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Capital Markets Union - Delivering one year after the Action Plan

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
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Capital Markets Union - Delivering one year after the Action Plan

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Capital Markets Union - Delivering one year after the Action Plan

Introduction

Capital markets play a key role in providing funding for EU companies to invest and expand. This is also important as the EU economy is gradually recovering from the COVID-19 crisis. However, EU capital markets remain fragmented, hampering companies' ability to raise capital across the EU. An integrated EU capital market would contribute significantly to a sustained recovery, sustainable growth and cost-efficient green and digital transitions.

The Capital Markets Union (CMU) provides an opportunity to address market fragmentation in the EU. Progress in implementing the 2020 CMU action plan¹ must therefore remain a key EU policy priority. This is why President von der Leyen in her letter of intent of September 2021 emphasised the need to implement the 2020 Capital Markets Union action plan and why the Commission work programme underlines the need for fully developed and integrated European capital markets.

One year after the adoption of the 2020 CMU action plan, the European Commission is now delivering on its commitments, putting forward a set of four legislative proposals. All of these proposals are designed to contribute to achieving the CMU objectives. Progress on other CMU actions continues, paving the way for further ambitious deliverables in 2022.

1. An even stronger case for the CMU

1.1. The political importance of the CMU

Economic growth post-COVID. Economic recovery from the COVID-19 crisis is an immediate priority for the EU. While economic output fell by 6.3% in 2020, it is forecast to rebound faster than previously expected, with growth rates of 5.0% this year and 4.3% in 2022². Due to effective virus containment strategies and significant progress with vaccination, Member States have been able to gradually re-open their economies.³ While the Recovery and Resilience Facility (RRF) will make a significant contribution to the recovery through structural reforms⁴ and publicly funded investment projects, strong and well-integrated capital markets will be essential to support future economic growth.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Capital markets union 2020 action plan: A capital markets union for people and businesses*, COM/2020/590 24.9.2020.

² European Commission, European Economic Forecast, Autumn 2021.

³ However, COVID-19 has not yet been defeated, as evidenced by the recent surge in COVID-19 infections.

In this context, the European Commission continues to provide technical support to Member States through the Technical Support Instrument⁴ to design and implement reforms, including the ones to further develop capital markets.

A green CMU. Private financing is essential for the green transition. As part of the European Green Deal, the EU has set itself the legally binding target of becoming the first climate-neutral continent by 2050.⁵ It also aims to strengthen its resilience to climate change, as well as reverse biodiversity loss and the broader degradation of the environment. Supported by the Commission's strategy for financing the transition to a sustainable economy⁶, the EU is a global leader in the development of green capital markets to channel private investments towards its ambitious climate and environmental targets. Today the EU is the location of choice for green bond issuance, with around 50% of all green bonds issued in the EU in 2020⁷. Furthermore, about half of the green bonds issued worldwide in 2020 were denominated in euro⁸, making the euro the leading global green finance currency. The EU's green bond market is likely to be further boosted by the Commission's objective of raising up to 30% of NextGenerationEU funds, representing EUR 240 billion, by the end of 2026, through the issuance of green bonds. The EU's leadership in this area offers a unique opportunity to build a truly integrated green capital market – a green CMU – which can give a stronger impetus to the integration of EU capital markets more broadly. Nevertheless, for a green CMU to develop and flourish, the structural barriers that continue to fragment capital markets along national lines and hold back the CMU in general must be tackled.

The digital transition. The EU has also set itself ambitious objectives for the digitalisation of its economy. This digital transformation requires significant private investment. A large, integrated and efficient market for capital – the CMU – is essential to generate this investment. At the same time, new technologies have the potential to support the integration of capital markets, improve the provision of financial services and make them more efficient for the benefit of companies and citizens. Digitalisation has already given rise to new business models, including ones for retail investors, in which the distribution of financial instruments through intermediaries such as banks is complemented by more direct access through specialised platforms or financial technology firms (FinTechs).

Open strategic autonomy. A strong, competitive and integrated financial system is the backbone of a robust and vibrant economy. It not only finances established companies. It is also indispensable for financing tomorrow's companies, EU unicorns and start-ups active in areas of key strategic interest for the EU, such as quantum engineering, semi-conductors, hydrogen energy, pharmaceuticals and biotech industries and artificial intelligence. While remaining open to global financial markets, deep and liquid EU capital markets, underpinned by competitive and cost-efficient market infrastructures, such as central counterparties, are key to reducing the EU's overreliance on third-country providers for critical financial services. The CMU, together with the Banking Union, will enhance the EU's open strategic autonomy and global economic role and strengthen confidence in the euro.⁹

1.2. CMU objectives

Three core CMU objectives were identified in the 2020 CMU action plan with a view to delivering tangible benefits to companies and citizens across the EU.

⁵ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1.

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for financing the transition to a sustainable economy*, COM/2021/390 6.7.2021.

⁷ Impact assessment supporting the Proposal for a Regulation of the European Parliament and the Council on European green bonds, SWD/2021/181, 6. 7.2021.

⁸ European Financial Stability and Integration Review (EFSIR) 2021, SWD(2021) 113, 25.5.2021.

⁹ The European economic and financial system: fostering openness, strength and resilience, COM/2021/32 final 19.1.2021.

2021 Strategic Foresight Report - The EU's capacity and freedom to act, COM/2021/750 final 8.9.2021.

Objective 1: make financing more accessible to EU companies

The CMU is needed to provide more diversified funding opportunities for companies in the EU and reduce their over-reliance on funding through banks. This objective has increased in importance since 2020, as companies emerge from the COVID-19 crisis in need of increased capital, notably equity. By delivering more integrated and developed capital markets, the CMU provides opportunities for companies to access larger and more liquid pools of funds directly from investors.

Objective 2: make the EU an even safer place for individuals to save and invest long-term

Savers should be able to invest in financial products that are most suited to their investment and risk preferences - including, for a growing number of them, Environmental Social Governance (ESG) products. However, many savers do not use capital markets either because they mistrust them or because they are unaware of the opportunities available, thus reducing the potential flow of capital market funding to companies. It is thus essential to empower retail investors to use these opportunities while providing the right level of protection. The objective of the upcoming retail investment strategy, scheduled for adoption in 2022, is to put retail investors' interests centre-stage.

Objective 3: integrate national capital markets into a genuine single market

The EU's global competitiveness is weakened by the fragmentation of its capital markets. The CMU actions seek to remove barriers to cross-border investment, including deep-rooted barriers, such as diverging and inefficient insolvency frameworks or withholding tax rules, and to strengthen EU-wide passports for the provision of services. This will in turn help companies tap into larger pools of capital held by institutional and retail investors across the EU.

2. Today's package of legislative measures – the CMU 1 year on

Against those objectives, the legislative proposals adopted today are an important step in the implementation of the Commission's 2020 CMU action plan. They tackle problems across a broad range of capital market services and help achieve the core CMU objectives.

2.1. A European Single Access Point (ESAP) to create more funding and business opportunities for companies

Currently, financial and sustainability-related information on companies and financial products is scattered across Member States, in many access points, in different languages and in various digital formats. This fragmentation is a barrier to investment, in particular cross-border investment.

The Commission is proposing a regulation to set up a European Single Access Point (ESAP) that will be established by the European Securities and Markets Authority (ESMA).¹⁰ **The ESAP will be a common source of public, free¹¹ information** about EU companies and investment products, regardless of where in the EU they are located or originated. A phased-in approach will ensure that the ESAP becomes operational from 2024.

The ESAP will make investment opportunities more visible to both EU and international investors. In so doing, it will make funding more accessible for EU companies, especially smaller

¹⁰ The Regulation establishing the ESAP is accompanied by a Directive and a Regulation, which specify in the relevant EU legislation the information to be made accessible in the ESAP, as well as certain characteristics of that information in relation to formats.

¹¹ Additional services may be offered by ESMA for a fee.

ones and those located in smaller capital markets. It will save investors time and resources in finding information, contributing to achieving the CMU objective of making it easier and safer for citizens to invest. The ESAP will also benefit entrepreneurs because it will offer them a tool to search for business opportunities across the EU.

The ESAP is also a cornerstone of the Digital Finance Strategy¹². Over time, the ESAP should become a unique access point for companies' financial and sustainability-related information and product data, thereby tackling data fragmentation along national borders and enabling better digital use and re-use of information.

Importantly, **the ESAP has also great potential to boost the green transition.** By providing easier, centralised access to the ESG data of EU companies and information on ESG financial products, it will address the growing demand from economic and civil society actors for sustainability-related information, thereby contributing to the fair transition to sustainability.

2.2. Promoting long-term investments through European Long-Term Investment Funds (ELTIFs)¹³

European long-term investment funds (ELTIFs) aim to channel long-term financing to listed and unlisted small and medium-sized enterprises (SMEs) as well as long-term infrastructure projects in a wide variety of sectors, such as more energy-efficient transport infrastructure, green energy generation, clean technological innovation and social infrastructure projects. For this to happen, the full potential of ELTIFs must be realised. Currently, the number of ELTIFs remains small: as of October 2021, only around 57 have been authorised in four Member States. In general, market participants find that the existing rules on the authorisation, investment policies, operating conditions and marketing of ELTIFs are not sufficiently adapted to long-term investment. This, combined with barriers to entry for retail investors, makes ELTIFs less attractive for both fund managers and investors.

The proposed amendments to the ELTIFs framework will make them more attractive. They will enhance ELTIFs' role as a complementary source of finance to the real economy and allow them to better channel long-term savings into long-term investment projects. The revised rules, once adopted, will expand the range of assets eligible for ELTIF investment and provide additional flexibility for ELTIF managers to set up, operate and market ELTIFs. They will also make ELTIFs more attractive by making some of the requirements for ELTIFs solely marketed to professional investors less stringent. In line with the CMU objective of increasing the role of retail investors, the proposed amendments will also remove some of the thresholds that act as barriers to retail investors' access to ELTIFs, while continuing to protect investors.

The revamped rules will contribute to building a more integrated CMU, making the EU's economy more competitive and resilient. They will also support the European Green Deal and European Energy Union, channeling long-term investments necessary for green and energy infrastructure projects. ELTIFs are also well placed to finance technological innovation and support the digital transition. With the EU facing demographic challenges, ELTIFs could further help finance social infrastructure projects such as hospitals or social housing.

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Digital Finance Strategy for the EU*, COM/2020/591, 24. 9.2020.

¹³ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds, OJ L 123, 19.5.2015, p. 98.

2.3. Making funding more diversified for companies by reviewing the Alternative Investment Fund Managers Directive (AIFMD)¹⁴

More and more investments are being channeled through financial intermediaries in capital markets. Alternative investment funds (AIFs) in particular are playing an increasing role in financial intermediation. Since its adoption in 2011, the Alternative Investment Fund Managers Directive has supported the creation of an efficient single market for alternative investment funds and put in place a strong regulatory and supervisory framework for their managers in the EU.

The Commission is proposing targeted amendments to the AIFMD framework to make the AIFs' market even more efficient and integrated. The amendments will make it easier for EU companies to access finance by harmonising the regulatory framework for funds that issue loans to companies. Funds that originate loans provide financing for EU companies as a viable alternative to bank lending, in particular when traditional lenders pull back in a distressed market situation. These funds operate under a set of divergent national rules. This fragments the single market and limits competition between market participants. By expanding the range of funding options for companies, the new rules will enable them to grow, finance innovation and achieve their green and digital objectives in all market conditions.

The revised rules will also give investors better protection. Firstly, their interests will be better protected by ensuring that fund managers who delegate their functions to third parties adhere to the same high standards applicable across the EU. The proposal clarifies the existing rules and contributes to supervisory convergence, while recognising that delegation makes it possible to efficiently manage investment portfolios and source the necessary expertise in a particular geographic market or asset class. They will thereby contribute to the global success of the EU's investment fund sector. Secondly, the amended rules will encourage the proper use of harmonised liquidity management tools by the managers of open-ended AIFs or Undertakings Collective Investment in Transferrable Securities (UCITS), thereby helping them to manage liquidity risks effectively in order to preserve the value of investments during times of market stress. This should bolster investors' trust in these investment vehicles and make retail investors more likely to invest.

2.4. Enhancing market transparency by reviewing the Markets in Financial Instruments Regulation (MiFIR)^{15 16}

Efficient market infrastructure is the backbone of a properly functioning single market for capital. The Regulation on Markets in Financial Instruments (MiFIR) governs how trading works in the EU. MiFIR has been fine-tuned over the past decade and today's proposal will further contribute to a more competitive, more transparent and more integrated trading landscape on fairer terms. The proposal will ensure that the EU's financial markets continue to thrive in continuously changing global trading circumstances.

¹⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, OJ L 174, 1.7.2011, p. 1.

¹⁵ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, OJ L 173, 12.6.2014, p. 84.

¹⁶ The MiFIR review is accompanied by limited adjustments to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173, 12.6.2014, p.349 (MiFID).

Financial markets rely on high-quality market data. Well-calibrated transparency requirements related to information, such as prices and volumes of transactions, are therefore essential and contribute to price formation. The proposed amended rules will increase market transparency by limiting the use of exemptions from publication of trading data.

The trading landscape is also continuously evolving, with exchanges now competing with investment banks¹⁷. To level the playing field between exchanges and investment banks, the proposed amendments will further align transparency requirements and trading practices between various players. They will also seek to stop the controversial practice of trading operators offering incentives to brokers for directing client orders to them, regardless of whether or not doing so is in their clients' best interests ('payment for order flows').

The revised rules, once adopted, will also provide a comprehensive view of trading conditions across EU stock exchanges and other trading venues in a timely manner¹⁸. These rules will establish a consolidated data tape, while adequately remunerating exchanges, in particular smaller ones, for contributing data on shares. All investors, whether large and or small, will be able to access market data in order to have a consolidated view of trading conditions across EU markets and across different financial instruments, such as shares, exchange-traded funds and bonds. This will reduce the information advantage that the biggest market players have compared to other market players, in particular smaller asset managers, banks and retail brokers who may not be able to afford expensive services of data vendors. More transparency on trading conditions across trading operators will also reduce trade execution risks. The tape will also be available to retail investors, thereby helping democratise trading in the EU.

3. CMU looking ahead – deliverables for 2022

The legislative proposals adopted today, in addition to the legislative proposals on the review of Solvency II¹⁹ and the Banking Package²⁰ adopted earlier this year²¹, are significant milestones on the road towards creating the CMU. However, the Commission's work does not stop there. Work is ongoing on other actions in the 2020 CMU action plan, and the objective is to complete them in this Commission's term. This section outlines some CMU measures scheduled for 2022. The state of implementation of other actions is described in the Annex to this Communication.

3.1. Listing review to help companies raise funds on public markets

¹⁷ Since MiFID I entered into application, the combined amount of multilateral venues and systematic internalisers in the EEA has increased by 344, resulting in 476 trading venues.

¹⁸ Trading information is currently published with a 15-minute delay.

¹⁹ Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macro-prudential tools, sustainability risks, group and cross-border supervision, COM/2021/581 final. Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of insurance and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2009/138/EC, (EU) 2017/1132 and Regulations (EU) No 1094/2010 and (EU) No 648/2012, COM/2021/582.

²⁰ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor, COM/2021/664 final. Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks, and amending Directive 2014/59/EU, COM(2021) 663 final, 27.10.2021. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities, COM/2021/665 final, 27.10.2021. .

²¹ See action 4 the 2020 CMU action plan.

It remains costly and cumbersome to raise capital on EU public markets, especially for SMEs. This is why the 2020 CMU action plan announced that the Commission would simplify EU listing rules. In May 2021, its expert group on SMEs published 12 recommendations on how to facilitate SMEs access to public markets²². On the basis of these recommendations, and building on the SME Listing Act²³ and the measures adopted by the co-legislators as part of the Capital Market Recovery Package²⁴, the Commission now plans to adopt a legislative proposal in the second half of 2022 that cuts the red tape for companies wanting to raise funds on EU public markets, while preserving market integrity and investor protection. The proposal will critically assess the rules applicable to companies going through a listing process²⁵ and companies already listed on EU public markets. This initiative will contribute to making EU public markets larger, more efficient and liquid and thus more competitive globally, and allow a better allocation of capital to sustainable and innovative companies.

3.2. An open finance framework to support capital markets and add value for consumers and companies

Following the 2020 CMU action plan and the Digital Finance Strategy²⁶, the Commission will accelerate its work to make the most of the data economy for EU capital markets, consumers and businesses. In line with the upcoming proposal for a Data Act and building on an evaluation of the Payment Services Directive II,²⁷ **the aim of an ‘open finance framework’ is to allow data to be shared and re-used by financial institutions for creating new services, provided that customers agree to it and subject to data protection rules²⁸ and clear security safeguards.** This will ensure that more data become available for innovative financial services. It will also give consumers more choice and help them find products that best fit their investment preferences, including as regards sustainability, while allowing them to keep control over their data, including who can access it. This should directly contribute to greater participation of retail investors. Open finance can also have a positive impact on access to funding for SMEs. The latter would benefit from multiple financial services providers’ assessment of their economic profile and the offer of funding solutions best suited to their needs.

The ‘open finance’ framework will be based on the principle of a level playing field for existing and new entrants. The benefits of data sharing are not restricted to finance. Open finance will therefore complement the Commission’s broader data initiatives.

To build open finance beyond the scope of the Payment Services Directive II, the Commission will adopt a bottom-up approach, building on its work with stakeholders on a first set of specific use cases and getting input from the recently established expert group on a European financial data space. As a second step, it will present a legislative proposal for a new open finance framework,

²² Final report of the Technical Expert Stakeholder Group (TESG) on SMEs: *Empowering EU capital markets – Making listing cool again*, 25. 5.2021.

²³ Regulation (EU) No 2019/2115 of the European Parliament and of the Council of 27 November 2019 amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) No 2017/1129 as regards the promotion of the use of SME growth markets, OJ L 320/1, p. 1.

²⁴ [Directive \(EU\) No 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and \(EU\) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis, OJ L 68, 26.2.2021, p. 14.](#)

²⁵ including through alternative vehicles, such as Special Purpose Acquisition Companies (SPACs).

²⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Digital Finance Strategy for the EU*, COM/2020/591, 24.9.2020.

²⁷ [Directive \(EU\) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation \(EU\) No 1093/2010, and repealing Directive 2007/64/EC, OJ L 337, 23.12.2015, p. 35.](#)

²⁸ The General Data Protection Regulation (EU) 2016/679 (GDPR) should be complied with.

building on and in full alignment with broader data access initiatives, as announced in the Digital Finance Strategy.

In addition, the Commission will adopt a **supervisory data strategy** to enable EU financial supervisors to efficiently collect and effectively use the data they need to perform their tasks, by improving data standardisation and data sharing, subject to compliance with data protection rules. The strategy will aim to modernise the EU supervisory reporting and minimise the cost and burden for reporting entities, such as banks, insurance companies and other financial institutions.

3.3. Financial literacy

A good level of financial literacy is essential for investors in capital markets. Financial literacy can help individuals to invest responsibly in capital markets and better understand the risks involved, including as regards sustainability. In addition, while the digitalisation of financial services and the growing offer of sustainable financial products and services create new opportunities for consumers, they also create new learning needs for individuals. Finally, demographic changes in the EU, in particular population ageing, are also putting pressure on welfare systems. Individuals are increasingly required to take responsibility for preparing for retirement themselves. However, levels of financial literacy vary significantly from one population group to another and the less financially literate groups do not always know how to get the most out of their money.

On the basis of the conclusions of a feasibility assessment²⁹ announced in the 2020 CMU action plan, the Commission is working with the Organisation for Economic Cooperation and Development and Member States on **developing a financial competence framework for adults, to be delivered by the end of this year.** Work will then start on a financial competence framework for young people. These frameworks will define the competences that individuals in the EU need to make sensible decisions about their personal finances. They will support the exchange of best financial education practices among Member States and private stakeholders.

3.4. Corporate insolvency: a more predictable outcome for businesses and investors

In integrated capital markets, providers of finance should have a similar level of confidence when granting credit to businesses across borders as they have in their domestic market. A key aspect of this is a high degree of legal certainty about the consequences if a company gets into financial distress. Currently, however, Member States' insolvency laws differ markedly. **Making insolvency laws more similar throughout the EU will support the integration of national capital markets.** This is a long-term undertaking, because insolvency laws are complex and reflect national policy choices about how best to protect vulnerable stakeholders in case of business insolvency.

The Commission will propose an initiative by Q3 2022 that will seek to harmonise targeted aspects of the corporate insolvency framework and procedures. Subject to an impact assessment, the Commission will propose a Directive. The exact scope of this Directive proposal will be subject to further discussions with Member States and the European Parliament. This Directive proposal could be complemented by a Commission Recommendation.

²⁹ *Report on the results of the feasibility assessment for the development of a financial competence framework in the EU* (europa.eu), [8.4.2021](#).

Conclusion

COVID-19 has accelerated structural changes that were already underway in the EU. These structural changes relate to demography, the geopolitical environment, digitalisation – not only in finance – and the path towards carbon neutrality and broader sustainability. Strong and integrated capital markets will be instrumental in enabling the EU to manage these changes and create a resilient and competitive future for its citizens and businesses.

That is why it is so important to maintain the political momentum behind the CMU. Today, the Commission is delivering on four of the commitments it made in the 2020 CMU action plan and work on other actions is in full swing.

Since the launch of the CMU initiative in 2015, **the European Parliament and Member States** have continuously stressed the need for the EU to have large, strong and integrated capital markets. Now is the **time for them to demonstrate their commitment to the CMU** by speeding up the legislative process and maintaining the proposals' level of ambition.