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EACB position on the Market Integration and Supervision Package (MISP)

20 June 2026

The **European Association of Co-operative Banks** (EACB) is the voice of the cooperative banks in Europe. It represents, promotes and defends the common interests of its 27 member institutions and of cooperative banks in general. Cooperative banks form decentralised networks which are subject to banking as well as cooperative legislation. Democracy, transparency and proximity are the three key characteristics of the cooperative banks' business model. With 2,500 locally operating banks and 40,000 outlets cooperative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 228 million customers, mainly consumers, retailers and communities. The cooperative banks in Europe represent 91 million members and 737,000 employees and have a total average market share of about 20%.

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Introduction

The EACB welcomes the opportunity to provide its feedback on the Commission's proposal on the Market Integration and Supervision Package (MISP) published on 4 December 2025. As a central component of the Savings and Investments Union (SIU) strategy, it aims to create a more integrated and competitive financial system providing EU citizens more integrated capital markets for growing their wealth and supporting them in accessing funding.

ESMA mandate and governance

The EACB supports the overarching objectives of the package and is open to a further development of the European supervisory architecture. We recognise that stronger supervisory convergence and more efficient allocation of responsibilities in the area of market infrastructures can contribute to the strengthening of EU capital markets. In this context, it is essential to maintain an appropriate balance between European and national supervision, clearly allocate responsibilities and avoid a more costly supervision.

Overall, any extension of ESMA's authority must be clearly defined and provide legal certainty. Its powers should be explicitly stated in the ESMA Regulation and in the relevant Level 1 legislation. When supervisory matters concern only national markets, regional practices and national specificities must be properly taken into account, drawing on the expertise of national authorities. These national issues should not fall under any broadened scope of European supervision, as National Competent Authorities (NCAs) already have the experience and proximity to the market practice and the daily functioning of their national capital markets. Close cooperation with NCAs therefore remains essential. Moreover, cooperative models, such as Joint Supervisory Teams can help ensure that NCAs continue to play a key role in decision-making.

We consider that the proposed direct supervisory powers assigned to ESMA go beyond targeted updates and introduce governance-related changes that go far beyond the regulation of cross-border market infrastructures, affecting both the scope and structure of supervisory powers, as well as the institutional governance of the authority itself.
The proposed investigative and intervention powers risk creating a disconnect between ESMA's decision-making authority and the accountability of national supervisors. ESMA would determine whether measures are initiated and define their scope and intensity, while national authorities would remain responsible for implementation, market-level engagement, and political accountability. This imbalance undermines supervisory legitimacy and increases the risk of conflicting objectives. Several of the proposed tools, particularly **Article 17aa** and **17aaa** of the draft ESMA Regulation, would grant ESMA substantial influence over national supervisory decisions. This raises the risk of the facto direct supervision and a gradual transfer of decision-making authority. Efforts to achieve supervisory convergence must not lead to opaque or informal shifts in competences.

Such a transfer of powers should be avoided, as it would inappropriately expand ESMA's supervision of market participants who are not within its direct remit and would introduce legal uncertainty.

We are also highly critical of the proposed Executive Board model. The introduction of full-time members independent of NCAs, combined with only a limited objection right of the Board of Supervisors, risks weakening the influence of NCAs and upsetting the balance between decision-making authority and responsibility. Decision powers would increasingly be exercised at EU level, while operational responsibility and accountability remain national.

Furthermore, it is essential that any expansion of ESMA's powers does not result in additional costs, new reporting requirements or disproportionate compliance burdens for market participants unless a clear and demonstrable added value for market integrity or investor protection can be shown. Transfer of powers from NCA's to ESMA shall logically lead to more costs for ESMA in order to execute its new powers. This transfer should lead also to a proportional decrease of costs at NCA level. However, there is a risk that the proposed organization of supervision will lead to more need for consultation, coordination and alignment between ESMA and NCA's and therefore to a more costly and less efficient supervision.

Trading, transparency and reporting

We view the proposed tightening of transparency and clearing obligations critically. Such measures are likely to entail significant additional costs for IT systems, compliance structures and internal processes, without sufficient evidence that the expected benefits outweigh these burdens.

We notice that articles on trading venues are deleted in MIFID II and transferred to MIFIR. We understand the rationale as regulation instead of a directive ensures a more harmonized implementation without national differences. However, we notice that the specific articles (articles 36 and 37) with regard to open access of investment firms to regulated markets, CCPs and clearing and settlement systems are proposed for deletion. We don't see similar specific articles proposed in MIFIR. As open access is important for the SIU, we think that these articles should remain in MIFID II or alternatively be transferred to MIFIR.

New articles 35 and 36 of MIFIR are proposed to ensure non-discriminatory access of trading venues to CCPs and vice versa CCPs to trading venues. We think this non-discriminatory access is indeed important for the efficient functioning of the financial markets and the SIU. However, this non-discriminatory access for CCPs and trading venues should be applicable for all financial instruments. In the proposed articles there is still an exemption for exchange-traded derivatives. This exemption on open access is not in line with the aim of open and competitive financial markets and therefore to our opinion should be deleted.

Custody and settlement (CSDR / SFR / depositary passport)

Stronger interventions in settlement discipline, expanded ESMA competences and stricter requirements for CSDs increase pressure on institutions and may lead to higher settlement costs. These developments should therefore be assessed carefully from a proportionality perspective.
We are particularly critical of the proposed **EU-wide depositary passport**. Depositaries constitute a core investor protection function and cannot be treated as a "standard" internal market service provider. Key concerns include:

- Risks for investor protection and enforceability of liability,
- Diverging supervisory intensity across Member States (as also highlighted in recent ESMA peer reviews),
- Potential concentration and systemic risks rather than efficiency gains,
- Limited added value, as the main barriers to the Single Market lie elsewhere.

Asset management

We welcome that the Commission has not proposed a full transfer of asset management supervision to EU level, and we support the streamline of cross-border distribution of funds, with a notification to the home supervisor being sufficient.
However, we are concerned about the expanded ESMA competences (e.g. Art. 110b-c UCITS, Art. 47a-b AIFMD, Art. 14c-e CBDFR), in particular the envisaged annual ESMA reviews for large asset management groups (above EUR 300bn AUM and cross-border presence). This would effectively create a dual supervisory structure. Such a system would:

- Generate additional supervisory fees and costs, ultimately borne by investors,
- Increase complexity and legal uncertainty,
- Undermine the role of NCAs as primary supervisors,
- Create delays through mandatory consultations or ex-post corrections of NCA decisions,
- Lead to overlapping supervision without clear added value.

We consider that ESMA already possesses sufficient tools to foster supervisory convergence. The creation of an additional supervisory layer is therefore unnecessary and disproportionate.

DLT Pilot Regime

We generally support the proposed extension of the material, personal and temporal scope of the DLT Pilot Regime, including the removal of product-specific restrictions and the increase of volume limits. However, a key open issue remains the transition from the pilot regime to a permanent framework. Without a clear and durable regulatory pathway after the pilot phase, issuers and investors face significant legal uncertainty once exemptions expire and the full CSDR framework applies. A permanent framework for DLT notary and central administration functions should therefore be clarified.

MiCAR / CASP supervision

The proposal to transfer authorisation and supervision of CASPs to ESMA is politically significant. We explicitly support the exemption for credit institutions and for providers for whom crypto services do not constitute the main activity. In such cases, a transfer of supervisory powers to ESMA would not be justified or practical.

We wonder whether not a minimum threshold should be included. On the basis of the proposal, small domestic CASPS will be in scope of direct European supervision by ESMA. This including appeal with the EU Court of Justice. Supervision by NCA's on smaller domestic CASPs seems to us more suitable. SMA will be confronted with a large group of CASPs under direct supervision which will make organization of this supervision more difficult.
Alignment with MICAR could be the way forward meaning that the threshold for significant CASPs as used in MICAR is also used as the relevant threshold to determine whether a CASP will be under direct supervision of ESMA.

More generally, we are skeptical of a further expansion of ESMA's mandate for broader institutional reasons. NCAs often have better knowledge of national markets and are well placed to supervise crypto-related activities.
We also see coherence issues where reporting obligations are transferred to ESMA while supervisory competences remain with NCAs. Without proper alignment between supervisory

responsibilities and reporting channels, there is a risk of fragmented reporting structures, additional administrative burdens and legal uncertainty.

Settlement Finality Regulation

We welcome the proposal to amend the Settlement Finality Directive (SFD) and the Financial Collateral Directive. The Proposal entails a change of the Settlement Finality Directive (SFD) into a Regulation (SFR). This change of directive into regulation will facilitate the abolishment of different implementations by Member States and therefore national barriers which could hamper the development of an EU Savings and Investments Union.

The SFD has been in existence since 1998 and has undergone multiple amendments over time. Various Member States have exercised the option outlined in recital 7 of the SFD to extend its scope to domestic institutions directly participating in third country systems, as well as to collateral security provided in connection with such participation.
In the SFD it is clear that requirements attached to such extension to third country systems should be focussed on the limited goal to achieve certainty about the finality of transactions entered in the systems in scope of the SFD, and to prevent that local bankruptcy laws of participating institutions could make these transactions void or invalid retroactively. There should be legal certainty around the timing and enforceability of settlement, netting and collateral arrangements thereby safeguarding the smooth functioning of financial markets.
The SFD is dedicated to safeguarding the finality of transactions and ensuring legal certainty around the timing and enforcement of settlement, netting, and collateral arrangements. Importantly, the SFD doesn't regulate the systems in scope itself. The regulation and supervision of such systems, where necessary, is and should be arranged in other regulations like EMIR for CCP's, CSDR for CSD's and Regulation 2025/1355 of the European Central Bank (the SIPS Regulation) for payment systems. This approach in the SFD, with only a limited range of requirements, should be maintained in the SFR.

However, the proposed SFR introduces a substantial array of additional regulatory obligations for designated systems within the European Union and registered systems established in third countries. We refer to article 3 to 11 for designated systems and article 12 to 16 for registered systems. Beyond heightened regulations applicable to designated and registered systems, a further challenge arises for EU participants to third country registered systems: only the system operator, not the EU participant, may apply for registration under the SFR. The comprehensive requirements imposed on system operators for registration have the potential to cause significant delays and may discourage operators from registering altogether, which could seriously affect EU participants relying on these systems.

This extra layer of regulatory complexity is unnecessary, not fit for purpose, and goes far beyond the objective of achieving certainty about the finality of transactions entered in these systems. The proposed extra range and layer of regulation in the SFR is also not in line with the ambition of the European Union to simplify its regulation.
Aligned with the limited goals of the SFR as mentioned above and also more aligned with the SFD, we propose that the regulatory regimes for designated systems in article 3 to 11 and registered systems in article 12 to 16 will be deleted in the proposal of the SFR.

With regard to third country systems, EU participants to these systems should be able to request registration/ notification of the system to ensure finality of their transactions entered in the system before a possible bankruptcy of the EU participant and legal certainty on settlement of such transactions, netting arrangements and posted collateral. As such the limited scope of requirements currently in the SFD is more suitable for this.

In the Netherlands a simple mechanism is used to bring third country systems in scope of the SFD. After Brexit, the Netherlands was one of the Member States which extended the scope of the SFD to participation of domestic institutions in third country systems. The requirements prior to joining such a third country system are straightforward: market participants only need to notify the Dutch Central Bank of their intention to participate and supply the system's contact details, confirming that the system is based in a country where the Central Bank is also a member of the Bank of International Settlements. Adopting a similar approach for third country systems in the SFR (with notification to ESMA or the ECB) would significantly simplify the SFR, create flexibility because EU participant notify third country systems and ease the regulatory burden for both EU participants and these third country system operators. We therefore propose to introduce at EU level a mechanism as used now in the Netherlands enabling EU firms to get third country systems in scope of the SFR.

In article 1 of the SFR there seems to be an unbalance in protection of EU designated systems and third country registered systems. Article 1 (2) appears to limit the protection for third country to transfer orders. Protection of the SFR however should also cover other important elements as netting (including close out netting) and collateral. Also netting and collateral provided in connection with a registered third country system should be protected against the bankruptcy of a participant. We see no reason to differ in the SFR protection against bankruptcy of EU participants of designated EU systems and registered third country systems. To clarify this, we would propose to add netting and collateral in article 1 (2) next to transfer orders.

It is also important to explain how the SFR relates to the Bank Recovery and Resolution Directive (BRRD) taking into consideration that many participants to EU and third country systems are banks. We assume for example that the bail in instrument and the resolution stay powers in the BRRD won't be used to restrict the finality of transactions entered into the system and the legal certainty of settlement of the transactions, netting and collateral posted, and we enquire further clarification on this matter. Further clarification on this matter would be highly valued.

Against this background, the proposed transition from the SFD to a directly applicable Regulation could in many Member States require amendments to existing national legislation implementing the SFD, including national provisions that go beyond the minimum scope of the SFD. This raises practical and legal challenges during the transition period and may temporarily reduce legal certainty, which runs counter to the objective of simplification and harmonisation pursued by the proposal.

Conclusion

The EACB sees substantial elements in the Market Integration and Supervision Package, in particular regarding ESMA governance, supervisory centralisation, depositary passport, asset management reviews and aspects of crypto supervision, where coordinated engagement at EU level would be appropriate.

Contact:

The EACB trusts that its comments will be taken into account.

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