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MEETING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and Banking Union (MISP)
N° prev. doc.:	WK 5654/26, WK 5747/26
Subject:	Market Integration and Supervision Package - Presidency questionnaire after CWP on Asset Management on 27 April 2026. Deadline: 06 May 2026

Market Integration and Supervision Package
Working Party on Asset Management on 27 April 2026 (WK 5654/2026 and WK 5747/2026) Deadline: ***6 May 2026***
Guidelines to be followed

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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!

Questionnaire	Comments
Market Integration and Supervision Package WP on Asset Management on 27 April 2026	
A. Depositary passport: Proposal on the depositary passport (first reading)	
1. Do MS agree with the proposal to authorise credit institutions and MiFID firms to provide crossborder depositary services to AIFs and UCITS (credit institutions only) also in the light of the recent AIFMD review introducing the limited depositary derogation for MS with smaller AIF depositary markets?	
2. What key legal and supervisory elements would need to be further harmonised at EU level, building on the existing Level 1 framework and the current mandate for specifying detailed rules at L2 (cf. Article 21(17) of AIFMD and 26b of UCITD) in order for Member States to consider a depositary passport acceptable?	

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3. How should responsibilities between home and host competent authorities be allocated in a cross-border depositary services model, and what additional safeguards would be necessary to ensure effective supervision?	
B. UCITS investment and composition limits, replacement of the concept of EPMs by that of SFTs and other outstanding issues (first reading)	
B.1 20% issuer limit: Harmonisation, recognition of indices by ESMA and extension of the limit to UCITS that are managed by reference to such index.	
1. Do MS agree with the proposed revision (removal of MS discretion, extension of the limit to UCITS managed by reference to an index and ESMA-recognised indices)?	
2. Do MS believe that it merits further clarification in the text, including by means of a relevant recital, how "UCITS managed by reference to an index/benchmark" should be determined and whether specific safeguards are necessary for the proposed extension?	
B.2 Alignment of the definition of transferable securities with that of MiFID II	
1. Do MS agree with the proposed to align Article 2(1)(n) of UCITSD on the definition of "transferable securities" with Article 4(44) of MIFID II (Directive 2014/65/EU)?	
2. Do MS consider that the proposed alignment will have practical implications as regards the investment operations of UCITS? Conversely, do MS see practical implications, e.g. in terms of legal certainty, from the non-alignment?	

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B.3 Replacement of the notion of efficient portfolio management techniques and harmonisation (Art.51(2) of the UCITSD)	
1. Do MS agree with the proposal for harmonisation and the replacement of EPMs under Article 51(2) of UCITSD with the proposed cross-references to the SFTR?	
B.4 Removal of national discretions on UCITS investment rules	
1. MS are invited to provide their views on:	
(a) the removal of the national discretions under Article 51(3)	
(b) the harmonisation of issuer concentration limits and exposure rules (Articles 52(2)-(5), 54(1), 55(1)-(2) and 56(2)-(3)), as well as the harmonisation of the temporary derogation from risk-spreading rules during the first six months following authorisation (Article 57(1))	
C. EU Group /intragroup ressource utilisation	
1. Do Member States support the Commission's proposal in its current form?	
2. Are there any aspects of the proposal that, in Member States view, require adjustment?	
D. Possible drafting changes to aspects of the proposals on authorisation, including passporting upon authorisation and clarifications on 'ESMA IT solutions'	

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D.1 Possible drafting changes to the provisions on authorisation-related information, procedures and timelines for UCITS and fund managers (Article 5(8) UCITSD, Article 7(6) UCITSD and Article 7(6) AIFMD)	
D.1.2.1 Draft RTS mandate to ESMA under Article 5(8) of the UCITS Directive **- Compromise drafting for Article 5(8) of the UCITSD:**	
8. In order to ensure consistent harmonisation of this Article, the European Supervisory Authority (European Securities and Markets Authority) (hereinafter 'ESMA'), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council (1) shall develop draft regulatory technical standards to specify~~ing~~:	
a) ~~the details of~~ the information to be provided to the competent authorities in the application for the authorisation of the UCITS, in accordance with this Article, including an indicative list of circumstances where additional information should be provided to the competent authorities and the objectives of such additional information;	
b) the conditions relevant to the procedures and timelines to be followed as part of the application for authorisation of a UCITS, in accordance with this Article, defining what is considered a complete application for the purpose of adherence to those timelines;	
c) the methods and arrangements for delivery of the information to be provided under point a) above.	

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[Introduction of a new third subparagraph after the second subparagraph of paragraph8 of Article 5 of the UCITSD reading as follows:]	
ESMA shall develop IT solutions, including templates, data standards, formats and instructions for providing the information referred to in point (a). *When developing the draft regulatory standards in relation to point (b), ESMA shall ensure that existing national laws, regulations and administrative provisions are duly considered.*	
D.1.2.2. RTS mandate to ESMA under Article 7(6) UCITSD and Article 7(6) AIFMD **- Compromise common drafting in relation to Article 7(6) of the UCITS Directive and Article 7(6) of the AIFMD:**	
6. In order to ensure consistent harmonisation of this Article and Article 29, ESMA shall, under observance of the principle of proportionality, develop draft regulatory technical standards specifying:	
(a) ~~*the details of*~~ *the information to be provided to the competent authorities in the application for the authorisation of the management company, or investment company in accordance with this Article and Article 29, including the programme of activity, including an indicative list of circumstances where additional information should be provided to the competent authorities and the objectives of such additional information*.	

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(b) *Conditions relevant to the procedures and timelines to be followed as part of the application for authorisation of the management company or investment company, defining what is considered a complete application for the purpose of adherence to those timelines;*	
(c) *the methods and arrangements for delivery of the information to be provided under point a) above.* *When developing the draft regulatory standards in relation to point (b), ESMA shall ensure that existing national laws, regulations and administrative provisions are duly considered.*	
[Introduction of a new third subparagraph after the second subparagraph of paragraph6 of Article 7 of the UCITSD/AIFMD reading as follows:]	
'ESMA shall develop IT solutions, including templates, data standards, formats and instructions for providing the information referred to in point (a). *When developing the draft regulatory standards in relation to point (b), ESMA shall ensure that existing national laws, regulations and administrative provisions are duly considered.* **ESMA shall submit those draft regulatory technical standards to the Commission by [Please insert date = 12 months after the entry into force of this Directive].** **Power is conferred on the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.'**	

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D.3 Passporting upon authorisation procedure and 'material changes' under the CBDR	
D.3.3.1 Article 17c(2) of CBDR (identical amendments to Article 17f(2) and Article 17g(2)(j) of the CBDR)	
For the purposes of paragraph 1, a UCITS shall enclose with its application for authorisation the following:	
(a) *its fund rules or its instruments of incorporation;*	
(b) *its prospectus and, where appropriate, its latest annual report; and*	
(c) *its key information document as referred to in Regulation (EU) No 1286/2014 translated in accordance with that Regulation, where applicable.~~; and~~*	
(d) ~~*where available, the marketing communications referred to in Article 4, accompanied by an attestation from the UCITS that it complies with the requirem ents of that Article.*~~	
The information referred to in points (a)~~,~~ and (b) ~~and the attestation referred to in point (d)~~ of the first subparagraph shall be provided at least in a language customary in the sphere of international finance.	

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D.3.3.2 Article 17c(7) of CBDR	
Where a UCITS has already been authorised and wishes to market its units or shares in a new Member State, it shall notify the competent authorities of its home Member State of the new host Member States in which it intends to market its units or shares and it shall submit to the competent authorities of its home Member State the information and documentation referred to in paragraph 2. ~~include information on arrangements made for marketing and where available marketing communications referred to in Article 4, accompanied by an attestation from the UCITS that it complies with the requirements of that Article.~~	
D.3.3.3 Article 17g(2)(i) of the CBDR	
For the purposes of paragraph 1, the AIFM shall enclose with its application for authorisation, the following, where appropriate: […]	
(g) the indication of the Member State in which it intends to market the units or shares of the EU AIF to professional investors; and	
(h) information about arrangements made for the marketing of EU AIFs and, where relevant, information on the arrangements established to prevent units or shares of the EU AIF from being marketed to retail investors, including in the case where the AIFM relies on activities of independent entities to provide investment services in respect of the EU AIF;	
~~(i) the details necessary, including the address, for the invoicing or for the communication of any applicable regulatory fees or charges by the competent authorities of the host Member State; and~~	

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~~*(j) where available, for each EU AIF that the AIFM intends to market, the marketing communications referred to in Article 4, accompanied by an attestation from the AIFM that it complies with the requirements of that Article.*~~	
D.3.3.4 Suggested wording for a recital on the notion of 'material change' for CBDR purposes	
As part its initial authorisation, a UCITS shall enclose with its application, inter alia, its fund rules or instruments of incorporation, its prospectus and, where appropriate, its latest annual report, and its key information documents, duly translated. The UCITS shall provide information on the appointment of inter alia the management company and the depositary. In the event of any foreseen material changes to the documentation and information submitted to the competent authorities of the UCITS home Member State pursuant to the application for the initial authorisation, such changes should be notified in advance. These changes may relate to the governing body of the UCITS (where applicable) or change to an existing relationship with a statutorily provided service provider; namely the management company, including change of status as externally managed or vice versa, or the depositary or the statutory auditor. Such changes may also be related to third party delegates and relevant entrusted tasks, in particular cross-border distribution arrangements. They may further relate to legal and commercial aspects of the UCITS and its offering, such as establishment of a new share or unit class, changes to the terms regarding issue, sale redemption, the investment objective and policy of the UCITS, changes to legal form and structuring as well as corporate-action related events, e.g. merger.	

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BE-CZ non-paper on supervision and harmonisation of marketing communications (WK 5747/2026)	
1. Can MS support the way forward proposed?	
2. Do MS have comments on the drafting suggestions?	
Article 7 **Verification of marketing communications** 1. The competent authorities of the host Member State shall not require the prior notification of marketing communications which AIFMs, EuVECA managers, EuSEF managers and UCITS intend to use directly or indirectly in their dealings with investors as a prior condition for the marketing of AIFs and UCITS in their territory. ~~**2. Where the competent authorities of the host Member State have reasonable grounds to suspect that the marketing communications referred to in paragraph 1 do not comply with the requirements of Article 4, they may act in accordance with the powers referred to in Article 14a (5) and (7) and in Article 14b (5) and (7).**~~	
Article 14a **Powers of the competent authorities of the UCITS** (…) 2. By way of derogation from paragraph 1, the competent authorities of the UCITS host Member State shall be competent to supervise the compliance of UCITS marketed in their territory with the requirements set out in Articles **4,** 12a and 17b of this Regulation and with provisions falling outside the field governed by this Regulation and by Directive 2009/65/EC. (…)	

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3. Only the competent authorities of the UCITS home Member State shall have the power to take action against that UCITS for the matters referred to in paragraph 1. However, the competent authorities of the UCITS host Member State may take action against that UCITS if it infringes the laws, regulations and administrative provisions referred to in the first subparagraph of paragraph 2 that are in force in that Member State. 3 **The host NCA may require the management company to take corrective actions regarding marketing communications. The required actions are immediately effective and are notified within two business days via the ESMA platform to the home NCA and to ESMA.** ~~**By way of derogation from the second subparagraph, where the competent authorities of the UCITS host Member State are of the opinion that a UCITS does not comply with the requirements referred to in the first subparagraph of paragraph 2 and that for that reason they are to prevent any further marketing of that UCITS in their territory, they shall refer the matter to ESMA which shall act in accordance with the powers referred to in point (b) of Article 14c(4).**~~ (…)	
Article 14b **Powers of the competent authorities of the AIFM** (…) 2. By way of derogation from paragraph 1, the competent authorities of the host Member State of the AIFM shall be competent to supervise the compliance of AIFs marketed in their territory and of AIFMs managing those AIFs with the requirements set out in Article**s 4 and** 12a of this Regulation	

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and with provisions **of Directive 2011/61/EU and other provisions** falling outside the field governed by this Regulation**.** ~~**and Directive 2011/61/EU.**~~ The competent authorities of the host Member State of the AIFM may require an AIFM marketing AIFs in their territory to provide the information necessary for the supervision of the AIF's and AIFM's compliance with the applicable rules for which those competent authorities are responsible, as referred to in the first subparagraph. 3. Only the competent authorities of the home Member State of the AIFM shall have the power to take action against that AIFM for the matters referred to in paragraph 1. However, the competent authorities of the host Member State of the AIFM may take action against that AIFM or against an AIF marketed in their territory if they infringe the laws, regulations and administrative provisions referred to in the first subparagraph of paragraph 2 that are in force in that Member State. **The host NCA may require the management company/AIFM to take corrective actions regarding marketing communications. The required actions are immediately effective and are notified within two business days via the ESMA platform to the home NCA and to ESMA.** ~~**By way of derogation from the second subparagraph, where the competent authorities of the host Member State of the AIFM are of the opinion that an AIF marketed in their territory or the AIFM that manages it does not comply with the requirements referred to in the first subparagraph of paragraph 2 and that for that reason they should they should prevent any further marketing of that AIF in their territory, they should refer the matter**~~	

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~~**to ESMA which shall act in accordance with the powers referred to in point (b) of Article 14c(4).**~~ (…)	
New recital **Considering that the interdiction for competent authorities of the host Member State to require the prior notification of marketing communications which AIFMs, EuVECA managers, EuSEF managers and UCITS intend to use directly or indirectly in their dealings with investors as a condition for the marketing of AIFs and UCITS in their territory does not prohibit these authorities from receiving such notifications on a voluntary basis.**	

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