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Presidency Discussion Paper
Market Integration and Supervision Package
Directly Supervised Entities and Sectoral Provisions

30 March 2026 10:00

Introduction

On 4th of December 2025, the European Commission published the proposal on the Market Integration and Supervision Package ("**MISP**"). A segment of the MISP is related to trading and includes amendments to the Directive 2014/65/EU ("**MiFID**") and Regulation (EU) No 600/2014 ("**MiFIR**"). Specifically, the provisions relevant to the trading dimensions are embedded in the Master Directive Proposal (**MiFID** amendments) and in the Master Regulation Proposal (**MiFIR** amendments).

The MISP was presented by the Commission at the Council Working ('**CWP**') Party kick-off meeting on 15 December 2025, together with references to the accompanying evaluation and IA. Given the extended scope of the MISP, a more detailed technical presentation took place on 15-16 January 2026. During the presentation, Member States ('**MS**') had the opportunity to express their preliminary views and comments on the proposals. Following these exchanges, MS also had the opportunity to submit their written comments on the proposal to the Presidency ('**PCY**').

The purpose of this paper is to provide a structured basis for the technical discussions of the CWP meeting on 4 March 2026, which is dedicated to the first reading of the provisions of the MISP that are relevant to trading and that are embedded in Article 3 of the Master Regulation Proposal (amendments to MiFIR) and in Article 3 of the Master Directive Proposal (amendments to MiFID).

Today's CWP provides an opportunity to engage in constructive technical examination of the proposal and continue the exchange on the key issues raised. The PCY invites MS to provide comments during today's CWP and, to elaborate their positions in the subsequent written procedure in particular with regard to the following topics:

1. **Division of Competences Between NSAs and ESMA**
2. **Alternatives to Centralised Supervision: Convergence Tools**

1. Division of Competences Between NSAs and ESMA

Relevant Article: Article 38fa(2) of MiFIR and Recital 42

Recital 42 aims to clarify the division of responsibilities between National Supervisory Authorities (NSAs) and ESMA. It emphasizes that, given the close geographical and operational proximity of national supervisors to local markets, the responsibility for market surveillance and issuer oversight for significant trading venues and PEMOs should remain with the competent authorities at the national level.

It further specifies that ESMA should be responsible for enforcing the provisions of Regulation (EU) No 600/2014 for significant trading venues and PEMOs and, where applicable, the rules of Directive 2014/65/EU. This includes assessing the effectiveness of systems and controls to prevent and detect market abuse, as well as evaluating parameters for halting trading.

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At the same time, it is proposed that national surveillance authorities should retain certain powers to carry out market surveillance and perform tasks essential for maintaining market integrity. These powers would include the receipt of transaction data, the possibility to request order book data, or the adoption of urgent measures to impose temporary trading halts in emergency situations or suspension of financial instruments from trading. As per the proposal, when exercising their powers, NSAs should cooperate closely with ESMA.

1.1. NSAs Competences

The Proposal identifies four key areas of competence for NSAs as follows:

Suspension and removal of financial instruments from trading	• NSAs are empowered to suspend or remove a financial instrument from trading in certain circumstances. In addition, NSAs are granted explicit enforcement powers as regards trading venue's obligation to comply with such suspension/removal orders, and as regards venues' overall obligations in the area of suspension/removals from trading. Article 2k(1), Article 2u(7), Article 2v(1) and (2) + Article 38fa(2) • NSAs are informed of any suspension or removal from trading of a financial instrument and its derivatives by a trading venue. NSAs can oppose a suspension or removal from trading of a financial instrument or its derivatives in cases where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market. Article 2k(2)
Circuit breakers / orderly trading	• In cases where a trading venue does not halt or constrain trading despite significant price movements leading to disorderly trading conditions, NSAs are empowered to take appropriate measures to re-establish the normal functioning of the market. NSAs are also entrusted with specific enforcement powers to ensure trading venues comply with those measures. NSAs are asked to inform ESMA in cases where such powers are exercised. However, ESMA retains responsibility for the overall implementation and calibration of the circuit breakers, as this relates to the organisational aspects of the venue and does not necessitate urgent intervention. Article 2g(5) + Article 38fa(2) • NSAs are informed of any halt in trading of a financial instrument by a trading venue, and are responsible for coordinating a market-wide response and determining whether it is appropriate to halt trading on other venues on which the financial instrument is traded until trading resumes on the original market Article 2g(5) • Trading venues are required to directly inform NSAs of significant infringements of their rules or of disorderly trading conditions or conduct that may indicate behavior that is prohibited under MAR, or of system disruptions in relation to a financial instrument. In cases where an NSA

	considers that a trading venue has failed to submit such information in a timely manner, the NSA may ask ESMA to take appropriate measures to address the situation. ESMA remains responsible for the ultimate enforcement/fines in such cases, because it relates to the overall organizational set-up of the trading venue, for which ESMA remains uniquely in charge. Article 2m(2) • MiFID also clarifies that NSAs remain responsible for the setting and enforcement of position limits in commodity derivatives. Article 57 MiFID
Data	• NSAs may request to have access to order data records and have access to such data on an ongoing basis. NSAs are also entrusted with specific enforcement powers to ensure trading venues comply with this obligation. Article 25(2) + Article 38fa(2) • NSAs are empowered to ask venues to share information on their order book, or to give access to their order book. Article 2g(10) • Trading venues are required to submit transaction data to NSAs. NSAs are also entrusted with specific enforcement powers to ensure trading venues comply with this obligation. Article 26 + Article 38fa(2) • NSAs receive financial instruments reference data. Article 27 • NSAs have access to records of transaction data linked to post-trade risk reduction services. Article 31(3) • NSAs receive position data relating to commodity derivatives. NSAs are also entrusted with specific enforcement powers to ensure trading venues comply with this obligation. Article 34b(1) + Article 38fa(2)
Other important information on the functioning of the venue	• NSAs may ask ESMA to share the content of the agreements between a trading venue and a market maker active on that venue. Article 2g(3) • Trading venues are required to share with NSAs the list of their members or participants on a regular basis. Article 2l(6) • NSAs may ask ESMA to share information on the details of the functioning of a Multilateral Trading Facility (MTF) or Organised Trading Facility (OTF) and their members or participants. Article 2u(8)

In addition, to ensure a smooth cooperation between ESMA and the relevant NSAs, the proposal provides for a number of notifications as regards authorisation procedures:

- NSAs are notified by ESMA of all authorisations granted to a trading venue operated on their territory (Article 2b(3)) and of any withdrawal (Article 2c(2)).
- NSAs are informed by ESMA of steps in the authorisation process of a PEMO that intends to operate a trading venue on its territory, and of withdrawals of authorisations (Article 2zb(3) and (4), Article 2zc(2)).

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1.2. ESMA Responsibilities and Powers

As per the Commission's clarifications in the CWP, for all those requirements under MiFIR that are not linked to the market surveillance mandate of NSAs, such as general organisational requirements, the proposal seeks to reach maximum efficiency by ensuring that compliance with such elements is enforced by ESMA.

This means that ESMA would be granted the same powers as National Competent Authorities ('**NCAs**') under the revised MiFIR concerning the entities for which it will be the competent authority. This is, for instance, the case for granting or withdrawing authorisations to regulated markets (Article 2b and 2c), or for granting waivers (Articles 4 and 9). While a majority of ESMA's horizontal and cross-sectoral powers are suggested to be transferred to ESMAR, the MiFIR proposal still includes specific adaptations of these powers as outlined in Article 38fc and Article 38fg. It is important to emphasise that these powers are directly derived from those already granted to NCAs under MiFID, in an effort to ensure alignment of authority between NCAs and ESMA concerning the entities under their respective oversight.

Some proposed adjustments have been made to the powers granted to all competent authorities as regards the management body (Articles 2d and 2e, e.g. removal of a member of the management body in certain cases) and as regards the amendments to the rules of a trading venue (Article 2m). This is because, until now, many of those rules are left to national law and those gaps needed to be filled as part of the new harmonised rulebook. However, whenever powers are conferred in relation to these new rules, they are bestowed in the same manner upon both NCAs and ESMA.

Lastly, ESMA would be granted specific powers in the area of Open Access (Articles 35 and 36 MiFIR), as it is proposed that ESMA becomes the arbitrator in cases of disagreement between a trading venue and a CCP. In that context, ESMA would adopt a decision requiring a trading venue or a CCP to grant access to its services, whenever ESMA considers that a refusal to grant access is unjustified.

Preliminary Views of the MS:

A number of MS strongly supported the general direction of the proposed amendments to the MISP Regulation, particularly the extension of ESMA supervision to trading venues with a significant cross-border dimension and to PEMOs. They viewed this development as a crucial step toward deeper market integration and a necessary measure to ensure consistent supervisory outcomes across the Union.

Other MS required further discussion and clarifications on the allocation of supervisory responsibilities between ESMA and the NSAs and they stressed the need for national authorities to retain sufficient visibility into market activities to uphold market integrity and to act swiftly when needed. They also emphasized the need for a clearer understanding of the impact on smaller markets and on SME financing within these markets.

Several MS, although they welcomed the MISP as an important step to remove barriers to market integration, questioned the separation of supervisory powers over certain trading venues and PEMOs, between ESMA and NSAs, while also considering the ESMA's role as duplicative in some cases that could blur accountability and reduce supervisory effectiveness.

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One MS warned that transferring supervision of significant trading venues to ESMA could undermine cost efficiency, market choice, and fair competition. It further argued that centralisation is unlikely to reduce fragmentation, and since ESMA lacks direct supervisory experience and would rely on national authorities, the model may be less efficient and more costly than the current system.

Another MS stated that although it supports the efforts to deepen market integration it takes a cautious stance on extending ESMA's direct supervision over significant trading venues, stressing the need for proportionality, legal certainty and regulatory coherence. It warned that the proposal creates a complex and potentially ambiguous redistribution of responsibilities between ESMA and national authorities, risking parallel supervisory layers, higher compliance costs and unclear accountability. Concerns were also raised about higher supervisory fees, which could disproportionately affect smaller or regional venues and influence cross-border expansion decisions

Another MS expressed opposition for splitting supervision between the market operator and the trading platform, arguing that both are closely interconnected and that excluding NCAs from final supervisory responsibility is inappropriate. It further argued that the proposal would create a dual supervisory model where ESMA holds organisational oversight while NCAs retain certain enforcement tasks. This could lead to a system that is centralised in decision-making but fragmented in practice, weakening NCAs' ability to fulfil responsibilities under key frameworks such as MAR, MiFID II and the Prospectus Regulation.

One MS argued that putting trading venues under direct supervision by ESMA while leaving other key obligations especially those under DORA to national authorities highlights the weaknesses of a fragmented supervisory model. It stressed that trading venues face interconnected regulatory requirements covering market conduct, operational resilience, ICT risk management and business continuity, meaning risks cannot be neatly separated. This selective allocation of powers could lead to inconsistencies, overlaps or gaps in oversight, as well as higher compliance burdens for firms

Questions to MS:

1. ***Do MS believe the proposed framework provides national authorities with adequate visibility into market developments to effectively safeguard market integrity at national level?***
2. ***Are additional mechanisms needed to ensure that national authorities maintain sufficient visibility into market developments?***
3. ***Are additional clarification or coordination mechanisms needed to avoid overlaps or gaps in supervision?***
4. ***Do MS consider that the powers retained by NSAs (e.g. suspension of instruments, coordination of trading halts, access to transaction and order book data) are sufficient to enable swift and effective intervention in disorderly market conditions?***
5. ***Are there specific areas where NSAs may require enhanced powers or more direct access to information from trading venues supervised by ESMA?***
6. ***How do MS believe cooperation arrangements between ESMA and national authorities can be further strengthened to ensure smooth supervisory interaction in practice?***
7. ***Would MS see merit in more structured coordination frameworks, such as formalised information-sharing procedures?***

2. Alternatives to Centralised Supervision: Convergence Tools

As per recital 4, the Commission states that the main policy objective of supervising significant trading venues at EU level is to level the playing field in terms of regulatory outcomes across the EU in the most effective manner. It implies supervisory convergence by virtue of direct supervision. Under the proposal, ESMA would be directly responsible for ensuring consistent supervisory outcomes and high compliance standards for the most significant (Union-relevant) trading venues and those trading venues that opt to operate under a PEMO license.

It is the PCYs understanding that many MS largely share the objective of achieving better supervisory convergence in the Union. However, as stated in the preliminary views of the MS above, several MS consider centralised supervision by ESMA to be disproportionate, and instead advocate in favour of more effective convergence tools and a stronger role for ESMA in coordinating NCAs, such as supervisory colleges, which can preserve national authorities' role while ensuring integrated EU oversight.

Currently, ESMA's supervisory convergence mandate involves the development of consistent interpretation of rules, coordinating approaches, conducting supervisory actions, and sharing good practices. ESMA's tools in that regard include Guidelines, Q&As, peer reviews or warnings. However, enforcement powers eventually remain exclusively with NCAs.

As per the Commission's intervention in the CWP, supervisory approaches continue to diverge in practice in some areas, thereby undermining the functioning of the Single Market and creating an unlevel playing field in such areas. In a number of cases, achieving actual convergence via classical ESMA convergence tools has failed and was only possible at the cost of producing L2 legislation, a lengthy procedure that fails to address diverging supervisory practices in a timely and efficient manner. This also goes against the objective of reducing the amount of L2 acts and moving to more principles-based supervision.

During the CWP, one MS specifically asked for examples of failure of convergence tools. As per the Commission's intervention during the CWP on the 4th of March 2026, the following situations were presented which aim to demonstrate that effective and efficient resolution of important matters has not been achieved in certain areas relevant to trading:

Examples of ineffective or inefficient supervisory convergence

Example No 1: Provision of market data on a reasonable commercial basis

In 2021, ESMA issued **Guidelines** to foster a more uniform application of Union law by NCAs as regards the obligation for market data providers to provide their market data on a Reasonable Commercial Basis (RCB) and to ensure non-discriminatory access to that information (Article 13 MiFIR). However, that article has not delivered on its objectives and adherence to such Guidelines by NCAs was inconsistent. To ensure that rules are interpreted and applied in the same way across all MS, the EU co-legislators mandated ESMA, as part of the 2024 MiFIR review, to convert the

Guidelines into Regulatory Technical Standards (RTS) which was done in 2025. In this specific case, it took four years to address a supervisory issue.

Example No 2: Application of the tick size regime in periodic auction systems

In 2019, ESMA issued a **Q&A** on the application of the tick size regime in frequent batch auctions. The Q&A clarified that trading venues, when running frequent batch auctions, should apply the tick size regime both to the price at which orders are submitted, but also to the transaction price resulting from the auction.

Despite the clarity of this Q&A, due to its non-binding nature, several NCAs have chosen not to apply the agreed common approach, resulting in the absence of supervisory intervention in their MS. This effectively led to the practice being allowed in some MS, and banned in others, creating an unlevel playing field and failing to providing operators of trading venues with legal certainty.

Example No 3: Trading venue perimeter

In 2023, ESMA issued an **opinion** on the interpretation of the fundamental notion of "trading venue" under MiFID II. Despite the existence of that opinion, certain concepts, such as that of "multilateral system", still remain subject to discussions between NCAs on a regular basis. Ultimately, this opinion has failed to ensure a systematically consistent application of Union law on that matter.

Example No 4: Access provisions

The application of access provisions under Articles 35 and 36 of MiFIR has been identified for many years as a key source of divergences between NCAs, especially in a context where NCAs are required to explicitly approve such access requests and where different NCAs have divergent perspectives on the grounds for refusal of access. Anecdotal evidence pointed to procedures as long as 11 years to gain effective access. Convergence in this area has been complex to achieve, highlighted by complex policy discussions at ESMA's standing committee that did not allow to reach full consensus. This has, among others, motivated the Commission to put forward a streamlined access procedure, with strict timelines and limited grounds for access refusals, as part of the SIU package.

Questions to the MS:

8. ***Do MS share the view that the examples presented highlight potential challenges in achieving fully effective and efficient resolution in specific trading-related areas?***