU supervision could also produce negative side-effects.

56) 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?

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

58) Do you have other comments?

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

59) 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)	

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 agree with the options under point 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.

60) 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?

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

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

a. The size of the crypto-asset service provider.
b. Whether it is part of an international group/conglomerate with subsidiaries in many different Member States and/or third countries.
c. Whether it has a complex organisational structure featuring holding companies established in third countries.
d. There is increased cross border activity. What would you consider "increased cross border activity"?
e. A large percentage of its clients reside in a different Member State.

f. The crypto-asset service provider provides certain crypto-asset services deemed more complicated (i.e. operates a crypto-asset platform).

g. 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.
h. Whether the crypto-asset service provider is part of a group which includes issuers of asset referenced tokens and e-money tokens.
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 answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

62) 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)

63) 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 61?

Please explain.

7. Horizontal questions on the supervisory framework

The evolution of European supervision towards a more effective and competitive model, driven by a new approach of ESMA's role, would promote post-trade harmonization

- A review of ESMA's operational framework must be conducted before considering strengthening its powers and/or expanding its responsibilities.
- ESMA's mandate should explicitly include a competitiveness target, like Anglo-Saxon regulators.
- Supervision should be differentiated by type of player (CSD, bank, asset manager, etc.) to better target specific issues.
- Level 2 implementing measures should be co-developed beyond the current public consultation process with market participants to ensure their operational relevance.
- ESMA should have the power to issue "no-action letters" to temporarily suspend a regulatory provision when its application could disrupt the proper functioning of the markets.
- It is also important to eliminate uncoordinated national exemptions and avoid any "gold plating" of European law. The implementation of the single regulatory rulebook must be consistent across all Member States.

Commenté [EC2]: MDT : Détailler un peu avec ce que nous avions écrit pour le Have your say de mars

7.1. 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

Please explain your reply highlighting benefits and downsides.

2) Are there other sectors of financial services, not covered in the questions on the topic of supervision where granting ESMA new direct supervisory powers should be considered?
Y (please provide examples) / N

If the answer to 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.

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

7.2. Supervisory convergence

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

ESMA / EIOPA / EBA

7) 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						
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 handbooks						
Stress tests						
Union strategic supervisory priorities						
other, please specify						

If you would like to differentiate per areas, please comment.

7.3. Increasing the effective use of supervisory convergence tools

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

ESMA / EIOPA / EBA

8) 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.

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

   Y/N

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).

10) 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).

11) [For NCAs] Did resource constraints ever hinder or prevent the use of supervisory convergence tools? Y/ N

Please give examples

7.4. Enhancements to existing tools

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

ESMA / EIOPA / EBA

12) 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		

If the answer is yes, please explain why and in which specific areas.

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	
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 test	
Union Strategic Supervisory Priorities	
other, please specify	

13) 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?

Please explain, highlighting benefits and downsides

7.5. Possible new supervisory convergence tools

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

ESMA / EIOPA / EBA

14) Do you see limitations in the current supervisory convergence tools to address home/host issues?

Y/N

If the answer is yes, please explain:

- what potential measures could be introduced to assess and ensure the effectiveness of home and host supervision in a given sector
- for which sectors would you support the new measures
- the cost and expected benefits of these new measures

15) 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

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

If your answer is 'no' to the questions above, please explain why. If your answer is yes, please specify in which areas

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

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

7.6. Data and technology hub

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

ESMA / EIOPA / EBA

20) Which area(s) would benefit most from an ESA(s)' enhanced role as a data and technology hub?

21) 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.

22) 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
- Other [please specify]

7.7. Funding

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

ESMA / EIOPA / EBA

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.

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

Y
N

Please explain your answer

24) 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?

Y
N
Please explain your answer

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.?

Y
N
Please explain your answer

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

Y / N

26) 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

Please provide additional details