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ESTABLISHMENT OF A SAVINGS AND INVESTMENTS UNION

EUROPEAN COMMISSION'S CALL FOR EVIDENCE

AMAFI's answer

Since its inception in 2015, the initiative to establish a Capital Markets Union has been a core priority for AMAFI. The Association welcomes the recent political momentum and calls for decisive and ambitious legislative proposals to bring it to reality.

Our answer outlines the key priorities set out in our 2024 report on CMU (*AMAFI / 23-88*) and highlights in the appendix key legislations (under negotiation at Levels 1 and 2 or upcoming) where simplification is necessary.

I. A CHANGE OF MINDSET IN THE ELABORATION OF EU LEGISLATION

A. PLACING COMPETITIVENESS AT THE CORE OF THE EU LEGISLATIVE PROCESS

The competitiveness of the EU economy, markets and actors vis-à-vis the rest of the world should be considered from the outset of every new EU legislative initiative.

In 2023, the European Commission introduced Tool 21 as part of the Better Regulation toolbox, which requires a specific competitiveness test to be conducted in the impact assessment of any new legislation. It is essential that this new tool is used systematically for each new legislation.

B. A BOTTOM-UP APPROACH AS A NECESSARY COMPLEMENT TO THE EU'S TOP-DOWN APPROACH

We advocate for the parallel development of both cross-border and national capital markets, ensuring they complement one another.

National financial markets remain the only ones capable of making the needs of small and mid-size companies meet investor's demand, in a context where these companies are key to the Union's growth and employment.

Concurrently, “coalitions of the willing” should be encouraged to expedite the implementation of pivotal reforms where unanimity has not been attained yet.

II. Key legislative reforms

A. Reinvigorating the EU securitisation market

The strong political consensus on the key role that securitisation should play in financing the EU economy is a good signal. It is indeed an essential tool to reduce dependency on banks’ balance sheets to finance the Union’s economy while offering investors a broader range of investment opportunities.

We call on the European Commission to undertake comprehensive reviews of the Securitisation Regulation, CRR, and Solvency to adjust the prudential treatment of securitisation for banks and insurers.

B. Reforming ESMA’s mandate and governance

Competitiveness must be incorporated as an objective of ESMA’s regulatory mandate, as is the case for the US CFTC and SEC and the UK FCA. EU financial markets must be more competitive internationally to provide investment solutions for EU savings and offer deep financing pools to companies. Such competitiveness also stems from regulation.

The current design of the Board of Supervisors (BoS), ESMA’s main decision-making body, appears inadequate to foster supervisory convergence. Supervisory decisions may depend on a majority of national competent authorities (NCAs) from countries where the supervised entity has little or no activity, an evident misalignment of incentives that is bound to hamper supervisory effectiveness.

We call for:

- **Changing the decision-making process of the BoS**, with new voting arrangements to better reflect the varied weight of financial markets and the areas of expertise of each NCA.
- **Replacing the existing Management Board by an Executive Board**, similar to the one of the Anti-Money Laundering Authority.

Additionally, we propose broadening the scope of ESMA’s no-action letter to bring more flexibility to the EU legislative process. This would help address the competitiveness gap between EU market participants and their third-country competitors, notably on case of rapid regulatory change.

In the medium to long term, with reformed governance, the single supervision of pan-European actors should ultimately be the objective. From a competitiveness perspective, it is imperative to eliminate uncoordinated national exemptions and prevent domestic gold-plating of EU law to enable the homogeneous implementation of the single rulebook.

C. Transforming EU savings into capital

EU savings must be more effectively transformed into EU capital within a timeframe for Europe to meet its economic challenges.

A Retail Investment Strategy based only on spontaneous investments by individuals, while useful in familiarising them with financial markets, is unlikely to unlock the massive financing needed rapidly.

Given the urgency of the situation and the need to avoid lengthy legislative procedures, we support an inter-governmental approach to developing a label for EU savings products, featuring tax-incentives. Those should apply to a wide range of investment products spanning all asset-classes and wrapper types, to address retail investors' diverse objectives in terms of returns, risk, financial innovation and diversification.

APPENDIX – SIMPLIFICATION PROPOSALS FOR MORE COMPETITIVE EU ACTORS AND MORE ATTRACTIVE CAPITAL MARKETS

We support the "Less is more" report and emphasise in the table below key files (currently under negotiation at Level 1 and Level 2 or upcoming) for which we recommend simplification.

EU legislation	Burden description	Proposed approach
RETAIL INVESTMENT STRATEGY		
MiFID II	**Verification of appropriateness.** The text proposes to add two criteria to the current appropriateness test: the capacity to bear losses and risk tolerance. This creates a high risk of imposing unwanted delays on clients and limiting their freedom of choice. Clients who want to be accompanied more closely by their financial advisor can opt for the service of investment advice and benefit from the suitability test. **Client information.** The text proposes that when an investment service is provided in conjunction with a service of safekeeping and administration of financial instruments, clients must be informed of the detailed performance of each financial instrument in their portfolio. Implementing the tools needed to provide this information will necessarily be costly and will have an upward impact on clients' fees.	⇨ **Remove these two criteria from the proposal.** ⇨ **Mandate the provision of this information only at the client's request.**

EU legislation	Burden description	Proposed approach
PRIIPs	**Scope of application.** Vanilla bonds are currently in scope of PRIIPS, even though they are financial instruments designed to raise financing and not to meet savings needs. As they are not packaged, they should not fall within the scope of PRIIPS. This hampers their marketing to retail clients, as vanilla bond issuers usually reserve their issues for professional clients to avoid drawing up a PRIIPs KID. This goes against the objective of the CMU of increasing household access to financial markets.	⇨ **Exclude vanilla bonds from the scope of PRIIPS, as they are not packaged products.**
	ESG section. The provisions in this section apply only to financial instruments within the scope of SFDR, whereas all financial instruments are subject to MiFIDII ESG requirements and many can exhibit ESG characteristics.	⇨ **Extend the scope of the ESG section to all PRIIPS, so that all can be marketed based on their sustainability characteristics.**

EU legislation	Burden description	Proposed approach
TRANSACTION REPORTING		
MiFIR review *(Level 2 - RTSs 22 & 24)*	**Alignment of reporting requirements and new trade reporting obligations.** While aligning MiFIR with EMIR and SFTR reporting could improve supervisory oversight, several new trade reporting requirements lack added value for market abuse supervision. Considering these transactions reporting have different supervisory purposes, duplicating similar information would create additional burden for financial market participants, without significantly enhancing oversight. For example, the alignment between EMIR and MiFIR has introduced several new fields, including 19 just related to leg 1 and leg 2 information. However, these details are already reported under EMIR, making their inclusion in MiFIR reporting redundant, without a clear explanation of their relevance to monitoring market abuse. **Regulatory uncertainty.** Frequent amendments to transaction reporting requirements, often without clear impact assessments, create regulatory instability, making it difficult for financial market participants to establish a solid reporting framework.	⇨ Limit new fields to information strictly necessary for market abuse supervision and reduce redundancy by eliminating duplications with EMIR reporting. ⇨ **Before introducing structural changes to transaction reporting, ESMA should conduct a detailed cost-benefit analysis, supported by concrete use cases, to assess the impact on market participants' competitiveness compared to international peers. ESMA should be mandated to take an approach clearly distinguishing between "must-haves" that need urgent implementation and "nice-to-haves"—such as reporting format modifications—that can be postponed to ease compliance burdens.**

EU legislation	Burden description	Proposed approach
EMIR 3.0 *(Level 2, RTS on the condition of the Active Account Requirement)*	**Overlap and duplication of existing reporting requirements.** Reporting requirements of Art. 7 to 10 of the proposed RTS would introduce a new reporting regime, in addition to the Art. 9 existing transactional reporting regime extended under EMIR refit, which would result in additional and excessive burden on scoped-in counterparties. This appears all the most unnecessary as ESMA and NCAs already have access to these data.	⇨ **Simplify the RTS' approach by:** - **Incorporating all reporting fields on an aggregated basis to enable scoped-in counterparties to comply with their notification and reporting obligations in a single and unified template every six months. It would integrate all the information related to the AAR, limiting duplication and making the best use of data available to ESMA and NCAs through Art. 9.** - **Requiring firms to certify if they exceed the AA thresholds. Firms would provide further information upon request. Firms should not be required to report information on variation margins and initial margins from counterparties in aggregated value. Firms should not be required to report unique transaction identifiers.** - **ESMA and NCAs to monitor the compliance of counterparties with the AAR using transaction data already reported by counterparties as per Art. 9.**

EU legislation	Burden description	Proposed approach
SUSTAINABLE FINANCE		
Taxonomy	**The KPIs on the trading portfolio and fees & commissions,** whose publication is due in 2026, provided poor added value compared to the costs incurred to build the capacity to calculate them: - These KPIs apply activities on which credit institutions have limited influence, hence do not illustrate effectively their strategy to accompany the transition. - They also have poor informative value on the status of the transition in the current context.	⇨ **Eliminate the fees and commissions KPIs, , given their low relevance to capital flows and their significant compliance costs.. Postpone the Trading Book KPI by at least two years and limit its scope to credit institutions that engage in proprietary trading (i.e., dealing on their own account, not merely mirroring client transactions). Additionally, introduce a materiality threshold for this KPI, consistent with the approach used with other Taxonomy KPIs.**
SFDR review	**Complexity of disclosure requirements** – SFDR sustainability disclosures are **overly complex**, making them **difficult for retail investors to** understand, compare and use effectively. **Misinterpretation of SFDR Articles 8 & 9** – Originally designed as **disclosure categories**, these articles have been **misused as product labels**, creating confusion. **The current definition of 'sustainable investment' has a detrimental impact** with regards to consistency, credibility,	⇨ **Create well-defined investment categories based on minimum standards to improve clarity and accessibility to retail investors. These categories should be designed for application beyond SFDR's scope in MiFID II/IDD to capture investors' sustainable preferences.** ⇨ **The definition of "sustainable investment" should rely on more quantitative criteria, such as clear thresholds for environmental and social contributions (e.g., percentage of revenue aligned with the EU Taxonomy) and more structured criteria for Do No Significant Harm and good governance assessments.**

EU legislation	Burden description	Proposed approach
	and comparability across financial products marketed as sustainable. **The current treatment of derivatives in sustainable finance ratios prevents accurate evaluation** of an investor's exposure to the assets linked to a financial product. **The scope of SFDR is too limited, leaving out products other than funds that are designed to be sustainable**, such as structured products.	⇨ **Clarify the treatment of derivatives with equities and bonds underlying. Both long and short positions obtained through derivatives should be quantified using the delta method to accurately reflect an investor's exposure and commitment or disengagement to the underlying companies.** ⇨ **Adapt ESG disclosure standards and quantitative metrics for structured products to their specific characteristics.**
MiFID II ESG review	**Certain MiFID II ESG requirements are overly complex,** such as the complexity of sustainability preference assessments related to three KPIs (Taxonomy, SFDR and PAI) and the rigid reliance on fixed quantitative thresholds. In addition, the current framework creates challenges for non-SFDR products and financial instruments, which struggle to comply with the obligation to commit to a minimum threshold over time.	⇨ **Considering the upcoming SFDR review, expected in Q4 2025, update the MiFID II ESG framework accordingly to ensure alignment with the new SFDR framework, given the strong link between the two regulations. This review presents an opportunity to simplify certain MiFID II ESG requirements.** ⇨ **Replace the criteria used under MiFID II ESG to collect clients' sustainable preferences—namely, Taxonomy, Sustainable Investment, and PAI— by the new SFDR categories (e.g., Sustainable, Transition, ESG Collection). This change would help harmonize sustainable frameworks, simplify sustainable assessment process and improve client understanding.**

EU legislation	Burden description	Proposed approach
	The language used to express sustainability preferences is overly technical for clients. The current framework requires clients to make technical choices that they may not fully understand, leading to confusion and potential misalignment with their actual sustainability objectives.	⇨ **Allow clients the possibility to select ESG generic preferences without having to choose a specific category. Introducing a more flexible approach would ensure that clients can express a general preference for ESG investments without the need for in-depth knowledge of regulatory classifications, making the advisory process smoother and more accessible.**
IFR/IFD review	**Consolidation of rules within IFR groups.** IFR applies prudential rules to each individual investment firm (with the exception of class 3). Prior to the application of IFR, many investment firms (such as class 2) were subject to CRR and therefore exempted from certain individual requirements, provided that their group was subject to CRR/CRD at a consolidated level. The absence of such "individual" exemption for IFR firms consolidated in a CRR group creates duplicative, costly and overburdensome requirements with almost no added value. **Pilar 2 framework.** It leaves much to the interpretation of supervisors. This approach, which originated from the banking sector, is proving more complex and costly than anticipated under IFR/IFD. This lack of harmonization creates uncertainty for institutions, accentuates regulatory disparities between jurisdictions (unlevel playing field), and acts as a brake on competitiveness.	⇨ **Re-introduce an individual exemption for IFR investment firms consolidated within a CRR group to avoid duplicative and overly burdensome prudential requirements.** ⇨ **Clarify the approach for national competent authorities' assessment of Pillar 2. This approach would take into consideration inherent risks to investment firms and not be a transposition of the approach used for banks.**

EU legislation	Burden description	Proposed approach
Listing Act *(Level 2 – RTS on EU code of conduct)*	**Issuer-sponsored research** - The Listing Act requires investment firms that produce or distribute issuer-sponsored research to have in place "*organisational arrangements to ensure that such research is produced in compliance with the EU Code of conduct for issuer-sponsored research*" (*MiFID, Art. 24 3c.*). The EU Code of conduct drafted by ESMA, currently under consultation, requires on this basis that "*investment firms shall request from research providers all information necessary to assess whether research labelled as "issuer-sponsored research" is produced in compliance with the code of conduct*" (*Article 3 of the draft RTS*). This creates an unnecessary burden for investment firms distributing such research to exchange information with research providers when those are investment firms. Such research providers are indeed regulated entities, who are subject to supervision by competent authorities and must have in place internal control arrangements to ensure compliance with legal and regulatory provisions, including the EU Code of conduct when they produce issuer-sponsored research. This requirement to exchange information is not consistent with Level 1 and would necessitate the implementation and maintenance of new	⇨ **Make it mandatory for investment firms producing issuer-sponsored research to include the assessment of its compliance with the EU Code of conduct as part of its compliance arrangements.** ⇨ **Mandate distributors of issuer-sponsored research produced by research providers who are not investment firms to request information to those to assess compliance with the EU Code of conduct.**

EU legislation	Burden description	Proposed approach
	processes to fulfill an objective that is already met through the existing regulatory set-up.	
FASTER *(Level 2 – Implementing Acts)*	**Complex registration processes and unclear definitions will hinder the intended simplification of withholding tax procedures.**	⇨ **Ensure that the implementing acts and guidelines provide clear and precise explanations of key concepts within the Directive to guarantee harmonized and consistent interpretation and application.** ⇨ **Ensure that the implementing acts provide the necessary flexibility with regard to:** ○ **The possibility that the reporting and the refund request of a certified financial intermediaries are carried out by another one;** ○ **and, that the content of the reporting and the refund request is as flexible as possible as regards the mandatory nature of certain data which are not accessible at all levels of the chain of custody.**
FIDA	The FIDA regulation introduces the obligation for customer data holders (financial institutions) to make this data available in real time to data users (other regulated financial institutions or authorised service providers such as Fintechs), when the customer requests it for a specific purpose.	⇨ **Advocate for the withdrawal of the text or at least that the obligation only applies to financial institutions wishing to share their clients' data.**

EU legislation	Burden description	Proposed approach
	This regulation would i) trigger extremely burdensome work for financial intermediaries that is likely to affect their competitivity and ii) affect European sovereignty with the gatekeepers having access to European clients' data.	