MISP supervisory proposals and regulatory simplification

1. Supervision of significant trading venues and post-trading infrastructures

1.1 The rationale for more integrated supervision

An industry speaker noted that European capital markets have historically been fragmented, with market structures and supervision organised largely along national lines. Trading venues and financial market infrastructures (FMIs) have since integrated through corporate consolidation and shared technology platforms, improving liquidity and market access. Supervision has not kept pace: despite a common EU regulatory framework and convergence efforts led by ESMA, each trading venue remains separately licensed and supervised by a national competent authority (NCA). In addition, divergent national requirements, including on capital and board independence, create complexity and restrain synergies and scale advantages. While large FMI groups invest substantially in innovation, deploying new products and offerings across their markets may be delayed by the pace of approval of certain national supervisors.

A regulator considered the existing arrangements for supervising EU trading venues and infrastructures unsatisfactory. The Draghi and Letta reports and ESMA's May 2024 report on EU capital market integration identified fragmented supervision as a significant obstacle to market integration, increasing operating costs and undermining supervisory efficiency and convergence, and in some cases financial stability.

Another regulator emphasised that supervisory divergence not only increases costs and inefficiencies but also poses risks to consumer protection, particularly when digital investment products are passported across the EU under inconsistent national supervision, creating opportunities for arbitrage and potentially exposing investors to inadequate protection. Nevertheless, reorganising supervision is only one part of developing deeper European capital markets, as supervisors control markets rather than create them.

1.2 Expected benefits of centralised supervision

An industry speaker regarded the proposed Pan-European Market Operator (PEMO) status as a major simplification for groups operating integrated trading venues across several EU Member States.

A regulator supported the MISP proposals for more centralised supervision, particularly the PEMO regime, which could promote supervisory convergence and a level playing field among large cross-border market infrastructures, some of which may be systemically important. Centralised European supervision offers a more effective route to convergence than coordination among 27 NCAs, with a single authority ensuring consistent implementation across Member States more directly and rapidly. The highly detailed and prescriptive nature of Level 1 legislation also partly reflects concerns that NCAs may interpret and apply common requirements differently. By making supervisory convergence inherent in the system, centralised EU-level supervision could reduce the need for detailed legislative prescriptions, thereby supporting regulatory simplification and burden reduction.

Another regulator stated that the larger, the more international and systemically important an infrastructure is, the stronger the case for centralised supervision. CCPs are consequently a relatively straightforward starting point.

An industry speaker agreed that CCPs are a suitable starting point for centralised supervision, because supervisory arrangements should reflect the cross-border nature of the risks involved. Systemically important CCPs cannot be regarded as purely domestic, as their members, collateral, third-party service providers and technical platforms extend across jurisdictions. In a crisis, risks may spread across jurisdictions before NCAs agree on a response, strengthening the case for EU-level supervisory decisions. Centralisation should not, however, be an end in itself, but a means to improve risk management and supervisory efficiency.

Another industry speaker added that supervision should not only reflect the cross-border operations of FMIs but also enable greater market integration and interoperability, particularly in post-trading. Placing CCPs participating in interoperability arrangements under the same supervisor is appropriate as it would offer more consistent oversight of related risks and facilitate those arrangements.

1.3 Conditions and challenges for more integrated supervision

An industry speaker acknowledged the potential benefits of integrated supervision but cautioned against a one-size-fits-all approach. Some pan-EU multilateral trading facilities (MTFs) already operate under a single national supervisor, so transferring their supervision to ESMA would not necessarily bring improvements. The added value of centralised supervision depends on ESMA's future supervisory model and mandate, including its approach to competitiveness, and on how the transition is implemented. Market participants therefore need a clearer understanding of how ESMA would operate, both immediately after the transfer and in subsequent years, and what tangible benefits it would offer operators already subject to a single supervisor. The supervisory framework should also account for

differences between asset classes, as fragmentation is more pronounced in equities than in fixed income. Finally, a carefully planned, phased transition would be important to preserve the expertise accumulated by NCAs.

A regulator acknowledged that practical questions raised by market participants about how European supervision would operate remain to be addressed. Although optional supervision is unusual, the proposed PEMO regime would give ESMA an opportunity to demonstrate its effectiveness.

A second industry speaker identified three requirements for effective EU-level supervision: a clear division of responsibilities, an appropriate scope and a rapid transition. ESMA should have clear responsibility for wholesale licences, while NCAs retain their role and expertise in developing national capital markets, facilitating listings, supporting local brokers and protecting investors. Duplicative arrangements should be avoided, and the transition should take no more than one year, allowing market operators to quickly adapt to the new supervisory framework and build on it to further develop and integrate European markets.

A third industry speaker also identified three related conditions: accountability, expertise and transition speed. Decision-making and accountability must be aligned: if ESMA makes supervisory decisions, it should assume responsibility for them, with clarity about who decides and on what basis. Centralisation should also preserve and bring together the specialised expertise accumulated by NCAs and central banks across national markets, ensuring that it continues to inform supervisory decisions at EU level. Finally, the transition should take about one year to eighteen months, given the economic cost of further delaying changes.

A regulator warned that centralisation could reduce efficiency if it merely adds a European supervisory layer and obliges supervisors to establish new interfaces. For CCPs, the transfer of supervision to the European level should be accompanied by a corresponding Europeanisation of resolution and crisis-management responsibilities, ensuring that responsibility for the costs of potential failures is also addressed at EU level.

1.4 Significance criteria, thresholds and reassessment frequency

An industry speaker supported the Commission's proposed scope for direct ESMA supervision, considering that it appropriately covers key cross-border market infrastructures, including operators organised through different corporate structures. Integrated FMI groups should be able to organise their activities across Member States without facing different supervisory requirements simply because of where those activities are performed. The industry speaker also considered that ESMA should initially supervise at least 25–30 FMIs to develop sustainable supervisory capacity.

An official stated that the scope of centralised supervision must reflect different business models through clearly defined and calibrated significance criteria and thresholds. An activity-based test should replace the group criterion, with a common interpretation of cross-border activity. A venue licensed and supervised in one Member State should not transfer to ESMA merely because it serves clients or counterparties elsewhere. By contrast, multiple licences and oversight by several NCAs make a stronger case for centralisation. Where a group comprises separately licensed entities operating domestically in different Member States, national supervision may nevertheless remain preferable, notably because of national corporate-law differences.

The official added that significance should be assessed by considering EU-wide transaction volumes or market share compared with the entity's importance in its national market. Criteria and thresholds should also identify those for which centralisation would offer genuine benefits, including supervisory efficiency. The frequency of reassessment also needs to be appropriately determined. An initial threshold breach could permit voluntary opt-in, while repeated breaches would trigger automatic transfer. A two-year, preferably three-year, reassessment cycle would be appropriate, as a yearly reassessment could create uncertainty and disruptive changes of supervisor. Operators could still voluntarily opt in between assessments, if they consider that centralised supervision genuinely reduces costs and administrative burdens and improves supervisory interactions.

An official noted that decisions on whether an infrastructure should fall under direct ESMA supervision should be based on its own activities and cross-border operations, assessed individually for each entity.

A regulator proposed transferring supervision of all CCPs, including smaller domestic ones, to EU level, reallocating existing supervisory resources instead of duplicating them. Retaining parallel national supervision or establishing Joint Supervisory Teams would indeed add complexity and cost in an international sector with relatively few significant players and limited linguistic or cultural diversity.

2. Supervisory convergence, regulatory agility and simplification

An official welcomed MISP's proposals for enhancing supervisory convergence, regulatory agility and meaningful simplification as ways to develop more integrated and effective capital markets. These objectives are particularly important for smaller markets, where regulatory and compliance costs are spread over fewer participants and transactions. Divergent interpretations of EU law, inconsistent supervisory practices and duplicative reporting add to these costs and create barriers to cross-border activity, making the proposed reforms valuable for improving smaller markets' accessibility and attractiveness to investors.

The official identified three priority areas for supervisory convergence: authorisation and approval procedures, supervisory data and reporting, and enforcement practices. More aligned supervisory expectations could accelerate approvals and improve legal certainty and

predictability for passporting. Better sharing and reuse of supervisory data could strengthen oversight while reducing duplicative reporting. In addition, more consistent enforcement practices would help prevent regulatory arbitrage. Greater use of directly applicable EU rules could also reduce fragmentation, with Level 1 establishing core rights, obligations and systemic requirements, Level 2 providing technical adjustments, and Level 3 guiding implementation without introducing new obligations. Regulatory agility would enable faster responses to implementation difficulties and technological developments. Finally, meaningful simplification should deliver actual cost reductions rather than merely fewer rules, with particularly significant opportunities in the area of supervisory data.

A regulator stressed that most capital market supervision will remain national, making stronger supervisory convergence indispensable. More detailed regulation has reached its limits as a way of removing differences in supervisory practice. Greater supervisory convergence requires more consistent data standards and supervisory models, better governance and access to specialised technical expertise, which is increasingly difficult to maintain at the required level across 27 national authorities. Above all, ESMA must be able to address unjustified divergence effectively, especially where inconsistent oversight of passported products puts consumers at risk.

Another regulator acknowledged that national supervision will continue in many areas, making supervisory convergence essential, although centralised supervision is more effective for preventing arbitrage and ensuring a level playing field. Recent ESMA coordination work regarding crypto-asset activities demonstrated that convergence can be achieved and regulatory arbitrage limited without direct EU supervision. Achieving this convergence, however, required substantial coordination efforts and was very time consuming hence costly for national authorities, with ESMA's digital finance standing committee meeting weekly over several months to align national supervisory approaches. A less consensus-driven decision-making culture is needed within ESMA to accelerate convergence, as resolving differences in national supervisory practices can currently take months or years. No-action letters could also help ESMA respond more quickly to market developments and emerging regulatory issues.

An industry speaker stressed that convergence efforts should focus on supervisory outcomes rather than supervisory processes. Responding to divergence by adding detail to Level 1 rules is costly and slow, and risks embedding today's market structures in legislation that may constrain future evolution and competitiveness. Greater reliance on centralised European supervision could offer an alternative to increasingly prescriptive legislation, allowing consistent regulatory outcomes to be achieved through supervisory decisions rather than detailed rules specifying how requirements must be implemented. Level 1 legislation should establish the common regulatory framework and objectives, while Level 2 should provide implementation guidance where necessary, leaving the European supervisor greater discretion to determine how those objectives are achieved in practice. This could enable faster decisions and greater regulatory agility without compromising safety. However, this approach requires distinguishing between areas where detailed legislative rules remain necessary and those where greater supervisory discretion would be more effective.

An official agreed that greater convergence in authorisation procedures would help prevent regulatory and supervisory arbitrage. Regarding the distinction between convergence of outcomes and processes, the official considered that common Level 1 criteria and consistent supervisory procedures should generally lead to similar outcomes across Member States.

An industry speaker favoured extending single European supervision to all market infrastructures in the longer term, while emphasising that in the meantime supervisory convergence would remain essential for smaller entities outside ESMA's direct remit, particularly as past crises have sometimes originated in entities considered non-systemic.

3. ESMA governance and sharing of supervisory responsibilities

An official supported clearer responsibilities and stronger ESMA powers for guidance, cooperation and data-sharing, while preserving the role of NCAs for activities that remain nationally supervised.

An industry speaker cautioned that more centralised ESMA supervision would not eliminate the need for national regulatory and supervisory arrangements. National requirements concerning client money, client assets and fit-and-proper assessments would continue to apply. In addition, MiFIR's harmonised regime for third-country firms has not been activated, leaving national market-access regimes relevant. Close cooperation between ESMA and NCAs, drawing on their respective expertise, would therefore remain essential, alongside faster and more efficient decision-making.

An official noted that some activities, including settlement systems covered by the Settlement Finality Regulation, will remain nationally supervised because of their links to domestic corporate law. The coexistence of EU and national supervision makes cooperation essential, with NCAs retaining a strong role in ESMA governance. Within ESMA, a clear division of responsibilities is also needed: its main decision-making body should be responsible for supervisory convergence decisions, while the executive board should oversee day-to-day centralised supervision.

An industry speaker observed that MISP would transform ESMA from primarily coordinating NCAs into directly supervising a substantial share of EU lit trading, clearing and settlement activity. This expanded responsibility should also give ESMA a stronger role in defining EU-wide regulatory-policy objectives, identifying shortcomings in the regulatory framework and initiating regulatory responses through Level 2 or Level 3 measures or recommendations to co-legislators,

adopting a more proactive approach similar to that of US regulators such as the SEC and CFTC. For example, such an approach might have enabled ESMA to identify and address earlier the market-structure issues examined in its recent call for evidence on European equity markets.

A regulator considered that effective convergence requires a more executive-led ESMA, with clearer powers and the ability to decide more rapidly despite differing views among national supervisors. NCAs should continue to play a strong collective role within ESMA, but act under clearer central control to implement decisions consistently and promptly.

Another regulator suggested broadening the discussion on ESMA governance beyond the allocation of powers within its future leadership structure. Adding a small number of independent, non-permanent members to the executive committee, with expertise in financial services and consumer protection could bring different perspectives, constructively challenge proposals and improve regulatory decision-making.

An industry speaker supported the inclusion of independent members to ESMA's governance. Such members can bring an external perspective and constructively challenge existing approaches, particularly when their mandates are time-limited, encouraging them to make a meaningful contribution during their tenure.

4. Competitiveness objectives and mandate

An industry speaker advocated introducing an explicit competitiveness objective into ESMA's mandate, considering it a strategic priority for Europe given its ambitions for greater autonomy and sovereignty. Introducing such an objective would be a concrete measure within the EU's control, without which many of the expected benefits of centralised supervision might not materialise. Other jurisdictions are increasingly taking competitiveness into account in their regulatory frameworks, although their approaches cannot be directly replicated in the EU because of differences in legislative and regulatory processes.

A regulator opposed a dual safety-and-competitiveness mandate for supervisors. Ensuring the safety of the financial system must remain their priority, just as aviation safety regulators should not be responsible for making airlines competitive. Competitiveness may be considered in rulemaking, but adding it to the supervisory mandate could compromise safety.

An industry speaker agreed that competitiveness objectives must not create conflicts of interest for supervisors, but advocated broader performance indicators to monitor how the regulatory framework affects European market competitiveness and the EU industry's market share.

A regulator considered that competitiveness could be a secondary objective guiding regulatory policy over the medium term, provided it does not interfere with day-to-day supervision or enforcement. Competitiveness already features in the strategic plans of some national supervisors without being part of their statutory mandates or compromising enforcement. A statutory secondary competitiveness objective could also be considered for ESMA, although it would not be a silver bullet and should not dominate the debate on supervision.

Wrap up

The Chair emphasised that both the rationale for more centralised supervision and the way it is implemented are important. The criteria and thresholds determining which entities will come under direct EU-level supervision need to be carefully defined. As some entities will remain nationally supervised, ensuring consistent supervisory practices and outcomes across the two levels will remain a key challenge. A holistic approach is also needed to ensure coherence between regulation, implementation, supervision and enforcement, supported by better use of supervisory data. Effective ESMA governance, stronger supervisory convergence tools and the ability to reach common decisions rapidly will be essential to achieving more consistent supervisory outcomes and responding to evolving technological and geopolitical challenges.