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COMPETITIVENESS OF THE EU BANKING SECTOR

EUROPEAN COMMISSION'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

In the wake of the reports by Enrico Letta and by Mario Draghi that pointed to the need to further strengthen the competitiveness of the EU banking sector, and as part of its Savings and Investment Union strategy, the European Commission is preparing a report on this matter, as announced in a previous communication. In this context, it is seeking feedback to inform its analysis.

Given the role that banks play in capital markets, AMAFI, which represents financial market activities in France, provides its contribution to the consultation with some general comments (I.) followed by responses to the questions most relevant for these activities (II.), which encompass the following topics:

- Horizontal issues on competitiveness: Q 11, 12, 18, 22, 23, 25, 31 and 37
- IFR/IFD review: Q 14 and 24
- Transaction reporting: Q 92, 93 and 94

I. GENERAL COMMENTS

The Union finds itself at a decisive moment where it must strengthen its competitiveness and strategic independence to maintain its relevance on the international stage. It is therefore critical that it delivers on the Savings and Investment Union strategy to raise the financing necessary to its ambitions. Deeper capital markets, able to respond to the needs of all types of companies and the EU citizens, rest on trust, built on prudential soundness of firms and protection of investors. But it also stems from a vibrant and diverse ecosystem of participants on both the demand and offer sides, including those

intermediating the flows of capital and providing liquidity. These functions, vital to the economy, require a diversity of banks and investment firms, including EU ones, able to build strong competitive positions in their home markets and to compete effectively in global markets. This situation is evidenced by the fact that US banks, in 2023, captured around 40%[1] of investment banking fees in EMEA, a level comparable with the one of European institutions. The same trend can be observed between 2023 and 2025, with an increase in the share of the top 10 banks' IB fees from 35% to 39%, with only one EU bank in the top 10 with an increase of its market share in the same period from 1.9% to 2%[2]. We consider the six priorities below as critical for achieving this objective:

- **Make competitiveness a core objective of EU financial policies, alongside financial stability and investor protection.** Complementing existing policy objectives with a stronger focus on business development and risk-taking is essential to ensure that European markets are able to meet the Union's financing needs and address its strategic economic challenges. This also requires a greater consideration of the supply side of financial markets, by fostering the development of robust market participants capable of operating effectively within the EU and competing globally.
  This competitiveness objective, stemming from strong political signals at the highest levels of the EU, should be consistently upheld throughout the entire legislative process, from Level 1 negotiations to the adoption and implementation of Level 2 and 3 texts. Considering the multiplicity of actors involved at each legislative stage, responsibility for delivering on this objective cannot rest solely with the EC. Without a consistent and shared focus on competitiveness amongst EU institutions, the regulatory outcome of their actions will continue to exert a detrimental impact on the Union's economic growth.

- **EU legislation should be aimed to protect the EU,** for EU financial institutions operating in third countries to do so at arm's length with their competitors. Far from being a competitive advantage, the obligation to comply with EU rules is a burden for European-based players when operating abroad. Specifically, EU legislation designed to protect investors and ensure market integrity should not have extra-territorial application: when dealing with non-EU clients outside the Union, EU firms should be able to apply local rules and as such compete on an equal footing with their third country competitors. This is also visible in the area of remuneration, where EU constraints (e.g. deferral and pay-out in instruments) may apply to staff operating abroad, limiting firms' ability to match local market practices. The current situation reduces the attractiveness of EU firms' services and undermines their ability to compete internationally and attract local staff.

- **Embed competitiveness as a secondary regulatory objective in ESMA's mandate**, in light of its envisaged expanded role in direct supervision, its central role in the drafting of Level 2 and 3 measures and its technical support to the Commission on legislative proposals. This objective should encompass both the growth and attractiveness of EU markets and their ability to support globally competitive financial activity. In this context, ESMA should ensure that the legislation and regulatory standards it contributes to do not unduly either damage EU markets' attractiveness or

[1] Source: AMAFI / 23-88 p.11.
[2] Source: LSEG data analytics reports 2023 and 2025, Global ranking of investment banks for IB fees.

distort fair competition, including in a global context The MISP provides a timely opportunity to adjust ESMA's mandate accordingly.

- **Reduce the burden of regulation, through simplification aimed at tangible cost reduction**. Without undermining the core objectives of financial stability, consumer protection and market integrity, simplification should go beyond mere legislative adjustments. An example of where such approach would provide benefit, which AMAFI has documented thoroughly (*AMAFI / 25-54*), is transaction reporting, where compliance costs are significantly increased by structural inefficiencies in the current EU framework. More broadly, the current regulatory framework, including in areas such as remuneration, often suffers from excessive complexity and insufficient proportionality. This translates into higher compliance and operational costs, reduced flexibility for firms and less attractive conditions for internationally mobile talent, thereby directly affecting the competitiveness of the EU compared to other major financial centres (i.e. UK).

  Simplification should also stem from a better articulation of the Lamfalussy legislative levels:

  - Level 1 should be principle-based and objective driven.
  - Level 2 should define implementation modalities of such principles, notably the minimum set of parameters to achieve effective implementation.
  - Level 3 should, where necessary, set the level of parameters defined at level 2 (i.e. through, where applicable, a "comply or explain" mechanism).

  This should be accompanied by a requirement that Level 1 measures do not take effect until the necessary Level 2 standards are finalised, with a realistic implementation period applying after adoption, The development of Level 2 measures should allow sufficient time for meaningful industry engagement. Failing this, there is a strong risk that it would lead to difference of interpretation and implementation across Member States, undermining the coherence and attractiveness of the Union's regulatory framework.

- **Aim for the stability of the EU regulatory framework, change it only when warranted**. "Automatic" reviews after only a few years of adoption, as is currently the case, should be avoided. Any review, should it be a full review or even target adaptations, should instead take place after several years of full implementation, except where urgent changes are necessary to address material risks or market disruption, and only when concrete and data-based evidence can be collected. Decisions to revise legislation should be conditional on such evidence. Reviews should also systematically include an evaluation of their impact on the competitiveness of EU market participants.

- **Maintain a proportionate prudential regime for investment firms - only make targeted adjustments to the IFR/IFD regime.** The transposition of CRD/CRR rules into IFR/IFD should be avoided, as it would impose disproportionate constraints not matching the business models and risk profiles of investment firms, as evidenced by the lack of observed failures to date, as per the acknowledgement of ESMA and EBA in their final report[3] on the review of IFR/IFD regime.

[3] ESMA and EBA, Technical Advice of the EBA and ESMA in response to the Commission call for advice on the investment firms prudential framework, 15 October 2025.

Recognising that market participants pose different risks and therefore require different prudential safeguards, is essential to preserve the diversity of the financial ecosystem, a key aspect of vibrant markets, while ensuring that situations where investment firms assume risks comparable to those of credit institutions are addressed through appropriate, risk-equivalent prudential treatment. Maintaining the proportionality of the IFR/IFD regime is essential to preserve the role of non-bank intermediaries in providing liquidity and key services to financial markets.

II. ANSWER TO THE QUESTIONS

1. BANKING COMPETITIVENESS IN THE EU AND GLOBALLY

[…]

1.2. COMPETITIVENESS AND COMPETITION IN THE EU BANKING SECTOR

(11) What are the main regulatory and non-regulatory factors that determine and drive the competitiveness of EU banks? Please specify the factors per market segment: savings, payments, retail banking, corporate banking, investment banking (including underwriting, brokerage, custody, settlement, market making, etc.).

There are several regulatory factors that undermine the competitiveness of EU investment banks:

- The complexity of the EU regulatory framework, according to a New Financial report of October 2025, the EU rulebook is made of 1 600 separate documents, more than 95 000 pages and over 38 million words. It appears necessary to simplify existing EU legislations without undermining the core objectives of financial stability, consumer protection and market integrity. Simplification should entail legal simplification, but it should also go beyond legislative adjustments and result in tangible reduction of the compliance burden and cost base for investment firms.

In order to simplify the EU regulatory framework, it appears necessary to ensure a better articulation between the different levels of legislations as per the Lamfalussy process:

- Level 1 should be principle-based and objective driven

- Level 2 should define the modalities for the implementation of such principles and notably define the minimum set of parameters to achieve effective implementation

- Level 3 should set the level of parameters defined at level 2 and should remain optional (i.e. through, where applicable, a genuine “comply or explain mechanism” where an explanation does not automatically imply non compliance))

Directly related to the complexity is the length of the EU legislative process which represents a major hurdle when it comes to adapt to new market practices or exogenous shocks (e.g. energy crisis in 2022) that require to review the level 1 text. In this context, one of the proposals in the MISP to increase ESMA’s flexibility to issue no action letters is most welcome.

- The extraterritoriality of EU legislation with regards to investor protection and market integrity.

With regards to market integrity, the example of the Derivative Trading Obligation (DTO) is a concrete example where since 1 January 2021, the uncoordinated application of the EU and UK DTOs has led to significant upheavals in the liquidity of instruments subject to the trading obligations, both in the inter-dealer (D2D) and in the dealer-to-client (D2C) markets. This situation has reduced the overall global competitiveness of EU-27 financial institutions, especially EU firms' UK branches trading with non-EU clients. To date, almost two years after the MiFIR review came into force, the suspension of the DTO has not yet been implemented. As a result, EU market participants continue to face a competitive disadvantage vis-à-vis their UK competitors. Nevertheless, the recent publication of a draft implementing act providing for a targeted suspension of the DTO gives grounds for cautious optimism regarding its forthcoming entry into force.

EU legislation should not have extra-territorial application as regards investor protection and market integrity: EU market participants should be able to apply local rules when they operate outside the Union with non-EU clients and as such compete on an equal footing with their third country competitors. The MISP is an opportunity to clarify this principle in MiFID and MiFIR, consistent with the EU Treaties.

- The instability of the EU regulatory framework, it is critical to fully implement EU law before considering a potential review. Any review should be considered carefully and based on thorough impact assessment that would measure the impact of the proposed measures on the competitiveness of EU actors. "Automatic" review after few years of implementation as foreseen in each EU legislation should be avoided as any review should be based on objective data and concrete evidence that usually can only be observed after several years of implementation, except where urgent changes are necessary to address material risks or market disruption. A stable regulatory environment, alongside efforts to boost investors' demand, remains the most effective way to enhance the EU's competitiveness.

Embedding competitiveness as a secondary regulatory objective in ESMA's mandate appears critical given the proposed move towards direct supervision and the central role played by the Authority in providing technical support to the EC's work on legislative proposals as well as in the drafting of level 2 and 3 texts. Such an objective would complement, not dilute, ESMA's primary objectives of financial stability, market integrity and investor protection. The scope of this objective should be strictly confined to ESMA's regulatory functions (rule-making, general guidance, policy setting). It should not apply to the individual decision making, supervision and enforcement responsibilities.

In this context, a competitiveness objective would serve as a discipline on regulatory design, ensuring that rules are coherent, proportionate and operationally workable, and that they support the growth and attractiveness of EU markets as a platform for competitive financial activity, including at global level. EU rules developed under ESMA's responsibility should

therefore avoid unintended fragmentation, unnecessary complexity or distortions of competition, while fully preserving ESMA's independence and supervisory judgment.

The MISP is a good opportunity to review ESMA's mandate in that sense.

(12) How would you assess the current level of competition in the banking sector within the single market?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
EU banks face high levels of competition within their Member State of establishment	X					
EU banks face high levels of competition in the EU market	X					
EU banks face high levels of competition in global markets/ markets outside of the EU	X					
Traditional banks are challenged by new developments in a number of product lines and areas (e.g. digital banks/FinTech in specific areas such as payments, tokenisation of assets, etc)	X					
Other (please indicate)						

Please explain.

Please refer to our answer to the previous questions.

1.3. BANK AND OTHER FINANCIAL INSTITUTIONS AS ENABLERS OF CAPITAL MARKETS

(14) Does the prudential framework adequately account for the activities and the complexity of intermediaries performing financial services other than core banking services? Are there any perceived undue limitations to such activities? Reference is made to financial services performed by investment firms, financial advisors, custodians, wealth managers, market makers or other liquidity providers that are not primarily or not at all engaging in deposit taking and granting loans.

The IFR/IFD framework represents a clear step forward in aligning prudential requirements with the activities of intermediaries that do not engage in core banking services. It has introduced a more proportionate approach, better reflecting the specific role of investment firms, advisors, custodians, and market makers, while ensuring that situations where investment firms assume risks comparable to those of credit institutions are addressed through appropriate, risk-equivalent prudential treatment.

That said, experience since its implementation suggests that few targeted adjustments of the framework could help to better capture the diversity of these business models. Certain requirements, particularly in the area of remuneration, are not suited to the nature of risks borne by investment firms. This is notably the case for the identification of material risk takers based on quantitative thresholds, as well as for the application of deferral and payment in instruments, where current criteria and conditions create complexity and competitivity disadvantage (*see Question 24) for more details on remuneration*).

In addition, the framework may give rise to challenges in its application across jurisdictions and group structures. Issues such as the extraterritorial application of governance and remuneration rules, the absence of exemptions for subsidiaries subject to sector-specific regimes, and the interaction with consolidated supervision in banking groups can, in some cases, lead to administrative burdens. Furthermore, the consolidation rules under IFR/IFD may lead to disproportionate requirements for small Class 3 investment firms, whose activities are limited to low-level intermediation activities, without balance-sheet risk (e.g., investment advice). In such cases, applying full group-level prudential requirements can result in these firms, and their parent entity, being subject to disproportionate and complex constraints that exceed what would be justified on a standalone basis. Consolidation requirements should remain commensurate with the actual risks borne by these entities and only applied where they are justified by the actual risk profile of the group. The current Group Capital Test derogation appears overly complex, ineffective, and lacking substance, since it requires establishing consolidated statements to demonstrate that consolidation is unjustified.

Separately, the hybrid regulatory status of Class 1 investment firms, licensed and regulated as credit institutions under the CRR/CRD framework due to their size, although they do not carry out banking activities, give rise to divergent interpretations. For example, it remains unclear whether the risk exposure of a UCITS, arising from a derivative transaction with a Class 1 investment firm, to this Class 1 investment firm should be assessed by reference to the limit applicable to credit institutions (i.e., 10%) or not (i.e., 5%). This uncertainty persists notwithstanding the fact that Class 1 investment firms are subject to the same prudential requirements as credit institutions. In addition, the

framework may give rise to situations where Class 1 investment firms, due to their regulatory classification, are subject to a hybrid regime requiring compliance with a broad set of credit institution-related constraints, despite not carrying out banking activities of a comparable nature. This also leads to disproportionate compliance burdens, as requirements designed for deposit-taking institutions, including obligations linked to monetary policy tools or banking-specific prudential expectations, are applied to entities whose business model, funding structure and risk profile differ materially.

In addition, certain prudential provisions could benefit from simplification and enhanced proportionality. This notably concerns the treatment of concentration risk and risks related to the safeguarding and administration of client assets, where the absence of recognition of risk mitigation techniques constrains effective risk management. Moreover, the application of Pillar 2 requirements, characterised by a high degree of supervisory discretion, can lead to uncertainty and divergent practices across jurisdictions. Finally, thresholds applicable to smaller and non-interconnected firms should be recalibrated to better reflect their risk profile and avoid disproportionate requirements in particular in areas of remuneration, governance and consolidation.

Finally, particular attention should be paid to the prudential treatment of emerging areas such as crypto-assets. While some degree of convergence with banking may be considered, this should not be automatic. The CRR/CRD framework is already highly prescriptive and burdensome even for banking institutions, and its extension to investment firms would risk introducing disproportionate constraints that are not aligned with their business models and risk profiles.

1.4. CROSS-BORDER ACTIVITIES IN THE EU BANKING SECTOR

(18) What factors prevent EU banks from engaging in more cross-border activity within the EU or make cross-border activity more costly?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Divergent implementation of EU banking rules across Member States		X				
Supervisory divergence/gold-plating by Member States/national supervisors		X				
Requirements for allocation of capital and liquidity at local level						
Non-harmonised macroprudential buffers						
National discretion in intragroup large exposure limits						

Incomplete banking union (lack of a European deposit insurance scheme, liquidity in resolution, etc.)						
Non-prudential barriers (insolvency, investor protection, company law, taxation)	X					
Political barriers (government direct or indirect interference)						
Complexity and length of mergers and acquisition supervisory authorisation procedures						
Costs/risks of mergers and acquisitions						
Absence of economies of scale from engaging in cross-border activities						
Other (please indicate)						

Please explain.

Cross-border financial activities in the EU continue to reflect certain regulatory and supervisory differences across Member States that is slowing down their development. A first source of differences lies in the inconsistent interpretation and application of EU regulations across Member States. Even where legislation is formally harmonised (such as in regulation) and not even subject to national interpretation, national implementation and supervisory approaches may differ, creating legal uncertainty and increasing compliance costs for cross-border groups. In some cases, these divergences may also create incentives for regulatory arbitrage or forum shopping. Recent examples related to the granting of authorisations under MiCA by certain jurisdictions perceived as less demanding illustrate the importance of ensuring a more consistent application of Union rules across the single market.

Another example is the differences in the application of prudential requirements that may also affect the ability of cross-border groups to efficiently allocate resources. For instance, the imposition of balance sheet and liquidity constraints at the level of individual legal entities, rather than at consolidated group level, may limit the capacity of institutions to provide market liquidity across jurisdictions and reduce the efficiency of internal capital and liquidity management.

A related challenge stems from the fact that supervision is still largely exercised at national level. Differences in supervisory expectations, practices and risk tolerance may arise even when the same EU legal provisions apply. For firms operating across several Member States, this reduces predictability, increases costs and delays and may discourage the development of integrated

cross-border business models.

In this context, further progress towards supervisory convergence and a more centralised EU-level supervisory model would support market integration and help ensure a genuine level playing field within the Union. To that regard, we consider the broader and more flexible use of no-action letters could play a role in addressing situations where legal uncertainty or inconsistent application of rules creates competitive distortions (please refer to our answer to the question 11 regarding the suspension of the DTO, where we would have welcome a no action letter rather that a revision of MIFIR, that took 5 years to materialise) . We therefore support the proposed reforms in the MISP going in that direction.

In conclusion, a more consistent application of EU rules, combined with a more unified supervisory framework and effective use of no-action letters, would facilitate cross-border activity and contribute to a more integrated and competitive EU financial market.

(22) According to many analysts, EU banks have lost market share in the provision of investment banking services to EU clients compared to non-EU banks. If you agree with this assessment, what are the reasons for this decline?

Loss of market share by EU financial institutions is linked to the loss of their competitiveness *vis-à-vis* third country competitors, the main reasons being:

* The excessive complexity of the EU regulation (please refer to our answer to question 11)

* A financial regulatory framework that lacks flexibility and responsiveness (please refer to our answer to question 31)

* The extraterritoriality of EU rules (please refer to our answer to question 11)

* A persistent regulatory and supervisory fragmentation (please refer to our answer to question 18)

* The lack of consideration of competitiveness in EU supervision and regulation (please refer to our answer to question 11)

* The instability of the EU regulatory framework (please refer to our answer to question 11)

(23) To what extent do the following difficulties faced by EU banks hinder their ability to compete globally?

	To a very large extent	*To a large extent*	Neutral	*To a small extent*	Not at all	No opinion
Divergent banking prudential rules applying to EU and non-EU banks impact international strategic choices by EU banks	X					
Supply side factors (e.g. cost competitiveness, innovation, depth of home market).	X					
EU supervisory practices affect expansion in other jurisdictions	X					
Other	X					

Please explain.

Please refer to our answers to questions 11 and 22.

(24) To what extent do the rules on internal governance and remuneration policies of financial institutions create a competitive disadvantage for EU financial institutions vis-à-vis non-EU financial institutions?

To a very large extent	*To a large extent*	Neutral	*To a small extent*	*Not at all*	No opinion
X					

Please explain.

The rules on internal governance and remuneration policies applicable under the EU prudential framework, including IFR/IFD, pursue legitimate objectives in terms of risk alignment and financial stability. However, in their current form, they may create a material competitive disadvantage for EU financial institutions compared to their non-EU counterparts.

From the perspective of investment firms, a key concern relates to the prescriptive nature and limited proportionality of certain requirements. In particular, the criteria for the identification of material risk takers (MRTs), including quantitative thresholds, often lead to an overly broad scope of staff being subject to stringent remuneration constraints. This can result in the application of deferral, pay-out in instruments and retention requirements to individuals whose actual risk profile

does not justify such measures. In practice, this includes senior control functions (e.g. compliance, risk, legal) or high-performing commercial staff who exceed for instance the EUR 500,000 threshold, despite having no authority to take or materially influence risk positions. This weakens the risk-alignment objective of the framework and constrains firms' ability to structure remuneration in line with market practices. This directly affects competitiveness: EU firms offer complex, deferred and partly illiquid remuneration packages (e.g. 40–60% deferral, ≥50% in instruments), which are less attractive than the more cash-based and flexible structures available in other jurisdictions. This creates clear disadvantages in attracting and retaining internationally mobile talent and often forces firms to increase fixed pay, reducing cost flexibility and increasing structural costs. By comparison, under UK framework (FCA/PRA Remuneration Codes), while similar principles apply, firms benefit from greater supervisory flexibility in the identification of MRTs, with less reliance on quantitative thresholds and more scope to exclude staff who do not have a material impact on risk. This results in lower compliance costs and more competitive remuneration structures.

The obligation to deliver part of variable remuneration in instruments issued by the entity itself also creates significant operational constraints for those entities which are not listed and for subsidiaries of international groups, which do not issue local equity. Tailored instrument-like remuneration must then be put in place, at the expense of cost management. These costs are not marginal: they require dedicated legal, HR and accounting resources and often external advisory support, creating a structural cost disadvantage compared to firms operating in more flexible regimes.

Another important dimension is the extension of EU governance and remuneration requirements to staff in third-country subsidiaries. This requirement can place EU groups at a disadvantage vis-à-vis local competitors not subject to similar constraints, thereby limiting their ability to compete for talent.

Finally, greater consistency across regulatory frameworks is needed. Subsidiaries that are already subject to equivalent sectoral remuneration requirements should not be subject to duplicative rules at group level, as this leads to unnecessary complexity and undermines the objective of proportionality.

(25) Do EU-headquartered banks and investment firms face regulatory constraints that hinder their competitiveness vis-à-vis non-EU financial firms? If yes, what are the key constraints?

Please explain

EU-headquartered banks and investment firms face a competitive disadvantage vis-à-vis non-EU financial firms.

While EU financial institutions operate within a comprehensive regulatory framework (even if it could be subject to national divergences, as explain in our answers to questions 11 and 18), certain provisions of EU legislation creates competitive distortions.

EU firms sometimes face stricter requirements than third-country institutions operating under their domestic frameworks. These divergences between jurisdictions are affecting financial market functioning and in fine their competitiveness.

For example, differences in the application of trading and post trading transparency regimes for MiFIR instruments between EU and UK (such as the post-trade reporting deferral obligations applicable to bonds) have already moved liquidity outside of the EU to UK and is set to further increase from March 2026, with the revised MIFIR rule for bonds entering into application.

Another example is the temporarily lowering by the FCA of the Large in scale (LIS) threshold used for post trade transparency obligations for EU shares at the beginning of 2021. This created a regulatory divergence between the EU and the UK which, once implemented, led to an immediate and significant shift of liquidity from the EU to the UK, particularly observable on dark pools operating simultaneously in UK and EU such as Turquoise Plato and CBOE. Even if the liquidity came back to initial levels after a couple of months, there is still a risk that, once moved, liquidity allocation may not come back to their initial levels.

Further competitive disadvantages stem from different prudential frameworks. Differences in the calibration of capital requirements for certain activities, such as securitisation, results in higher capital charges for EU institutions compared to their international peers, such as US banks. This can increase the cost of holding trading inventories and, in turn, affect their ability to compete effectively in both secondary markets and primary issuance activities.

Taken together, these examples illustrate how even modest regulatory differences can lead to important shifts in liquidity and reduce the competitiveness of EU market participants in global trading.

Another example is related to investor protector, where ESMA[4] considers that MiFID investor protection requirements apply to services provided by EU firms irrespective of the location of their clients. This includes obligations related to client categorisation, disclosures, suitability, costs and charges, and product governance. In practice, this requires EU firms to apply EU-specific concepts and requirements to non-EU clients and distributors operating under different legal frameworks, creating operational frictions, duplicative compliance burdens and is not appreciated nor understood by clients, as this results in additional burdens or constraints that they do not face when dealing with a non-EU firm.

In this context, EU rules should not apply extraterritorially when EU firms provide services to non-EU clients. EU firms should be able to comply with the regulatory framework applicable in the relevant third-country market. Clarifying this principle would help reduce unnecessary regulatory frictions, support a more level playing field between EU and non-EU institutions and strengthen the international competitiveness and attractiveness of EU financial institutions outside the Union.

[4] ESMA Q&A 35-36-1262, decision 5.9, 1 June 2018.

1.5. DIGITALISATION

(31) How should the bank regulatory framework and supervisory practice adapt to the changes in the banking sector triggered by digitalisation?

A regulatory framework that is sufficiently flexible and responsive is essential to allow EU financial markets to adapt rapidly to evolving market conditions and technological developments. This is particularly important in areas characterised by fast-paced innovation, such as distributed ledger technologies (DLT).

The example of the DLT Pilot Regime, and its review in the MISP, illustrates the importance of ensuring that EU regulation can evolve in a timely manner when market developments require adjustments and are subject to increased competition from non-EU firms. As such, the current design of the DLT Pilot Regime constrains innovation and the development of viable business models. In particular, the thresholds limiting the value of financial instruments that can be traded or recorded on DLT market infrastructures significantly restrict scalability and the economic viability of projects developed under the regime.

In this context, AMAFI welcomes the DLT Pilot Regime revision that is proposed by the European Commission in its Market Integration and Supervision Package. However, its implementation is not likely to occur before 2028 at the earliest due to the EU lengthy legislative process. This delay risks creating a situation where the regulatory framework is already outdated when it comes into effect. Generally, the legislative process in the EU is not suited to rapidly evolving technological environments. This creates a competitive disadvantage for EU actors vis-à-vis their third country competitors and other jurisdictions like the US, where regulatory agility is greater.

Ensuring that EU financial regulation remains adaptable and capable of responding quickly to market developments is therefore essential to support innovation and maintain the global competitiveness of EU financial markets. Simplification of the regulation (please refer to our answer to question 49), in conjunction with mechanisms allowing more rapid adjustments of the regulatory framework, when justified by market evolution, would significantly contribute to this objective.

2. A THE SINGLE MARKET AND THE BANKING UNION

[…]

2.3. NON-PRUDENTIAL BARRIERS TO MARKET INTEGRATION

(37)What are the main non-prudential barriers that impede cross-border activities?

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
Divergent national tax treatment attached to certain banking products (mortgages, savings accounts, deposits) or banking operations (Value Added Tax, corporate and personal income taxation)	X					
More generally, lack of unified banking product offering across EU or sub-regions, forcing product adaptation to each national market						
Labour laws and contract laws hindering the servicing of EU bank clients in a Member State by a branch/entity located in another Member State.						
Preference by local customers of local bank brands						
Divergent insolvency laws and collateral foreclosure rules		X				
Consumer protection laws and client specific documentation		X				
Divergent (non-prudential) reporting requirements						
Language barriers		X				
Other						

Please explain which actions should be taken to overcome these non-prudential barriers and improve the integration of banking markets in the EU.

The withholding tax treatment (WHT) is an important barrier to cross-border activities creating significant uncertainty for investors regarding the actual income they will receive from investments made outside their domestic markets. This uncertainty acts as a disincentive to cross-border investment and has a financial impact that far exceeds that of transaction costs.

As a first step, WHT should at least be made effectively neutral and seamless for all type of investors, meaning they should not be exposed to its complexity and be discouraged from receiving the income they rightfully owed. This requires a fully harmonised, simplified and digital relief-at-source framework for WHT. However, the FASTER directive falls short of delivering this level of simplification by leaving too many implementation options to Member States and prioritising anti-abuse measures.

To truly remove this tax barrier, the most effective solution would be the full abolition of WHT within the EU. In addition to being fully consistent with the logic of the Single Market, it would eliminate the need for refund or relief mechanisms (which are currently lengthy, costly and burdensome), thereby improving the competitiveness of EU capital markets and reducing compliance costs for both investors and administrations.

3. COMPLEXITY AND EFFECTIVENESS OF THE REGULATORY FRAMEWORK

[…]

3.8. REPORTING AND DISCLOSURES

(92) What factors linked to reporting obligations in the regulatory framework contribute most to the compliance costs?

	Low impact	Medium impact	High impact	No opinion
Number of data points			X	
Frequency of changes of the reporting obligations			X	
The difficulty of using regulatory reporting for internal risk management purpose		X		
Ad hoc reporting requests from supervisory authorities			X	

Frequency of submission of reporting obligations		X		
Other				

Please explain.

From AMAFI's perspective, compliance costs linked to reporting obligations are not driven by a single factor but by a combination of structural inefficiencies of the current EU framework. At a high level, four drivers stand out as the most material:

1. Fragmentation and duplication across regulatory regimes

The coexistence of multiple reporting frameworks (MiFIR, EMIR, SFTR) with overlapping scopes is the primary cost driver. The same transaction is often reported several times, through different channels, formats and timelines, generating duplicative processes, inconsistencies and reconciliation burdens.
This fragmentation forces firms to maintain parallel infrastructures and workflows, significantly increasing operational complexity and costs, particularly for firms active across asset classes.

2. Excessive and insufficiently prioritised data requirements

A key source of cost lies in the continuous expansion of reportable data fields without a clear link to supervisory value. The reporting framework has evolved through successive regulatory layers, leading to a proliferation of data points, many of which are duplicative or of limited relevance. For instance, the proposed expansion of MiFIR transaction reporting fields (from 65 to 127) includes a large proportion of data already reported under other regimes, increasing costs without commensurate supervisory benefits.

Reporting obligations have progressively become a repository for potentially useful data rather than a purpose-driven supervisory tool.

3. Dual-sided reporting and reconciliation requirements

Under EMIR and SFTR, dual-sided reporting is a major operational burden. The cost does not stem only from duplication, but from the need to reconcile large volumes of data across counterparties, often on fields that are non-essential or difficult to align because they depend on the counterparties' own situations.

This generates significant operational frictions, including mismatches, investigations, and dependency on counterparties for data exchange (e.g. UTIs), with limited added supervisory value.

4. Heavy reliance on intermediaries and fragmented reporting channels

The current reporting architecture relies extensively on intermediaries such as trade repositories, ARMs or vendors. This dependency is a major cost driver, with reporting through trade repositories alone accounting for up to half of total reporting costs under certain regimes (i.e. EMIR).

Beyond direct fees, this model also introduces additional layers of complexity, reduces flexibility, and creates operational dependencies that create systemic risks.

(93) What other policy measures, legislative or non-legislative, could be considered to further modernise reporting and reduce the reporting burden?

Further policy measures to modernise reporting and reduce the reporting burden should include the removal of certain reporting requirements whose relevance is limited and whose implementation costs are disproportionate.

In particular, the KPIs related to Fees & Commissions and the Trading Book under the Taxonomy Disclosure framework should be reconsidered. These indicators require extensive data collection and complex methodologies, while providing limited insight into the actual contribution of financial institutions to sustainable finance. In the case of Fees & Commissions, the KPIs primarily reflect the Taxonomy alignment of counterparties rather than the institution's own sustainability strategy. Similarly, the Trading Book KPI captures short-term market activities driven by client demand and market conditions, which are not necessarily aligned with long-term sustainability objectives.

These KPIs create a significant operational burden for institutions without delivering commensurate benefits in terms of transparency or decision-useful information for stakeholders. Their continued inclusion may also lead to misinterpretation of institutions' sustainability performance.

In this context, removing these KPIs would represent a concrete and effective simplification measure, allowing institutions to focus their reporting efforts on metrics that genuinely reflect their contribution to sustainable finance.

(94) Do you identify any instances where the reporting requirements for banks also lead to an undue burden for bank's clients? Please explain where this is the case and how this could be improved.

The current SFDR framework provides a clear example where reporting and disclosure requirements imposed on financial market participants, including banks, can also generate an undue burden for clients.

In particular, the pre-contractual and periodic disclosure requirements under SFDR are both extensive and highly granular. While their objective of enhancing transparency is fully supported, in practice these disclosures are often overly long, complex and difficult to navigate. As a result, they can be burdensome not only for institutions to produce and maintain, but also for clients to understand and meaningfully use in their investment decision-making process. This is especially the case for retail clients, for whom the volume and technical nature of the information may reduce, rather than enhance, clarity.

Moreover, difficulties arise from the MiFID II investor sustainability preference questionnaire, which

remains particularly complex. The concepts used to capture clients' preferences for the suitability assessment (such as Principal Adverse Impacts (PAIs), Taxonomy alignment or the share of sustainable investments), while relevant from a regulatory perspective, are too technical for retail investors to properly understand. As a result, rather than facilitating informed decision-making, the framework may inadvertently discourage clients from investing in sustainable products.

More broadly, the unclear treatment of certain financial instruments distributed as sustainable under MiFID, but not in the scope of SFDR, contributes to this confusion. While for some MiFID instruments there may be no reason to be integrated in SFDR (e.g. single stocks), other for products designed to incorporate ESG features (such as structured products) remaining outside the framework may contribute to raise greenwashing risk. In addition, this situation creates inconsistencies in their regulatory treatment and in the information provided to clients. A more consistent approach would require that all financial products incorporating ESG characteristics or pursuing ESG objectives be appropriately captured within the SFDR framework.

In this respect, we welcome the Commission's proposal, in the context of the SFDR review, to reduce pre-contractual sustainability disclosures to a maximum of two pages. However, it is important that this simplification effort be pursued further, in particular at Level 2. A more pragmatic and proportionate approach should be considered, notably by rationalising the number of mandatory data points and indicators, focusing on ESG metrics relevant for investors' decision-making.