Council of the European Union
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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and Banking Union (MISP) Financial Services Attachés
N° prev. doc.:	WK 8241/26, WK 8243/2026
Subject:	Market Integration and Supervision Package Presidency questionnaire after CWP on Asset Management on 16 July 2026 Deadline: 23 July 2026

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Guidelines to be followed

Please kindly provide your contributions in the table below.

Drafting suggestions: you may use '**track changes**'* or formatting (for example **bold-underline** for additions and ~~strike-through~~ for deletions, **where necessary, in a different colour**). *Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted.**

New provisions may only be added in any of the **'existing cells'.**

Name of document: please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on … .docx**

Thank you for your cooperation!

Questions		MS replies
A1. Depositary Passport – Member State Depositary Derogation Model		
Q1: Do you support the introduction of an optional Member State derogation allowing each Member State to decide whether UCITS and AIFs authorised in its jurisdiction may appoint a depositary established and authorised in another Member State?		
A2. Depositary Passport - Proposed Safeguards/ Sufficiency		
Q1: Do Member States believe that additional EU-level top-up authorisation requirements are necessary for depositaries providing depositary services to funds domiciled in another EU Member State under the derogation?		
Q2: If so, do Member States support adding the depositary function as an ancillary activity under MiFID II, with appropriate transitional arrangements for already authorised entities?		
Q3: Alternatively, do Member States support introducing a specific top-up authorisation framework under UCITSD and AIFMD for depositaries providing cross-border services under the derogation?		

Questions		MS replies
Q4: If Member States do not support either of the approaches set out in Q2 or Q3, what alternative approach would they propose to ensure sufficient authorisation standards for cross-border depositary services?		
Q5: Do Member States consider that the safeguards outlined above are sufficient to ensure effective supervision, investor protection and legal certainty where a Member State permits a fund domiciled in its jurisdiction to appoint a depositary established in another Member State?		
Q6: Are there any additional safeguards, clarifications or supervisory mechanisms that should be considered to further strengthen the framework?		
B. Intra-group resource sharing / delegation derogation		
Q1: Do Member States support the proposed Risk-Calibrated Intra-Group Delegation Model?		
Q2: Do you support the automatic application of a lighter regime for EU entities, or should all entities be subject to a risk assessment?		
C. ESMA review of large EU groups of management companies and AIFMs		
Q1: Do Member States prefer replacing the Commission's annual peer review with: ➢ Option A: a recalibrated Joint Review mechanism, involving ESMA and the relevant competent authorities; or ➢ Option B: Co-ordination Colleges for the largest and most complex cross-border asset management groups?		
Q2: If Member States prefer Option A: Joint Review mechanism, which approach is preferred: ➢ Option 1: retaining the focus on the largest groups but reducing the frequency of the review from annual to every three years; or ➢ Option 2 — broadening the scope to include large and mid-sized groups, for example groups with NAV above EUR 100 billion, with a limited number of groups reviewed each year and no fixed frequency per group?		
Q3: What other elements could be considered?		
D. Harmonisation Measures		

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Questions		MS replies
Q1: Do Member States support the proposed harmonisation measures and the removal of the identified national discretions?		
Q2. Do Member States support replacing the standard UCITS 5/10/40 diversification rule with a tailored 5/20/50 regime for UCITS managed with reference to an index, where the UCITS remains genuinely actively managed?		
Q3: Are there any specific amendments where Member States have outstanding concerns or consider that further discussion, drafting refinements, or the retention of national discretion may be warranted?		

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