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From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Market Integration and Supervision Package (MISP) - Statement by Czech Republic on the proposals in the market integration and supervision package (MISP)

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Statement of the Czech Republic on the Council negotiating mandate on the Market Integration and Supervision Package (MISP)

From the beginning of the negotiations, the Czech Republic has supported the objective of the Market Integration and Supervision Package to deepen the integration of European capital markets, reduce fragmentation and help channel European savings into productive investment within the Savings and Investments Union. At the same time, we have consistently stressed that such integration can only succeed if it works for all Member States and all market participants, large and small. While supporting more efficient and harmonised supervision, we believe that any transfer of supervisory powers to the European level must be proportionate, based on clear and objective criteria and clear division of tasks and responsibilities, and must take fully into account the specificities of individual markets and national frameworks implementing European law.

We greatly appreciate the efforts of the Cypriot and Irish Presidencies in leading a very demanding negotiation on a package of exceptional scope within an ambitious timeline. We acknowledge and welcome that in a number of areas the Council text has moved closer to the above-mentioned principles. In particular, we welcome the deletion of the broad cross-sector group criterion, the limitation of direct ESMA supervision of crypto-asset service providers to the most significant entities, the preservation of the Board of Supervisors as ESMA's principal body for regulatory decisions, strategy, budget and supervisory convergence, the substantial improvement of the DLT Pilot Regime and the additional implementation period for central securities depositories outside the euro area that already settle in central bank money.

However, the Czech Republic considers that, despite the improvements made, the compromise does not ensure sufficient proportionality. In certain areas it continues to favour larger entities over smaller ones and larger markets over smaller ones. In particular, we consider the criteria for determining the significance of trading venues are not sufficiently objective and balanced. Moreover, the package introduces a significant number of new obligations while removing very few existing ones. This is particularly evident in the area of transaction reporting under MiFIR, where new requirements are introduced instead of reducing the existing burden. We regret that, despite the declared aim of simplification and enhanced competitiveness, the overall reduction in the regulatory and administrative burden remains limited.

We underline the importance of ensuring that the new governance and cooperation framework of ESMA provides for a clear allocation of tasks and responsibilities between ESMA and national competent authorities, as well as among ESMA's governing bodies, and continues to duly recognise the expertise and appropriate role of national competent authorities. In addition, the question of the fiscal responsibility of Member States for the consequences of supervisory decisions taken at

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European level has not been addressed in the package and has been left only to a future review.

The Czech Republic also regrets that the compromise still requires central securities depositories in Member States outside the euro area to connect to the common settlement infrastructure, albeit after a longer period. This applies even where settlement in euro already takes place in central bank money and concerns only a very limited number of transactions. In such cases, the costs of the obligation are clearly disproportionate to its benefits, and the outcome places the Czech Republic, which is outside the euro area, at a disadvantage.

As regards the depositary passport, we note that it was a key measure in the package that directly removed a long-standing barrier to the single market. In its current form, however, it is significantly limited, as it remains fully dependent on the choice of individual Member States.

Finally, as regards the Settlement Finality Regulation, the Czech Republic remains concerned that some of its provisions, in particular on the applicable law and on the scope of the participants or assets settled, could create legal uncertainty and extend these exceptional protections beyond their original purpose, which might lead to ineffective insolvency proceeding and further deterioration of competitiveness of the EU.

During the negotiations, the Czech Republic submitted a number of technical comments aimed at improving the clarity and consistency of the text, including in areas that were not discussed in substance, such as the MiFID provisions and position limits. Many of these comments have not been reflected in the compromise. We are concerned that this may affect the quality and legal certainty of the final legislation, and we will seek to address these issues in the forthcoming trilogues.

The Czech Republic will continue to engage constructively in the forthcoming negotiations with the European Parliament, with a view to achieving a more proportionate and balanced outcome that works for all Member States, including smaller markets and markets outside the euro area.

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