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'I' ITEM NOTE

From: Presidency/General Secretariat of the Council

To: Permanent Representatives Committee (Part 2)

Subject: Delegations will find attached the Cyprus Presidency's Progress Report on the Market Integration and Supervision Package (MISP)

I. INTRODUCTION

1. This Progress Report ('**Report**') has been prepared under the sole responsibility of the Cyprus Presidency of the Council ('**Presidency**'), having regard to the views expressed by the Member States during the Financial Services and the Banking Union Council Working Party ('**CWP**') meetings and in written comments received by the Member States during the first half of 2026.
2. This Report represents the Presidency's view on the progress achieved during its term in technical CWP and ECOFIN discussions on the Market Integration and Supervision Package ('**MISP**'). It may not be relied upon as binding on the Member States and instead, should be viewed as the Presidency's assessment of the outcome of the discussions held at those meetings.
3. The Report is intended to provide continuity and facilitate the task of the incoming Irish Presidency. The Presidency invites COREPER to take note of this Report with a view to progressing work on the legislative package and the establishment of the Council's negotiating position on the legislative proposals comprising the MISP.
4. On **4 December 2025**, the Commission presented the MISP which includes a proposal for a **Regulation** of the European Parliament and of the Council amending Regulations (EU) No 1095/2010, No 648/2012, No 600/2014, No 909/2014, 2015/2365, 2019/1156, 2021/23, 2022/858, 2023/1114, No 1060/2009, 2016/1011, 2017/2402, 2023/2631 and 2024/3005 as regards the further development of capital market integration and supervision within the Union¹, a proposal for a **Directive** of the European Parliament and of the Council amending Directives 2009/65/EC, 2011/61/EU and 2014/65/EU as regards the further development of capital market integration and supervision within the Union² and a proposal for a **Regulation** of the European Parliament and of the Council on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/EC on financial collateral arrangements³.
5. The MISP is a central pillar of the Savings and Investments Union Strategy which was launched in March 2025. It ultimately aims at promoting simplification and tackling barriers to cross-border activities by responding to calls from the Draghi and Letta reports to bolster EU competitiveness by mobilising private savings. By reducing these barriers, the MISP can play a pivotal role in supporting a more integrated Single Market and advancing competitiveness, simplification, and consistent implementation across Member States.
6. The European Parliament appointed three rapporteurs of the ECON Committee, which is the committee responsible for the subject matter:
 - Markus Ferber (EPP) - Rapporteur for the Master Regulation
 - Eero Heinäluoma (S&D) - Rapporteur for the Master Directive
 - Giovanni Crosetto (ECR) - Rapporteur for the Settlement Finality Regulation (SFR).

¹ Document 16345/25

² Document 16347/25

³ Document 16348/25

7. On 29 January 2026, the European Data Protection Supervisor issued an opinion on the proposals⁴.
8. On 18 March 2026, the European Economic and Social Committee issued an opinion on the proposals⁵.
9. On 19 March 2026, the European Council called for the co-legislators to conclude negotiations on the legislative proposals on the MISP by the end of 2026⁶.
10. On 9 April 2026, the European Central Bank issued an opinion on the proposals⁷.
11. On 24 April 2026, the 'One Europe, One Market Roadmap'⁸ was signed on the sidelines of the informal meeting of Heads of State or Government that was held in Cyprus and includes the MISP as one of the priority deliverables, with end 2026 as the target for an agreement.
12. On 11 June 2026, the three rapporteurs of the ECON Committee published their draft reports on the MISP:
 - Markus Ferber (EPP) – Draft Report on the Master Regulation⁹
 - Eero Heinäluoma (S&D) – Draft Report on the Master Directive¹⁰
 - Giovanni Crosetto (ECR) – Draft Report on the Settlement Finality Regulation¹¹

II. PROCESS IN THE COUNCIL

13. The Danish Presidency organised the first CWP kick-off meeting on 15 December 2025 where the Commission presented their proposal. **The Presidency is very grateful to the Danish Presidency for the quick kick off preparation and opening the way for an ambitious working schedule.**
14. Following the European Council's call to advance work on the package with a view to reaching agreement by the end of 2026, **the Presidency organised 19 meetings of the CWP**, covering all aspects of the proposal, including dedicated technical and drafting discussions. The Presidency also facilitated exchanges with the Commission, and the ECB. **The Presidency also organised 3 ECOFIN discussions** on the MISP on 10 March, 5 May and 12 June.

⁴ [Opinion 6/2026 on the Commission Proposal for a Regulation as regards the further development of capital market integration and supervision within the Union | European Data Protection Supervisor](#)

⁵ [EU market integration and efficient supervision | EESC](#)

⁶ [European Council meeting \(19 March 2026\), EUCO1/26](#)

⁷ [C/2023/2837 Opinion of the European Central Bank of 9 April 2026 on proposals as regards the further development of capital market integration and supervision within the Union \(CON/2026/13\)](#)

⁸ [One Europe, One Market Roadmap of the European Parliament, the Council of the European Union and the European Commission](#)

⁹ [Draft Report on the proposal for a regulation of the European Parliament and of the Council amending Regulations \(EU\) No 1095/2010, No 648/2012, No 600/2014, No 909/2014, 2015/2365, 2019/1156, 2021/23, 2022/858, 2023/1114, No 1060/2009, 2016/1011, 2017/2402, 2023/2631 and 2024/3005 as regards the further development of capital market integration and supervision within the Union \(COM\(2025\)0943 – C10-0328/2025 – 2025/0383\(COD\)\)](#)

¹⁰ [Draft Report on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EC, 2011/61/EU and 2014/65/EU as regards the further development of capital market integration and supervision within the Union \(COM\(2025\)0942 - C10-0327/2025 - 2025/0382\(COD\)\)](#)

¹¹ [Draft Report on the proposal for a regulation of the European Parliament and of the Council on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/ECC on financial collateral arrangements \(COM\(2025\)0941 – C10-0329/2025 – 2025/0381\(COD\)\)](#)

15. Due to the complexity of the MISP and to facilitate the technical work, the Presidency divided the proposals into thematic blocks reflecting the proposal's architecture, namely:
- Trading (MiFIR/ MiFID II)
 - Post-Trading (CSDR, EMIR & SFR/FCD)
 - ESMA Regulation (ESMAR, including targeted amendments to sectoral legislation¹²)
 - Asset Management (AIFMD, UCITS & CBDFR)
 - Markets in Crypto-Assets Regulation (MiCA)
 - Distributed Ledger Technology (DLT) Pilot Regime Regulation (DLTPR)
16. Given the extended scope of the MISP, the Presidency organised two CWP on 14-15 January 2026 where the Commission provided a detailed technical presentation of the proposals. Member States had the opportunity to express their preliminary views and comments on the proposals and the Commission replied to questions from Member States orally. Following these exchanges, Member States also had the opportunity to submit their initial written comments on the proposal to the Presidency.
17. The CWP requested the Council Legal Service (CLS) to set out in writing its views on whether a group of proposed provisions, aimed at amending four EU legislative acts (namely, inserting an Article 110c in the UCITS Directive¹³, inserting an Article 47b in the AIFM Directive¹⁴, and inserting an Article 14c in the CBDFR¹⁵, as well as inserting Articles 17aa and 17aaa in the ESMA Regulation¹⁶) are compatible with the Treaties and the general principles of Union law, as interpreted by the Court of Justice in its so-called Meroni case-law¹⁷.
18. The Presidency is grateful for the constructive engagement of Member States, the Commission, and the ECB throughout the negotiations.

III. STATE OF PLAY OF THE NEGOTIATIONS IN THE COUNCIL AND THE WAY FORWARD

19. The Presidency noted a shared ambition among Member States to ensure a thorough technical analysis of the proposals while maintaining a high level of ambition and momentum needed to bring the negotiations to a conclusion.
20. In addition to the extensive technical discussions held at CWP level, the Presidency organised three policy debates at ECOFIN on 10 March, 5 May and 12 June 2026. The discussions held in

¹² Targeted amendments, in line with the changes proposed to the ESMA regulation aimed at making EU supervision more efficient to: The Central Counterparties Recovery and Resolution Regulation (CCPRRR), The Securities Financing Transactions Regulation (SFTR), The Credit Ratings Agency Regulation (CRAR), The Benchmark Regulation (BMR), The simple, transparent and standardised (STS) securitisation Regulation, The European Green Bond Regulation (EuGB Regulation), The Environmental, Social and Governance (ESG) rating Regulation.

¹³ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

¹⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers. (AIFMD).

¹⁵ Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings (CBDR).

¹⁶ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority) ("ESMA Regulation").

¹⁷ Doctrine originating from the judgment of the Court of 13 June 1958, Meroni v High Authority, 9/56, EU:C:1958:7.

May and June focused in particular on the exact scope of direct ESMA supervision, i.e. the criteria for determining significant entities, the balance of powers and tasks between the Board of Supervisors ('**BoS**') and the new Executive Board ('**EB**'), as well as the operationalisation of day-to-day supervision and the role of national competent authorities ('**NCA**s') therein.

21. These discussions provided important political guidance for the ongoing technical work. While Ministers expressed differing views on the calibration of significance criteria and the allocation of supervisory responsibilities, broad support emerged for focusing direct ESMA supervision on the most systemic relevant cross-border entities and, in principle, for the establishment of an EB within ESMA. Ministers also underlined the need for appropriate checks and balances in the governance model, including a clear and balanced division of powers and tasks between the EB and the BoS, as well as effective modalities of involvement of NCAs and/or cooperation with ESMA, including the day-to-day supervision of entities directly supervised by ESMA, while ensuring cost-effectiveness.
22. Ministers further highlighted the need for additional work on the calibration of some significance criteria to determine the scope of direct ESMA supervision of significant entities, including the role of group criteria for financial market infrastructures, the scope of direct supervision of significant CASPs, the composition of the EB, the precise allocation of responsibilities between the EB and the BoS, the checks and balances between the EB and the BoS, the modalities and the design of operational cooperation arrangements between ESMA and NCAs and the funding and budgetary oversight of ESMA, including the need to further discuss the NCAs allocation key to ESMA's budget.

Preparation and amendments of the Trading provisions:

23. The **Presidency organised two CWP discussions on the proposed amendments relating to the trading provisions** including the migration of requirements on the authorisation and operation of regulated markets as well as of other trading venue from MiFID II to MiFIR, harmonisation of authorisation frameworks, passporting arrangements for Regulated Markets, intra-group allocation of tasks and resources, criteria for and supervision of significant trading venues, market data and Equity Consolidated Tape, the PEMO regime, open access, as well as market structure.
24. Discussions amongst the Member States showed broad support for enhancing market integration, transparency, data frameworks, open access, PEMO regime and greater harmonisation of the trading rulebook. At the same time, some Member States also stressed the importance of careful and well calibrated implementation and preserving proportionality and sufficient flexibility for national market structures, legal systems, avoiding duplication of supervisory structures, ensuring legal certainty regarding the applicable law framework, the allocation of supervisory responsibilities, and the interaction between Union-level supervision and national competences. While a majority of Member States support clarifying the continued application of national rules in areas not fully harmonised by Union law, several Member States stressed the need to avoid fragmentation and gold-plating that could adversely affect market integration and competitiveness.
25. The main outstanding issues are:

- **Transfer of MiFID II provisions into MiFIR** whilst most Member States supported this, seeing it as a pre-requisite for the creation of a European single rulebook, some Member States also raised concerns on the consequences and the compatibility with certain national laws.
- **The PEMO regime** where even though many Member States acknowledged the potential of the regime, some others had concerns on the allocation of supervisory responsibilities, the impact on the existence/development of local markets, market concentration, and interaction with existing infrastructures. Member States also called for greater legal certainty regarding the determination of the applicable law.
- **The Equity Consolidated Tape** where there was broad support for improving market transparency and accessibility of market data by strengthening the Consolidated Tape, but some concerns were voiced over the scope of the additional data calling for more analysis on the proposed changes, data quality and standardisation, timing of the amendments, revenue allocation mechanisms, and Systematic Internalisers' contribution to the equity consolidated tape, and additional proportionality and flexibility, particularly for less liquid markets and smaller trading venues. In addition, the need to ensure a more balanced level playing field between Systemic Internalisers and Trading Venues has been discussed by Member States.

Preparation and amendments of the Post-Trading and Settlement Finality provisions

26. The **Presidency organised two CWP discussions on the proposed amendments relating to post-trading provisions** in EMIR and CSDR including direct ESMA supervision of Central Counterparties ('CCPs') and Central Securities Depositories ('CSDs'), the concept of 'significant' CCPs and CSDs, and open access provisions. For CSDs, additional discussions on connectivity to the Eurosystem TARGET2 Securities (T2S) platform for simultaneous exchange of securities (T2S) connectivity, group supervision, interoperable links and settlement integration were had at CWP level.
27. Discussions on the post-trading provisions showed broad support for clear supervisory structures, enhanced coordination, alignment between MiFIR and EMIR and MiFIR and CSDR for open access provisions, harmonised communication and messaging standards for post-trade processes, extending the grandfathering period for third-country CSDs, and the duration of the assessment periods. The discussions on open access provisions demonstrated a broad support for the Presidency's approach to further align the EMIR and CSDR frameworks with MiFIR, improve legal certainty and streamline access procedures as well as for introducing additional flexibility in implementation timelines. There was a broad consensus as well to extend the implementation timeline for CSD links, where Member States supported extending the implementation period, generally to 24 months compared to the Commission's initial proposal (18 months). At the same time, discussions revealed divergences regarding the appropriate allocation of supervisory responsibilities between ESMA and national competent authorities.
28. The **Presidency also organised one CWP discussion on the Settlement Finality Regulation**, focusing on the proposed replacement of the Directive by a directly applicable Regulation, the harmonisation of settlement finality, the minimum participation threshold and modernising designation procedures.

29. Discussions amongst the Member States on the Settlement Finality Regulation showed support for moving to a Regulation to ensure stronger harmonisation, cross-border certainty and digital compatibility across the EU, maintaining the current threshold of three participants and accommodating DLT in the SFR.

30. The main outstanding issues are:

- **CSD interconnectivity, mandatory T2S connectivity and the hub-and-spoke model** discussions highlighted different views. While several Member States supported the objective of deeper settlement integration, many raised issues regarding mandatory interoperable links particularly for smaller CSDs, non-euro area CSDs and CSDs operated by central banks. Concerns focused on proportionality and maintenance costs, market concentration around a limited number of hubs and the need for a more demand-driven, phased or standard-link-based approach.
- **The scope of instruments covered by mandatory links**, where many Member States considered the Commission's proposed scope too broad. While views differed, a number of Member States favoured a more targeted or phased approach, with broader coverage potentially more appropriate for hubs than for smaller CSDs. **Open access provisions**, while discussions showed broad support for clarifying and streamlining the framework, as well as for better alignment between EMIR, CSDR and MiFIR, further work is needed, including but not limited on safeguards for allowing refusals on objective grounds, the treatment of access conditions and fees.
- **Division of Competences Between NCAs and ESMA in CSDR**, the main outstanding issue concerns the appropriate allocation of supervisory powers between ESMA and NCAs for significant CSDs. While some Member States supported the Commission proposal for direct ESMA supervision of significant CSDs, several Member States questioned the transfer of supervisory responsibilities and advocated stronger involvement of NCAs through supervisory colleges, joint supervisory teams or other structured cooperation arrangements. Closely linked to this discussion are differing views on the future role of supervisory colleges, with many Member States opposing their removal for significant CSDs as well as ESMA chairmanship of colleges for less significant CSDs. Significant divergences also remain regarding the extent of ESMA involvement in the supervision of less significant CSDs, including the proposed requirement for ESMA opinions on a broad range of supervisory decisions, which several Member States considered disproportionate and potentially duplicative.
- **Division of Competences Between NCAs and ESMA in EMIR**, there was a broad support for maintaining strong involvement of NCAs, even where supervision is centralised with many Member States calling for robust cooperation arrangements, structured information-sharing mechanism and the need to preserve local expertise and financial stability considerations. Divergencies also remain regarding the extend of ESMA's involvement in the supervision of less significant CCPS, including the chairmanship of colleges and the proposed requirement for ESMA opinions on supervisory decisions.
- The **level of detail** of the proposed Settlement Finality Regulation and its interaction with sectoral Union legislation.

- Many Member States asked for a simplification of **the designation procedures under the SFR to avoid overlaps and potential inconsistencies with CCP and CSD-authorisation procedures or proposed amendments to the designation criteria**. Several Member States also expressed a preference for at least an option for ex-officio designation powers. Some Member States also expressed a preference for at least an option for ex-officio designation powers; at least for central banks payment systems.
- The **broad L2 mandates on SFR, on scope and delegated powers** with concerns being voiced over extension to new asset classes in the future.

Preparation and amendments of ESMA's direct supervision, Governance provisions and how to make them operational

31. The **Presidency organised four CWP discussions on the overall supervisory architecture** and scope of direct supervision envisaged under the package where the Presidency focused on the scope of direct ESMA supervision and the determination of significance criteria for financial market infrastructures and CASPs.
32. These discussions focused on the calibration of criteria for determining significance, the allocation of supervisory responsibilities between ESMA and NCAs, direct supervision of significant trading venues, CSDs, CCPs and CASPs, as well as the governance arrangements necessary to support the proposed expanded supervisory role for ESMA, including through the establishment of an EB, its interaction with the BoS, accountability mechanisms and the involvement of NCAs in supervisory decision-making.
33. The Presidency, organised one CWP discussion at the end of May, with the aim of preparing the June ECOFIN discussion, by seeking to identify proposed options for calibrating the scope of direct supervision (i.e. determination of significance), taking into account the importance of systemic characteristics of those entities. . In particular, these discussions focused on criteria for determining significance of entities (i.e. CSDs, CCPs, TVs, including significance criteria for CASPs), the allocation of supervisory responsibilities between ESMA and NCAs, as well as the governance arrangements necessary to support the proposed expansion of ESMA's supervisory role, including the establishment of an EB, its interaction with the BoS and the involvement of NCAs in day-to-day supervision and supervisory decision-making process.
34. While Member States broadly supported the establishment of an EB in principle, discussions focused primarily on its composition and governance, accountability arrangements, interaction with the BoS, particularly in the decision-making process and the need to ensure a balance of powers and tasks between the BoS and the EB, and the role of NCAs in the future supervisory framework (at decisional and operational levels), in particular in the steady-state. Discussions during the Presidency demonstrated broad support for the overall objective of strengthening the integration, competitiveness and attractiveness of Union capital markets. Most Member States broadly supported the need for a more integrated supervisory framework which would also involve direct supervision for certain qualifying entities. In this context, Member States broadly highlighted the need for ensuring that any direct supervisory framework remains proportionate, risk-based and is focused on genuinely significant cross-border market participants, stressing

that significance criteria should better capture systemic relevance at EU level. Member States supported as well greater supervisory convergence for all other sectors. Many Member States argued for the continued role of NCAs and the need to preserve their expertise and market knowledge within any future supervisory architecture.

35. Discussions also revealed **emerging convergence** on several elements. The majority of Member States supported limiting direct ESMA supervision to significant CASPs only. In addition, many Member States recognised the need for appropriate governance safeguards, meaningful BoS involvement, effective cooperation mechanisms between ESMA and NCAs, short transitional arrangements accompanying any transfer of supervisory responsibilities, and robust budgetary oversight and cost-control mechanisms in the event of an expansion of ESMA's responsibilities.
36. Particularly in the context of the MiCA Review, discussions among Member States revealed broad support for the Presidency's overall approach of moving towards a significance-based supervisory framework, under which ESMA would supervise significant CASPs while NCAs would remain responsible for less significant entities. Many Member States agreed that significance should be assessed using objective, measurable and proportionate quantitative criteria that capture both the scale of a CASP's activity and its potential cross-border relevance, for ensuring legal certainty through clearly defined thresholds and reporting obligations.
37. In addition, a significant degree of convergence emerged around the importance of active users in absolute terms as a key indicator of significance for CASPs with the cross-border dimension be captured in absolute terms as proposed by the Presidency and potentially be expanded to include all global clients. At the same time, many Member States stressed that any thresholds should be carefully calibrated on the basis of market evidence to capture only genuinely significant CASPs. There was a common recognition that interconnectedness with the financial system may be a relevant indicator, although its practical application requires further refinement, whereas views diverged in relation to the 'assets under custody' criterion.
38. Finally in the context of the MiCA Review, a significant number of Member States expressed support for maintaining national supervision combined with enhanced coordination with ESMA for significant entities allowed to provide crypt-asset services pursuant to Article 60(2) to (6), considering this approach to be operationally simpler and better suited to entities that are already subject to supervision under other sectoral frameworks.
39. Moreover, a number of issues require further reflection before a balanced compromise can emerge. These include, as stated aforementioned, the calibration of some significance criteria (as regards CASPs), including the role of FMI and sectorial group criteria; the precise scope of direct ESMA supervision; ESMA's new tasks and supervisory convergence tools; the allocation of responsibilities between the EB and the BoS; the design of the day-to-day supervision in the steady-phase, including the role of NCAs in day-to-day supervision possibly through Joint Supervisory Teams or sector-specific cooperation arrangements.
40. The **Presidency also organised one dedicated CWP discussion on ESMA funding and IT tools**, during which the Commission presented the proposed financing model accompanying the expansion of ESMA's responsibilities under the MISP package. The proposal foresees a gradual increase in the share of ESMA's budget financed through supervisory fees of significant

entities, from approximately 35% to 65% in the steady state, while new supervisory convergence and coordination tasks would be financed jointly by the Union budget and NCAs on a 50/50 basis. The Commission also proposed that the Union budget finance the preparatory phase and the development of new IT systems, with the share of costs linked to fee-funded activities to be recovered over time through supervisory fees. In parallel, the Commission presented a common ESMA-level data and IT architecture, reducing duplication, improving interoperability and supporting more efficient supervisory processes across the Union.

41. Member States broadly recognised that any expansion of ESMA's responsibilities would require additional resources and IT capabilities. There was also broad support for the principle that supervised entities should contribute to the costs of supervision while avoiding undue pressure on national budgets. At the same time, most Member States indicated that the proposed funding arrangements require further work, particularly regarding the allocation of costs between the Union budget and NCAs, the methodology for NCA contributions and the need for robust budgetary oversight and cost-control mechanisms. Concerning the IT tools, Member States generally supported greater digitalisation and data-sharing, while stressing the importance of clear rules on data governance, access rights, cybersecurity, confidentiality safeguards, the need to ensure interoperability and to avoid duplication between new ESMA tools and existing national systems and a proportionate implementation timeline.

42. The main outstanding issues are:

- **ESMA supervision of significant trading venues** Many Member States emphasise the importance of preserving national supervisory expertise, maintaining an appropriate balance between Union-level supervision and the contribution of national authorities and a clear allocation of responsibilities between ESMA and National Surveillance Authorities in order to avoid duplication and legal uncertainty. In this context, Member States highlighted the need to ensure that NCAs retain the tools and information necessary to perform market abuse supervision and called for further clarification of the division of tasks between ESMA and NCAs. In addition, some Member States called for further clarification of delineation of the responsibilities especially in case of supervision over DORA Regulation. Furthermore, additional work is needed on the calibration of the significance criteria to determine the scope of direct supervision.
- **Direct ESMA supervision of significant CCPs**, where support exists for systemic entities requiring EU-level supervision while a number of Member States stressed the need for further clarification on crisis-management, resolution and fiscal responsibilities remain primarily national and therefore called for stronger safeguards, information-sharing and meaningful involvement of national authorities in key supervisory decisions. Furthermore, additional work is needed on the calibration of the significance criteria to determine the scope of direct supervision.
- **Direct supervision of significant CSDs**, where support exists for systemic entities requiring EU-level supervision, while a number of Member States stressed concerns focusing on the preservation of local supervisory expertise, national financial stability responsibilities, , national security and crisis preparedness, as well as the need for clear

criteria for determining significance. Furthermore, additional work is need on the calibration of the significance criteria to determine the scope of direct supervision.

- **Governance of the EB and its interaction with the BoS**, including the composition of the EB, accountability arrangements, the balance of powers and responsibilities between the EB and the BoS, and the involvement of NCAs in supervisory decision-making and operational supervision. While broad support exists for the establishment of an EB, further work is required on its governance framework and decision-making processes.
- **Direct ESMA supervision of significant CASPs**, Member States need to align on the list of criteria to be used, the exact metric per criterion, as well as the methodology for defining significance. Member States also questioned the number of consecutive years of significance or non-significance before transferring supervision between ESMA and the NCA. In addition, Member States called for clarity in relation to the functioning of the Market Abuse supervision.
- **ESMA funding arrangements and budgetary governance**, where Member States broadly recognised the need for additional resources to support any expansion of ESMA's responsibilities, but further work is required on the allocation of costs between the Union budget, NCAs and supervised entities, the methodology for NCA contributions and the establishment of robust budgetary oversight and cost-control mechanisms.
- **ESMA data and IT architecture**, where Member States generally supported greater digitalisation and data-sharing but called for further work on data governance, access rights, cybersecurity, confidentiality safeguards, interoperability with existing national systems, avoidance of duplication and the design of a proportionate implementation timeline.
- **Role of NCAs within the proposed future supervisory architecture**, including the preservation of national expertise and market knowledge, the design and modalities of cooperation mechanisms between ESMA and NCAs at the steady-state, and the role of NCAs in day-to-day supervision, including through Joint Supervisory Teams or sector-specific supervisory arrangements.

Preparation and amendments to the Asset Management provisions:

43. The Presidency organised **four CWP discussions on the proposed amendments relating to asset management provisions** in the UCITSD, the AIFMD and the CBDFR including, but not limited to, annual supervisory reviews, depositary passporting, marketing communications, passporting upon authorisation and material changes, harmonisation of authorisation for UCITS, UCITS management companies and AIFMs, and EU intra-group delegation derogation.
44. Discussions amongst the Member States showed support for the introduction of a depositary passport, subject to devising appropriate supervisory cooperation and information-sharing safeguards. At the same time, a number of Member States voiced important concerns against the proposed depositary passport and supported the increase of the relevant thresholds in the existing AIFMD depositary localisation derogation instead. Within the context of the depositary-

related provision of the MISP, Member States also showed support for the removal of Member States discretion regarding the entities, other than credit institutions and investment firms, that can act as depositaries for specific types of AIFs. There was also support for the proposed amendments to the UCITS investment rules - with the index-fund related amendment being subject to suggestions for further assessment. More specifically, Member States suggested relevant safeguards to limit concentration risks and ensure value-for-money for retail investors. Support was also expressed with regard to harmonisation of the authorisation procedures for UCITS, UCITS management companies and AIFMs - with the extent of the possibility for NCAs to request additional ad hoc information, during the authorisation procedure, remaining to be clarified. Broad support also emerged for introduction of the passporting upon authorisation procedure and the removal of EU and national barriers to the cross-border distribution of investment funds.

45. Within the context of cross-border distribution of investment funds, a compromise was achieved; namely, the possibility for host Member States NCAs to retain of supervisory powers over marketing communications (on an ex-post basis), while harmonisation on the content and format of marketing communications, and on the treatment of marketing communications. At the same time, whether the aforesaid harmonisation will be referring to rules or principles, the determination of an appropriately targeted definition of marketing communications and the determination of the necessity and proportionality as well as the method for submitting marketing communications remains subject to discussion.
46. The main areas for further discussion are the EU intra-group delegation derogation and the annual review of large asset management groups. As to the latter, there was significant interest in alternative approaches to those envisaged in the MISP proposal. Those alternatives to the initial proposal approaches, include the concept of 'coordination colleges', and the strengthened use of the existing supervisory convergence tools, while their scope and content remain to be further specified. On the other hand a few Member States expressed support for the Commission proposal or certain features thereof. In relation to the intra-group delegation derogation, several Member States have expressed concerns regarding the interaction of the new regime with the sectoral rules applicable to entities within the group, as well as the allocation of supervisory responsibilities among the different NCAs involved.

Preparation and amendments to the Distributed Ledger Technology Pilot Regime:

47. The **Presidency organised four CWP discussions on the proposed amendments relating to DLT** including but not limited to the scale and (material, personal and temporal) scope of the DLTPR, the introduction of the simplified regime, the introduction of ad hoc exemptions, rules on regime-transitioning and grandfathering of existing DLTPR, unbundling, settlement of payments.
48. There was broad support for the extension of the material scope of the DLTPR to include all types of financial instruments, subject to safeguards, in case of direct retail investor access to complex financial instruments. There was also broad support for the extension of the personal scope to also include i) OTFs with relevant ESMA guidance for addressing discretionary order management on the DLT. As regards the inclusion of CASPs, there was support for such

inclusion, subject to further tightening the envisaged exemptions, in order to further align with MiFID. There was also support for the simplified redrafting of the provisions on settlement of payments, and the retention of the proposed ad hoc exemption provisions with the convergence-related role of ESMA remaining to be clarified (the majority of Member States opted for either a non-binding, as per the initial proposal, or a binding ESMA opinion where an NCA presents its draft assessment and draft decision).

49. Additionally, there was broad support for the proposed transitioning from the simplified to the regular regime by way of reliance on previous relevant assessments made and an accelerated procedure to transition into the amended DLTPR for existing DLTPR participants to the regular regime. There was also broad support for the proposed simplified regime, subject to certain amendments regarding alignment of transparency with relevant CSDR provisions; and the unbundling regime.
50. The main outstanding issue is the exact level of the aggregate market value threshold. Whereas some Member States support the current threshold proposal, discussions highlight that there was broad support for the need to cater for market initiatives that go beyond the proposed EUR100bn scale of the proposal. However, views differ on how best to achieve that. Some Member States favour maintaining a single, even if two-tiered, albeit higher threshold. Some other Member States favour maintaining the proposed EUR100bn threshold but, at the same time, providing for ad hoc flexibility for particular firms or entities subject to due process and safeguards. Moreover, many Member States see the need for a more concrete drafting of the criteria regarding threshold adjustment via a Delegated Act.

IV. CONCLUSION

51. The Presidency welcomes the Member States constructive and innovative-friendly approach to these topics.
52. The Presidency considers that the Commission's proposal has been proven to be a good basis for further negotiations by providing a starting point for discussions and further consideration on outstanding issues. The Presidency further considers that substantial progress has been achieved across all thematic areas of the package.
53. Discussions enabled Member States to develop a clearer understanding of the objectives of the proposals and to identify the principal areas of convergence and divergence. Discussions during the Presidency have also contributed to a clearer understanding of the possible future supervisory architecture of the package.
54. While a broad agreement emerged on the principle of centralised supervision of the most significant entities (including CASPs), the calibration of some significance criteria need to be further discussed. In addition, discussions regarding governance arrangements and operational supervisory structures have also revealed emerging areas of convergence. These include the need for an EB with appropriate governance safeguards and checks and balances, meaningful NCA involvement (at decisional and operational levels) , cost-efficient and effective modalities for cooperation and a sustainable funding framework accompanying any expansion of ESMA responsibilities, as well as appropriate transitional arrangements.

55. Beyond the supervisory architecture, discussions also demonstrated broad support for the overall objectives of market integration, simplification, supervisory convergence, innovation and enhanced cross-border activity. In the area of asset management, Member States broadly supported efforts to reduce barriers to cross-border distribution, improve supervisory convergence and simplify authorisation and passporting procedures, while further work remains necessary on a number of politically sensitive issues. Discussions on the DLT Pilot Regime similarly confirmed broad support for fostering innovation and ensuring that the framework remains fit for purpose, while views continue to differ on the best way to achieve a meaningful scale of the regime.
56. The Presidency invites the incoming Irish Presidency to take forward the work on the file, building on the discussions during the Presidency with a view to consolidating compromise solutions and progressing towards a Council negotiating mandate.
57. In light of the above, the Permanent Representatives Committee and the Council are invited to take note of the progress achieved on the examination of the proposals.