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EBF Preliminary Views on the Market Integration Package (MIP)

Commentary on key measures proposed by the European Commission regarding the further development of capital market integration and supervision within the Union

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The **EBF** is the voice of the European banking sector, bringing together national banking associations from across Europe. The EBF is committed to a thriving European economy that is underpinned by a stable, secure and inclusive financial ecosystem, and to a flourishing society where financing is available to fund the dreams of citizens, businesses and innovators everywhere.



General remarks

Delivering on ambition, towards a Single European Rulebook

The EBF has long advocated for **deep** and **well-integrated EU capital markets**, underpinned by a modern, fit-for-purpose regulatory framework and competitive infrastructural ecosystem. As geopolitical competition intensifies, unlocking a genuine single market for capital becomes a **strategic imperative** for the European Union: the future ability of European **households** to participate in the wealth generated by innovative companies, of those same **companies** to access funding opportunities within the Single Market, and of the Union to finance its competitiveness, growth and collective security, all depend on the successful development of a **truly functioning Savings and Investments Union (SIU)**.

Despite the importance long attributed to this objective, and the progress made in developing harmonized rules and high-quality regulation, a **competitive gap** persists **between European capital markets and other major international financial centres**. EU markets register (i) a lower share of household financial assets invested in equities and investment funds, (ii) comparatively limited pools of long-term capital, including through pension assets, (iii) a smaller scale of venture capital and private equity activity and (iv) lower levels of IPO activity. Together, these factors contribute to a structural **underutilization** of European capital markets, most notably on the demand side.

In this context, the timely and effective delivery of SIU objectives through game-changing reforms is essential. Strengthening the mechanisms through which savings are mobilized and channelled towards long-term productive investment, in particular equity financing, will be critical to ensure that European capital markets and their infrastructures operate at their full potential.

In this context, a **holistic review** of the European regulatory framework can play a game-changing, catalytic role in this process, particularly if it focuses on **simplification** and **removal of barriers** that hinder market-driven **integration** and full, free and fair **competition**.

SIU reforms should be pursued with a **high level of ambition** across the broader EU financial services framework, while also allowing for the delivery of **pragmatic** and **timely** quick wins where appropriate, including through enhanced cooperation among Member States.

Against this background, the European Banking Federation emphasizes and encourages EU co-legislators to consider the following **horizontal, over-arching priorities**:

1. **All ongoing and forthcoming reforms should give priority to streamlining and simplifying the existing regulatory framework.** Excessive regulatory burdens, opportunities for national **fragmentation and gold-plating should be avoided**, while fostering a pan-European operating environment; in this context, the EBF welcomes the increased use of Regulations instead of Directives. Clear and stable rules should frame the conditions for a level playing-field, promoting effective competition through the *“equal treatment of equal things and the unequal treatment of unequal things”*. In this context, EBF calls on co-legislators to progress towards a genuinely harmonized, **Single European Rulebook** for the benefit of users, service providers and supervisors of capital markets.
 - EBF encourages the Commission to launch a **comprehensive mapping of duplications, overlaps, conflicting definitions, and redundant provisions across the EU financial regulation**, to remove any unnecessary and counterproductive complexity.
 - The EBF invites the Commission to include in such holistic considerations the findings that will emerge from the **targeted consultation on the competitiveness of the EU banking sector**.
2. **A key element of making EU capital markets more attractive is the timing and sequencing with which reforms are introduced.** Sufficient and lead time must be provided to market participants and authorities, considering the full development of Level 2 implementing measures where required, to foster **regulatory stability**. New legislation is often developed with insufficient clarity, and this has resulted in broad and ambiguous mandates, which have generated an excessive volume of Level 2 and 3 measures. This situation has created regulatory uncertainty, fragmented rulemaking, and high compliance costs.
 - Within this context, **EBF emphasizes the importance of stronger adherence to the Lamfalussy framework**, whereby Level 1 legislation remains principle-based and objective-driven, while Level 2 measures are limited to essential technical elements without adding substantive obligations. Level 3 guidance should remain non-binding, with strengthened oversight of both Level 2 and Level 3 measures.

EBF views on the MIP

Making the most out of infrastructure and supervision reform

The EBF **welcomes** the publication of the Market Infrastructure package (MIP), and fully supports efforts to: (i) modernize, simplify and streamline the regulatory framework for financial market participants, including by reducing administrative burdens, limiting national “gold-plating”, and moving certain rules from directives to regulations; (ii) improve the interconnection and efficiency of trading and post-trading infrastructures across the EU; (iii) support innovation in EU financial markets, particularly by facilitating the use of distributed ledger technology (DLT) and adapting existing legislation to new technologies and (iv) strengthen supervisory harmonization.

By addressing key sources of persisting fragmentation, the Package creates an **opportunity** to develop even better conditions for markets to operate on a greater scale and efficiency. In doing so, **the MIP prepares the ground for ambitious, demand-oriented reforms to maximize their potential to the markets.**

It is in fact critical that reforms aimed at **strengthening market participation** remain the priority, as changes to infrastructure-related rules alone will not automatically lead to a more effective transformation of savings into long-term investments. It is essential that Member States retain a strong “*capital markets mindset*” to adopt, among others, game-changing reforms aimed at: (i) promoting equity and investment culture, (ii) reforming national pension systems and (iii) deploying tax incentives towards increased access to capital markets.

The MIP must deliver on its key objectives: achieving simplification, promoting real competition and ensuring competitiveness, reinforcing the success case for Europe. Against this background, the EBF highlights the following initial considerations:

- **Competitiveness:** improvements to existing regulatory or supervisory tools must be complemented by broader strategic measures capable of fulfilling the competitiveness objectives of the SIU. Changes in supervisory arrangements, for instance, are unlikely to drastically affect the competitiveness and development of European capital markets or to increase participation by investors. In this context, **the EBF considers it critical that the mandate of the European Securities and Markets Authority (ESMA) could be further developed by introducing a secondary objective related to the competitiveness of European capital markets.** Such mandate should come with key metrics for monitoring purposes, and a clear accountability process vis-à-vis the co-legislators. Furthermore, the reform of ESMA’s mandate should serve as a forerunner for a similar revision of the EBA’s mandate, while fully acknowledging the existing differences between the two Authorities, in particular the fact that the EBA does not exercise direct supervisory responsibilities.
- **Simplification:** success will depend on the capacity of the reform to achieve simplification in practice, avoiding the introduction of additional complexity during the legislative process. For instance, the new supervisory framework should aim to reduce, rather than increase, duplications and overlaps in supervisory activities and should not result in any increase in overall costs for supervised entities, including through the creation of additional supervisory layers on top of national frameworks. Any changes should deliver clear efficiency gains and cost neutrality, or preferably cost reductions, for market participants.
- **Competition:** EBF welcomes the attention paid by the MIP towards promoting full competition in the infrastructural space but urges co-legislators to be more ambitious. The reform should fully embed a clear difference between financial market infrastructures (FMIs)¹ and financial market participants. While exhibiting characteristics of natural monopolies and having access to monopoly rents, FMI providers operate for-profit models and offer commercial value-added services entering in competition with other financial market participants. In this context, **a clearer distinction between the core functions performed by capital market infrastructures and their commercial activities would be important**, including a prohibition on charging monopoly fees and engaging in cross-subsidisation. This will allow for effective competition and facilitate a level-playing-field (same activity, same risks, same rules). Addressing the structural sources of asymmetry and the barriers that may hinder market-driven competition will therefore remain essential to support the development of well-integrated and efficient capital markets.

¹ Financial Markets Infrastructures (FMIs) include trading venues (TVs), CCPs and CSDs

Summary of preliminary feedback

1/ Supervision

The EBF welcomes the review of the Regulation establishing ESMA as an **opportunity** to further strengthen supervisory convergence across the Union. In this context, any potential debate about increasing the centralization of supervision or expanding the power of ESMA should not hinder the proposed short-term reforms of existing regulation. If so, any action in this regard should be a second step.

Competitiveness secondary objective: the proposed extension of ESMA's scope to cover market integration in the Union and innovation in the financial sector is welcomed as a positive and forward-looking step. However, a **key shortcoming of the proposal is the absence of competitiveness as a secondary objective for ESMA**. The EBF calls for introducing this objective, for its regulatory workstreams, excluding supervisory activities, broadly inspired by the model applied to the UK Financial Conduct Authority (FCA), to better align ESMA's regulatory approach with the broader objective of strengthening the international competitiveness and attractiveness of EU capital markets, while complementing ESMA's primary objectives of financial stability, market integrity and investor protection. Such objective should come with key metrics for monitoring purposes, and a clear accountability process vis-à-vis the co-legislators.

Supervisory Convergence: EBF broadly supports the proposed strengthening of ESMA's supervisory convergence tools which contribute to ensuring that financial market participants across the Union are subject to high-quality and consistent supervision. In particular, the EBF welcomes and suggests **extending the use of no-action letters to address situations where level playing field concerns arise**. In this context, we would recommend enhancing the non-action letter effect on the legal framework to be more effective and predictable through empowering the European Commission to temporarily suspend the application of specific EU requirement, including regulatory technical standards (RTS) and implementing technical standards (ITS) where relevant. This approach would significantly strengthen the effectiveness of non-action tools in addressing urgent regulatory issues, while ensuring greater legal certainty and predictability for market participants.

EU-level Supervision: EBF acknowledges the proposal to transfer to ESMA the competence for the direct supervision of "significant" market infrastructure entities and crypto-asset service providers (CASPs). EBF recognises the rationale of this proposal, but maintains that the cost-benefit balance of such a transfer should be carefully assessed:

- The **local expertise** of national competent authorities should continue to be appropriately leveraged.
- A clear and operational **delineation of responsibilities** between ESMA and national competent authorities should be established. This may be particularly relevant where a more centralised supervisory framework could better address cross-border risks linked to the activities of pan-European infrastructures.
- Further clarification will also be needed regarding the identification of appropriate avenues of **legal recourse** for entities subject to direct European supervision.
- EBF considers it essential that any changes to the supervisory framework do not lead to an increase in supervisory costs or contributions from market participants.
- A **phased-in approach** is considered preferable, to allow ESMA's operational capacity to fully grow to the necessary scale, ensuring that efficiency gains stemming from centralisation are realised.

Any transfer of supervisory responsibilities to the European level should be based on a clear cost-benefit analysis, and result in a rationalisation of supervisory processes while avoiding an overall increase in the regulatory burden borne by market participants.

EBF emphasizes that supervisory convergence tools should allow for "de facto" direct supervision through procedural mechanisms below the threshold of an explicit competence shift. The EBF considers that the possible impacts of proposed mechanisms to resolve NCA divergences and supervisory shortcomings via direct intervention on supervised entities (i.e., suspension powers for the cross-border services) must be carefully considered.

The EBF also hopes that a successful outcome of the negotiations on this file may pave the way for addressing the remaining friction within the regulatory and supervisory framework of the **Banking Union**.

2/ Trading

The EBF has long advocated for **open, active and competitive secondary equity markets**. A vibrant trading ecosystem is essential to support investor choice and even to provide an attractive environment for exits and IPOs, thereby strengthening market-based financing opportunities for innovative European companies. In this context, well-functioning secondary markets benefit from a **diversity of trading mechanisms capable** of catering to different client needs, order sizes and investment strategies, ultimately offering a broader range of options and benefits to end investors.

An opportunity to promote competition: the regulatory framework should promote robust competition among trading schemes, including traditional and alternative trading venues, avoiding that structural advantages are artificially distributed to the detriment of fair competition. The current situation, marked by lack of competition and sticky commercial relationships, results in higher prices for market participants and inflated costs for investors. In this respect, it is essential to address persistent competition concerns around **market data aggregators and connectivity providers, despite the revised regulatory framework²**, ensuring effective enforcement of the **reasonable commercial basis (RCB)** principle and preventing practices such as oligopoly pricing, cross-subsidisation or restrictive contractual terms are important elements in fostering a level playing field. We note that in the EC commissioned MIP consultancy report, the following statement can be found: *“regulatory compliance and the cost of market data emerge as the most frequently cited barriers to firms achieving their business objectives in relation to the SIU”³*.

Prioritising a successful consolidated tape: The EBF believes that the **successful delivery of a high-quality Consolidated Tape** for equities is a cornerstone reform for deepening European capital markets and reinforcing the EU’s global competitiveness and should therefore be prioritised.

- The Tape should provide a meaningful and reliable view of EU liquidity, including sufficient depth; **EBF therefore supports the proposed requirement for continuous order books to display the five best bid and offer price levels with venue attribution.**
- Due to latency considerations, the tape may not be as effective for trading purposes as it will be for transparency and reconciliation activities. Therefore, it is important to ensure that the consumption of the CT remains a commercial decision and does not become mandatory, nor should its content be directly or indirectly linked to best execution obligations.
- The EBF has **strong reservations on the introduction of Volume-Weights Closing Prices**. While improving transparency, VWCPs would not provide a tradable or reliable alternative to the official closing price and risk undermining price formation and market predictability. The priority should be to strengthen participation in existing closing auctions.

Systematic Internalizers: While recognising the objective of wanting to represent all addressable liquidity and the role of Systematic Internalizers (SIs), their **bilateral and client-specific** nature raises questions regarding the **usefulness and comparability** of the inclusion of the five best bid and offer price quotes contributed by all participating SIs within the Consolidated Tape, as well as the operational feasibility and costs of their inclusion. This element should be further discussed. Equally, Members question the feasibility of the requirement for SIs to update their public quotes immediately when executing a retail client order at a price better than the quoted price.

Open Access: the EBF supports strengthening **open access** across trading, clearing and settlement infrastructures, including non-discriminatory access between trading venues and CCPs and the possibility to designate any EU CSD for settlement if measures remain proportionate and avoid introducing operational risks or inefficiencies.

Reporting: the EBF supports the preservation of existing exemptions from duplicative reporting of transactions reported under equivalent third-country regimes, based on the **2020 ESMA opinion⁴**, to all relevant MiFIR instruments, including bonds, to avoid unnecessary costs and safeguard the competitiveness of EU market participants.

3/ Post-Trading

CSD Fee disclosure: The EBF supports the objective of a more integrated, efficient and competitive EU post-trading framework, as a key condition for deeper capital markets and more effective cross-border investment within the Union. In this context, **the proposed review of the CSDR provides an important**

² MiFIR2, art. 13 and RTS on RCB (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202501156) which will be applicable 23 August 2023 but will not solve the problems

³ Market integration package - Finance - European Commission including the Study on consolidation and reducing fragmentation in trading and post-trading infrastructures in Europe - Publications Office of the EU page 156. The study refers to the upcoming RTS on RCB and does not reflect further on the problems.

⁴ https://www.esma.europa.eu/sites/default/files/library/esma70-154-165_smsc_opinion_transparency_third_countries.pdf

opportunity to promote competition in the post-trade space, notably through enhanced transparency and comparability of CSD fees, including the development of **standardised fee disclosure**.

Connectivity: at the same time, EBF shares the objective of **addressing the structural drivers of fragmentation in the EU post-trading landscape**. Improving connectivity between CSDs and making more effective use of common infrastructures such as T2S can support more efficient cross-border settlement and help reduce fragmentation across markets. The EBF emphasizes, however, that connectivity requirements should not translate into additional costs or operational, technical and liquidity challenges for participants. It is therefore important that connectivity requirements remain proportionate and take into account the diversity of CSDs' business models and activity levels.

Internalised Settlement: The EBF further underlines that internalised settlement reflects the functioning of custody chains and should not be treated as equivalent to CSD settlement. Any policy response should be based on robust and well-contextualised data and should avoid introducing disproportionate reporting or transparency requirements. Requirements on pricing disclosure should not impose infrastructure-style obligations on custodians nor lead to the public disclosure of commercially sensitive information. Pricing transparency is already ensured within client relationships. Therefore, EBF calls on co-legislators to dispense with Recital 49 as well as the settlement internalization changes to CSDR Articles 9 and 34.

4/ DLT

The EBF welcomes the Commission's proposal to improve the DLT Pilot Regime, but considers the following points:

Scalability: further improvements are needed to ensure that the regime becomes a genuinely competitive and scalable framework capable of supporting the development of DLT-based capital market infrastructures in the EU. In particular, the EBF emphasises the need to increase the activity thresholds (the current proposed threshold set at 100b€ are seen as insufficient). EBF suggests that no limit should be set or should be set at Level 2 with a clear mandate for ESMA to reassess its level on a regular basis.

Keeping things simple: EBF recommends avoiding duplicative authorisation processes for already regulated entities and providing greater legal and operational clarity around the new post-trade architecture and settlement models.

Members also highlighted that the regime should be sufficiently workable for credit institutions. Further clarification is needed regarding the interaction between DLT infrastructures and existing banking activities, including credit provision and the organisational constraints affecting trading activities.

MiCAR: Regarding the proposed amendments to MiCAR, the EBF recognises the objective of strengthening the supervisory framework for CASPs. It will be important to ensure a clear allocation of responsibilities between ESMA and national competent authorities and to maintain a level playing field between credit institutions providing crypto-asset services and other CASPs. Certain provisions would also benefit from clarification to ensure that reporting and record-keeping obligations remain consistent with the scope of ESMA's supervisory mandate under the Regulation.

5/ Asset Management

At a general level, **EBF is of the view that proposals pertaining to the UCITS and AIFM directives take positive steps towards ensuring greater simplification of supervisory approaches**. EBF is of the view that measures aimed at simplifying and harmonizing authorization procedures for UCITS and AIFs, as well as those which make the management passport for management companies and AIFMs, are poised to strengthen the EU asset management industry.

Against this background, EBF is of the view that certain elements of the proposal would benefit from further clarification to ensure that they effectively support market integration while preserving investor protection and operational efficiency.

Depositary passport: EBF recognises the potential long-term benefits of a European depositary passport in supporting cross-border activity. However, such a reform appears premature due to lacking underlying harmonisation of national legal and supervisory frameworks. This is reflected on considerations about the timing of the proposal. Priority should be given to assessing the targeted derogation introduced under the recent AIFMD II review (scheduled in April 2029), while considering broader structural changes. Any future introduction of a passport should be conditional on sufficient harmonisation of national legal and supervisory frameworks,. It should also avoid concentration risks.

Pre-marketing framework: further clarification of the framework governing **the pre-marketing of alternative investment funds** would help ensure more consistent application across Member States, notably by specifying when the relevant 18-month period begins.

Supervision of large asset management groups: the EBF notes the objective of strengthening supervisory oversight of complex cross-border structures. However, EBF considers it important to specify that ESMA's review should focus exclusively on the activities and organisational arrangements of management companies and AIFMs, rather than extending to other regulated entities already subject to their own supervisory regimes. The framework should rely on existing reporting channels and remain proportionate in terms of frequency and operational burden, avoiding duplication with national supervision and unnecessary costs for market participants.

Scope of AIFMD – structured notes: the EBF calls for greater legal clarity regarding the scope of AIFMD, through the introduction of a clear safe harbour excluding structured notes and related issuing vehicles from the definition of AIFs. This would help address divergent interpretations across Member States and reduce legal uncertainty for issuers.