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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Listing Act) Financial Services Attachés
Subject:	Listing Act Amending Directive: Directive amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC / replies from 14 MS (Presidency compromise text of 02.05.23)

Listing Act Amending Directive Deadline: ***17 May 2023***

Presidency compromise text of 02.05.23

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

MS: AT, CZ, NL, FR, BG, SI, CY, ES, DE, DK, HR, PT, IT, PL

Commission proposal	Presidency compromise	MS Comments
2022/0405 (COD) **Proposal for a** **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC** **(Text with EEA relevance)**	**2022/0405 (COD)** **Proposal for a** **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC** **(Text with EEA relevance)**	SI: In general, we welcome Presidency compromise proposal. DK: DK comments sent on 18 May 2023 DK continues to have a parliamentary reserve which we do not expect to be able to lift prior to 26 May 2023. Generally, DK welcomes the work of the Presidency and believes it presents a balanced approach to the views of the Council. Below we have included targetted comments based on interventions at the last Council Working Party and the proposed changes.
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50, 53(1) and 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50, 53(1) and 114 thereof,	

Presidency compromise text of 02.05.23

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Commission proposal	Presidency compromise	MS Comments
Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Having regard to the opinion of the European Economic and Social Committee[1],	Having regard to the opinion of the European Economic and Social Committee[2],	
Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Whereas:	Whereas:	
(1) Directive 2014/65/EU of the European Parliament and of the Council[3] has been amended by Regulation (EU) 2019/2115 of the European Parliament and of the Council[4], which introduced proportionate alleviations to enhance the use of SME growth markets and to reduce	(1) Directive 2014/65/EU of the European Parliament and of the Council[5] has been amended by Regulation (EU) 2019/2115 of the European Parliament and of the Council[6], which introduced proportionate alleviations to enhance the use of SME growth markets and to reduce	

1 OJ C , , p. .
2 OJ C , , p. .
3 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).
4 Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019 amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets (OJ L 320, 11.12.2019, p. 1).
5 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).
6 Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019 amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets (OJ L 320, 11.12.2019, p. 1).

Commission proposal	Presidency compromise	MS Comments
the excessive regulatory requirements for issuers seeking admission of securities on SME growth markets, while preserving an appropriate level of investor protection and market integrity. However, to streamline the listing process and to render the regulatory treatment of companies more flexible and proportionate to their size, further amendments to Directive 2014/65/EU are necessary.	the excessive regulatory requirements for issuers seeking admission of securities on SME growth markets, while preserving an appropriate level of investor protection and market integrity. However, to streamline the listing process and to render the regulatory treatment of companies more flexible and proportionate to their size, further amendments to Directive 2014/65/EU are necessary.	
(2) Directive 2014/65/EU and Commission Delegated Directive (EU) 2017/593[7] set out the conditions under which the provision of investment research by third parties to investment firms providing portfolio management or other investment or ancillary services is not to be regarded as an inducement. In order to foster more investment research on companies in the Union, in particular small and medium capitalisation companies, and to bring those companies greater visibility and more prospect of attracting potential investors, it is	(2) Directive 2014/65/EU and Commission Delegated Directive (EU) 2017/593[8] set out the conditions under which the provision of investment research by third parties to investment firms providing portfolio management or other investment or ancillary services is not to be regarded as an inducement. In order to foster more investment research on companies in the Union, in particular small and medium capitalisation companies, and to bring those companies greater visibility and more prospect of attracting potential investors, it is	

[7] Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500).

[8] Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500).

Commission proposal	Presidency compromise	MS Comments
necessary to introduce some amendments to that Directive.	necessary to introduce some amendments to that Directive.	
(3) The provisions concerning research laid down in Directive 2014/65/EU require investment firms to separate payments which they receive as brokerage commissions from the compensation perceived for providing investment research ('research unbundling rules'), or to pay for investment research from their own resources and assess the quality of the research they purchase based on robust quality criteria and the ability of such research to contribute to better investment decisions. In 2021, those rules have been amended by Directive (EU) 2021/338 of the European Parliament and of the Council[9] to allow for bundled payments for execution services and research for small and medium capitalisation companies below a market capitalisation of EUR 1 billion. The decline of investment research has, however, not slowed down.	(3) The provisions concerning research laid down in Directive 2014/65/EU require investment firms to separate payments which they receive as brokerage commissions from the compensation perceived for providing investment research ('research unbundling rules'), or to pay for investment research from their own resources and assess the quality of the research they purchase based on robust quality criteria and the ability of such research to contribute to better investment decisions. In 2021, those rules have been amended by Directive (EU) 2021/338 of the European Parliament and of the Council[10] to allow for bundled payments for execution services and research for small and medium capitalisation companies below a market capitalisation of EUR 1 billion. The decline of investment research has, however, not slowed down.	

[9] Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (OJ L 68, 26.2.2021, p. 14).

[10] Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (OJ L 68, 26.2.2021, p. 14).

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Commission proposal	Presidency compromise	MS Comments
(4) In order to revitalise the market for investment research and to ensure sufficient research coverage of companies, in particular the small and medium capitalisation companies, further alleviation of the research unbundling rules are necessary. By increasing from EUR 1 billion to EUR 10 billion the threshold of companies' market capitalisation below which the unbundling rules do not apply, more small and medium capitalisation companies, and in particular more medium capitalisation companies will benefit from a larger research coverage, bringing those companies more visibility from potential investors and thus increasing their capacity to raise funding in the markets.	(4) In order to revitalise the market for investment research and to ensure sufficient research coverage of companies, in particular the small and medium capitalisation companies, **~~further alleviation of~~** the research unbundling rules **need to be further adjusted to offer the investment firms more ~~are necessary~~ flexibility in the way they wish to organise the payments of execution services and research, thus limiting situations, if relevant, where separate payments may be too cumbersome. This would however require to maintain a necessary transparency vis-a-vis the client as to the payment choice made by the firms. Firms should inform their clients whether they apply a separate or joint payment for the execution services and the provision of third-party research. Should a firm selects separate payments, appropriate information to the clients may be ensured via the recording by the firm of the charges attributable to research and execution services and also via the provision of an annual information on those payments to the clients**. **~~By increasing from EUR 1 billion to EUR 10 billion the threshold of companies' market capitalisation below which the~~**	NL: NL (Comments): • Although we are still supporting the current unbundling rules, we understand the interests involved in this issue regarding research coverage and the future situation in the USA and are therefore open to assess possibilities for a compromise. • We stress the need for sufficient transparency for clients and the ability to have insight in the breakdown of charges. The proposed Article 24(9) MiFID II stipulates that investment firms **may** choose to hold a record of research chargess if they opt for separate payments. However, in our view it is important to maintain a record for joint payments in particular, which should not be optional but mandatory. After all, in that situation it is unclear what the cost

Commission proposal	Presidency compromise	MS Comments
	~~**unbundling rules do not apply, more small and medium capitalisation companies, and in particular more medium capitalisation companies will benefit from a larger research coverage, bringing those companies more visibility from potential investors and thus increasing their capacity to raise funding in the markets.**~~	breakdown is between research and execution services. • We have a drafting suggestion for the recital and Article 24 (9a) (see comments on Article 24 (9a): NL (Drafting suggestion): (4) In order to revitalise the market for investment research and to ensure sufficient research coverage of companies, in particular the small and medium capitalisation companies, the research unbundling rules need to be further adjusted to offer the investment firms more flexibility in the way they wish to organise the payments of execution services and research, thus limiting situations, if relevant, where separate payments may be too cumbersome. This would however require to maintain a necessary transparency vis-a-vis the client as to the payment choice made by the firms. Firms should inform their clients whether they apply a separate or joint payment for the execution

Commission proposal	Presidency compromise	MS Comments
		services and the provision of third-party research. Should a firm select ~~separate~~ **joint** payments, appropriate information to the clients **shall** ~~may~~ be ensured via the recording by the firm of the charges attributable to research and execution services and also via the provision of an annual information on those payments to the clients. DK: Denmark stresses the importance of transparency on costs paid by the investor including costs for research and execution services. How do we ensure that practices also reflect that investors are clearly informed of a) investors pays for research and b) the costs for execution services and research are bundled? According to the amended paragraph 9a, subparagraph (i) firms are required to inform their clients that they apply a joint payment for execution services and third-party research. We would therefore welcome further clarification on whether there are specific requirements as to

Commission proposal	Presidency compromise	MS Comments
		how such information should be presented to the clients. IT: We propose to slightly amend the text .[i.e. deleting ~~Should a firm selects separate payments,]~~ in order to make the wording consistent with the Article 24, par. 9a, second subparagraph.
(5) In addition, to further support the coverage of small and medium capitalisation companies by investment research, research material paid fully or partially by issuers should be labelled as 'issuer-sponsored research'. To ensure an adequate level of objectivity and independence of such research material, such material should be produced in line with a code of conduct developed or endorsed by a market operator registered in a Member State or by a competent authority. In order to support more visibility of the issuer-sponsored research, issuers should have the possibility to submit their issuer-sponsored research to the relevant	(5) In addition, to further support the coverage of small and medium capitalisation companies by investment research, research material paid fully or partially by issuers should be labelled as 'issuer-sponsored research'. To ensure an adequate level of objectivity and independence of such research material, such material should be produced in line with a code of conduct. **Also, for this purpose, investment firms should have in place organisational arrangements to ensure that the issuer-sponsored research they distribute is produced in compliance with the code of conduct. The competent authorities of the Member States should be given supervisory powers to ensure that the investment firms**	CZ: We do not find it necessary to oblige investment firms to have in place organisational arrangements to ensure that the research distributed is produced in compliance with the code of conduct. From our point of view it would be enough to demand that the investment firms ensure that the isuuer-sponsored research they distribute complies with the code of conduct and leave it up to the investment firms how they decide to ensure fulfilment of obligation. The recital as it stands now is unnecessarily rigid. Provision should not go above what is necessary to ensure sufficient

Commission proposal	Presidency compromise	MS Comments
collection body as defined[11] in [Article 2 (2) of the proposal for a Regulation[12] on a European Single Access Point].	**comply with the requirements. For the sake of EU harmonisation the code of conduct should be established by ESMA through draft regulatory standards. In order to design a code of conduct in such a way that it constitutes an adequate and proportionate balance for all types of market participants involved in the production of issuer-sponsored research, ESMA should consult publicly and liaise with market participants when preparing its draft regulatory technical standards.** ~~**developed or endorsed by a market operator registered in a Member State or by a competent authority**~~. ~~**In order to support more visibility of the issuer-sponsored research, issuers should have the possibility to submit their issuer-sponsored research to the relevant collection body as defined[13] in [Article 2 (2) of the proposal for a Regulation[14] on a European Single Access Point].**~~	protection and functioning of the market and the recital should reflect this. Regarding the ESMA power to establish code of conduct, please see our comments to the relevant provision. FR: In line with our comment on Art. 24(3a) as redrafted by this Compromise, we believe the term "distribute" is a misrepresentation of the actual practice of investment firms in relation to research materials and had better be replaced here by the term "receive", failing which the text might miss its target : "Also, for this purpose, investment firms should have in place organisational arrangements to ensure that the issuer-sponsored research they

11 See Article2.2 o proposal for a Regulation [2021.78.COD]
12 Proposal for a Regulation [2021/03.78.COD]
13 See Article2.2 o proposal for a Regulation [2021.78.COD]
14 Proposal for a Regulation [2021/03.78.COD]

Commission proposal	Presidency compromise	MS Comments
		receive ~~**distribute**~~ is produced in compliance with the code of conduct." PT: We cannot support the proposal to have ESMA draft a harmonised code of conduct since there is no evidence of any issue with the current regime. We consider that having ESMA draw a code of conduct based on other national codes whose construction is not clear may add unnecessary complexity to the current regime, which could ultimately result in a challenging implementation by market participants and NCAs.
(6) Directive 2014/65/EU introduced the SME growth market category to increase the visibility and profile of markets specialised in SMEs and foster the development of common regulatory standards in the Union of markets specialised in SMEs. SME growth markets play a key function in facilitating access to capital for those smaller issuers by catering for their needs. To foster the development of such specialised markets and to limit the organisational burden for the operators of multilateral trading facilities	(6) Directive 2014/65/EU introduced the SME growth market category to increase the visibility and profile of markets specialised in SMEs and foster the development of common regulatory standards in the Union of markets specialised in SMEs. SME growth markets play a key function in facilitating access to capital for those smaller issuers by catering for their needs. To foster the development of such specialised markets and to limit the organisational burden for the operators of multilateral trading facilities	

Commission proposal	Presidency compromise	MS Comments
(MTFs), it is necessary to allow the segment of a MTF to apply to become a SME growth market provided that such segment is clearly separated from the rest of the MTF.	(MTFs), it is necessary to allow the segment of a**n** MTF to apply to become a**n** SME growth market provided that such segment is clearly separated from the rest of the MTF.	
	(6a) To reduce the risk for fragmentation of liquidity for SME shares, considering the lower liquidity of these instruments, Article 33(7) of Directive 2014/65/EU requires that a financial instrument that is admitted to trading on one SME growth market may only be traded also on another SME growth market where the issuer of the financial instrument has not objected to it. However, the Article currently does not provide the corresponding requirement for non-objection by the issuer where the second trading venue is another type of trading venue than an SME growth market. Hence, the issuer non-objection requirement regarding the admission to trading of an instrument already admitted to trading on an SME growth market should be extended to any other trading venue in order to ensure that issuers maintain control over the liquidity and to further reduce the risk of fragmented liquidity of these instruments. If a financial instrument admitted to trading on an SME	CZ: Please see our comment to art. 33(7). IT: We support the extension of the issuer non-objection requirement regarding the admission to trading of an instrument already admitted to trading on an SME growth market to any other trading venue (similarly to what is today provided for admission to another SME GM), provided that the requirement for the issuer to comply with any further regulatory requirement compulsory on the second trading venue, is maintained, in line with the ESMA conclusions in its Final Report on SME GM.

Commission proposal	Presidency compromise	MS Comments
	growth market is also traded on another type of trading venue, the issuer should follow any obligation relating to corporate governance or initial, ongoing or ad hoc disclosure with regard to the latter trading venue.	
(7) Directive 2001/34/EC of the European Parliament and of the Council[15] lays down rules concerning listing on Union markets. That Directive aims at coordinating the rules on the admission of securities to official stock exchange listing and on information to be published on those securities to provide equivalent protection for investors at Union level. That Directive also lays down the rules of the regulatory and supervisory framework for Union primary markets. In the course of the years, Directive 2001/34/EC has been amended significantly several times. Directives 2003/71/EC of the European Parliament and of the Council[16] and Directive 2004/109/EC of the	(7) Directive 2001/34/EC of the European Parliament and of the Council[18] lays down rules concerning listing on Union markets. That Directive aims at coordinating the rules on the admission of securities to official stock exchange listing and on information to be published on those securities to provide equivalent protection for investors at Union level. That Directive also lays down the rules of the regulatory and supervisory framework for Union primary markets. In the course of the years, Directive 2001/34/EC has been amended significantly several times. Directives 2003/71/EC of the European Parliament and of	

15 Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (OJ L 184, 6.7.2001, p. 1).

16 Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

18 Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (OJ L 184, 6.7.2001, p. 1).

Commission proposal	Presidency compromise	MS Comments
European Parliament and of the Council[17] have replaced most of the provisions harmonising the conditions for the provision of information regarding requests for the admission of securities to official stock exchange listing and the information on securities admitted to trading, and have made large parts of Directive 2001/34/EC redundant. Directive 2001/34/EC as a minimum harmonisation Directive gives Member States a rather broad discretion to deviate from the rules laid down in that Directive, which has led to market fragmentation in the Union. To drive market harmonisation at Union level and create a single rule book, Directive 2001/34/EC should be repealed.	the Council[19] and Directive 2004/109/EC of the European Parliament and of the Council[20] have replaced most of the provisions harmonising the conditions for the provision of information regarding requests for the admission of securities to official stock exchange listing and the information on securities admitted to trading, and have made large parts of Directive 2001/34/EC redundant. **In light of this and the fact that Directive 2001/34/EC as a minimum harmonization Directive gives Member States a rather broad discretion to deviate from the rules laid down,** ~~**Directive 2001/34/EC as a minimum harmonisation Directive gives Member States a rather broad discretion to deviate from the rules laid down in that Directive, which has led to market fragmentation in the Union. To drive market harmonisation at Union level and create a single rule book,**~~ Directive 2001/34/EC should	

[17] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

[19] Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

[20] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

Commission proposal	Presidency compromise	MS Comments
	be repealed **to create a single rule book at Union level**.	
(8) Directive 2014/65/EU, like Directive 2001/34/EC, provides for the regulation of markets of financial instruments and strengthens investor protection in the Union. Directive 2014/65/EU also sets out rules on the admission of financial instruments to trading. By extending the scope of Directive 2014/65/EU to cover specific provisions from Directive 2001/34/EC will ensure that all relevant provisions from Directive 2001/34/EC are maintained. A number of provisions of Directive 2001/34/EC, including the requirements on free float and market capitalisation which still apply, are enforced by competent authorities and are considered important rules for seeking admission to trading of shares on regulated markets in the Union by market participants. It is therefore necessary to transfer those rules in Directive 2014/65/EU to set out, in a new provision of that Directive, specific minimum conditions for the admission to trading of shares on regulated markets. The application of that new provision should complement the general provisions on the admission of financial	(8) Directive 2014/65/EU, like Directive 2001/34/EC, provides for the regulation of markets of financial instruments and strengthens investor protection in the Union. Directive 2014/65/EU also sets out rules on the admission of financial instruments to trading. By extending the scope of Directive 2014/65/EU to cover specific provisions from Directive 2001/34/EC will ensure that all relevant provisions from Directive 2001/34/EC are maintained. A number of provisions of Directive 2001/34/EC, including the requirements on free float and market capitalisation which still apply, are enforced by competent authorities and are considered important rules for seeking admission to trading of shares on regulated markets in the Union by market participants. It is therefore necessary to transfer those rules in Directive 2014/65/EU to set out, in a new provision of that Directive, specific minimum conditions for the admission to trading of shares on regulated markets. The application of that new provision should complement the general provisions on the admission of financial	

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instrument to trading laid down in Directive 2014/65/EU.	instrument to trading laid down in Directive 2014/65/EU.	
(9) To allow for more flexibility for issuers and to make Union capital markets more competitive, the minimum free float requirement should be decreased to 10%, which is a threshold that ensures for a sufficient level of liquidity in the market. The free float requirement laid down in Directive 2001/34/EC that a sufficient number of shares is to be distributed to the public in one or more Member States refers to the public within the Union and the European Economic Area (EU/EEA). That geographical restriction of the free float requirement to the EU/EEA should not be maintained as Directive 2014/65/EU does not provide for such restriction for financial instruments admitted to trading. The requirement that a company is to have published or filed its annual accounts for a specific period of time should not be transferred to Directive 2014/65/EU since Regulation (EU) 2017/1129 of the European Parliament and of the Council[21]	(9) To allow for more flexibility for issuers and to make Union capital markets more competitive, the minimum free float requirement should be decreased to 10%, which is a threshold that ensures for a sufficient level of liquidity in the market. The free float requirement laid down in Directive 2001/34/EC that a sufficient number of shares is to be distributed to the public in one or more Member States refers to the public within the Union and the European Economic Area (EU/EEA). That geographical restriction of the free float requirement to the EU/EEA should not be maintained as Directive 2014/65/EU does not provide for such restriction for financial instruments admitted to trading. The requirement that a company is to have published or filed its annual accounts for a specific period of time should not be transferred to Directive 2014/65/EU since Regulation (EU) 2017/1129	

[21] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

Commission proposal	Presidency compromise	MS Comments
already contains a provision to that effect. Directive 2014/65/EU already lays down provisions to designate competent authorities. Thus, the provisions laid down in Directive 2001/34/EC to appoint one or more competent authorities are redundant. The requirement for debt securities that the amount of the loan is not be less than EUR 200 000 are considered obsolete in light of current market practice.	of the European Parliament and of the Council[22] already contains a provision to that effect. Directive 2014/65/EU already lays down provisions to designate competent authorities. Thus, the provisions laid down in Directive 2001/34/EC to appoint one or more competent authorities are redundant. The requirement for debt securities that the amount of the loan is not be less than EUR 200 000 are considered obsolete in light of current market practice.	
(10) The concept of admission of securities to official listing on stock exchanges provided for in Directive 2001/34/EC is no longer frequently used given market developments, as Directive 2014/65/EU already provides for the concept of 'admission of financial instruments to trading on a regulated market'. The two concepts 'admission to official listing' and 'admission to trading on a regulated market' are often used interchangeably in some Member States. That means that, in some Member States, no distinction is made between the two concepts. Furthermore, the dual regime of admission to trading, on the one hand, and admission to	(10) The concept of admission of securities to official listing on stock exchanges provided for in Directive 2001/34/EC is no longer ~~**frequently used**~~ **prevailling,** given market developments, as Directive 2014/65/EU already provides for the concept of 'admission of financial instruments to trading on a regulated market'. **While in some Member States t**~~**T**~~he two concepts 'admission to official listing' and 'admission to trading on a regulated market' are ~~**often**~~ used interchangeably**,** in ~~**some**~~ **other** Member States **the concept of 'admission to official listing' continues to play an important role alongside the concept of**	

[22] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

Commission proposal	Presidency compromise	MS Comments
official listing, on the other hand, could lead to legal uncertainty at Union level, in particular, due to the fact that the requirements laid down in Directive 2003/71/EC, Directive 2004/109/EC and Directive 2014/57/EU of the European Parliament and of the Council[23] do not apply to instruments admitted to official listing, while those requirements apply to instruments admitted to trading on a regulated market.	**‘admission to trading on a regulated market’, in particular by providing an alternative to issuers of securities, notably debt securities, who seek increased visibility but for whom admission to trading is not a relevant or viable option. The repeal of Directive 2001/34/EC by this Directive should be without prejudice to the validity and continuation of the regimes of admission to official listing on stock exchanges in those Member States who would like to continue to apply the regime. In any case, Member States should retain the ability to provide for and regulate such regimes under national legislation**. ~~**That means that, in some Member States, no distinction is made between the two concepts. Furthermore, the dual regime of admission to trading, on the one hand, and admission to official listing, on the other hand, could lead to legal uncertainty at Union level, in particular, due to the fact that the requirements laid down in Directive 2003/71/EC, Directive 2004/109/EC and**~~	

[23] Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive) (OJ L 173, 12.6.2014, p. 179).

Commission proposal	Presidency compromise	MS Comments
	~~**Directive 2014/57/EU of the European Parliament and of the Council24 do not apply to instruments admitted to official listing, while those requirements apply to instruments admitted to trading on a regulated market.**~~	
(11) To enhance the visibility of listed companies, in particular SMEs and to adapt the listing conditions to improve requirements for issuers, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending Directive 2014/65/EU. The market capitalisation threshold for companies, for which the re-bundling of trading execution and research fees would be possible, to capture small and medium capitalisation companies, and providing a framework for the development of a particular form of research for which the issuer pays should be adapted. The adaption of the listing rules in the Union should also reflect market practice for it to be effective and promote competition. It is of particular	(11) To enhance the visibility of listed companies, in particular SMEs and to adapt the listing conditions to improve requirements for issuers, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending Directive 2014/65/EU. The market capitalisation threshold for companies, for which the re-bundling of trading execution and research fees would be possible, to capture small and medium capitalisation companies, and providing a framework for the development of a particular form of research for which the issuer pays should be adapted. The adaption of the listing rules in the Union should also reflect market practice for it to be effective and promote competition. It is of particular	

[24] Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive) (OJ L 173, 12.6.2014, p. 179).

Commission proposal	Presidency compromise	MS Comments
importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[25]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[26]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	
(12) Directive 2014/65/EU should therefore be amended accordingly.	(12) Directive 2014/65/EU should therefore be amended accordingly.	
(13) Since the objectives of this Directive, namely to ease Union small and medium capitalisation companies' access to capital markets, and to increase the coherence of Union listing rules cannot be sufficiently achieved by the Member States but can rather, by reason of the improvements and effects sought, be better	(13) Since the objectives of this Directive, namely to ease Union small and medium capitalisation companies' access to capital markets, and to increase the coherence of Union listing rules cannot be sufficiently achieved by the Member States but can rather, by reason of the improvements and effects sought, be better	

[25] OJ L 123, 12.5.2016, p. 1.
[26] OJ L 123, 12.5.2016, p. 1.

Commission proposal	Presidency compromise	MS Comments
achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	
HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
Article 1 **Amendments to Directive 2014/65/EU**	Article 1 **Amendments to Directive 2014/65/EU**	
Directive 2014/65/EU is amended as follows:	Directive 2014/65/EU is amended as follows:	
(1) in Article 4(1), point (12) is replaced by the following:	(1) in Article 4(1), point (12) is replaced by the following:	
'(12) 'SME growth market' means a MTF, or a segment of a MTF, that is registered as an SME growth market in accordance with Article 33;';	'(12) 'SME growth market' means a**n** MTF, or a segment of a**n** MTF, that is registered as an SME growth market in accordance with Article 33;';	HR: We agree witht the defoniton of SME market
(2) Article 24 is amended as follows:	(2) Article 24 is amended as follows:	HR: We can agree with the SE PRES proposal
(a) the following paragraphs 3a to 3d are inserted:	(a) the following paragraphs 3a to 3**c**~~d~~ are inserted:	

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Commission proposal	Presidency compromise	MS Comments
'3a. research provided by third parties to investment firms providing portfolio management or other investment or ancillary services and research prepared and distributed by such firms shall be fair, clear and not misleading. Research shall be clearly identifiable as such or in similar terms, provided that all conditions applicable to the research are met.	'3a. ~~**research provided by third parties to 1.**~~ **Research distributed to clients or potential clients by** investment firms providing portfolio management or other investment or ancillary services**,** ~~**and research**~~ **that has been** ~~**prepared**~~**produced** ~~**and distributed**~~ by **these** ~~**such**~~ firms **or provided to these firms and produced by third parties,** shall be fair, clear and not misleading. Research shall be clearly identifiable as such or in similar terms, provided that all conditions applicable to the research are met.	FR: The draft Compromise targets research that is "*distributed to clients or potential clients by investment firms*". This seems inadequate because in practice, investment research (sponsored or not) is almost never passed on to clients, but is used by investment firms to make investment decisions on behalf of clients (portfolio management) or to issue investment recommendations to clients. In the vast majority of cases, clients do not actually have access to the research. Instead, research is a tool used by investment firms to enhance the investment service they provide to their clients. We suggest to rephrase Recital 5 and Article 24(3a) & (3b) accordingly. Otherwise, the new regime for sponsored research risks being an empty shell. We propose the following redrafting : "3a. **Research** **used** ~~**distributed to clients or potential clients**~~ **by investment firms** providing portfolio management or other investment or ancillary services, that has been produced by these firms or provided to these firms and

Commission proposal	Presidency compromise	MS Comments
		produced by third parties, shall be fair, clear and not misleading." PT: We agree with the Presidency compromise. IT: We support the Presidency compromise. In order to make the text more clear, a reference can be added also in this Article to the need to consult publicly and liaise with market participants when ESMA is preparing its draft regulatory technical standards, in line with Recital 5 on this point.
3b. Where the research is paid, fully or partially, by the issuer and disseminated to the public or to investment firms or to the clients of investment firms providing portfolio management or other investment or ancillary services, such research shall be labelled as "issuer-sponsored research" provided that it is produced in compliance with a code of conduct	3b. **~~Where the research is paid, fully or partially, by the issuer and disseminated to the public or to investment firms or to the clients of investment firms providing portfolio management or other investment or ancillary services, such research~~** **Investment firms providing portfolio management or other investment or ancillary services shall**	CZ: We are for the unified rules setting the basic reguirements for the code of conduct. However we have douts regarding unified code of conduct adopted by ESMA. FR:

Commission proposal	Presidency compromise	MS Comments
developed or endorsed by a market operator registered in a Member State or by a competent authority.	**ensure that the research they distribute to clients or potential clients which is paid, fully or partially, by an issuer** shall be **labelled** as "issuer-sponsored research" ~~**provided that**~~ **only if** it is produced in compliance with ~~**a**~~ **the EU** code of conduct **for issuer-sponsored research**. ~~**developed or endorsed by a market operator registered in a Member State or by a competent authority**~~.	Same comment as above. We propose the following redrafting : "3b. Investment firms providing portfolio management or other investment or ancillary services shall ensure that **the research they use** ~~**distribute**~~ **for the purpose of providing services to clients or potential clients** which is paid, fully or partially, by an issuer shall be labelled as "issuer-sponsored research" only if it is produced in compliance with ~~a~~ the EU code of conduct for issuer-sponsored research."
The code of conduct shall set out minimum standards of independency and objectivity to be complied with by the providers of such research. The market operator or the competent authority shall publish the code of conduct on its website and review and re-endorse it every 2 years.	**ESMA shall develop draft regulatory technical standards to establish a harmonised EU code of conduct for issuer-sponsored research.** The code of conduct shall set out ~~**minimum**~~ standards of independency and objectivity, **and specify procedures and measures for effective identification, prevention and disclosure of conflicts of interest.** ~~**to be complied with by the providers of such research**~~. ~~**The market operator or the competent authority**~~ **shall** ~~**publish the code of**~~	CZ: We are for a unified approach regarding the basic requirements for a code of conduct to ensure certain level of comparable quality. However, we are not sure ESMA should set the unified code of conduct in its regulatory technical standards. From our point of view the delegated act (or ESMA guidelines) should set only **basic** requirements for the code of conduct that might be specific for member states.

Commission proposal	Presidency compromise	MS Comments
	~~**conduct on its website and review and re-endorse it every 2 years**~~.	NL: NL (Comments): We are still in favor of a harmonised EU code that is developed by the market entities, because of the incentive that it gives them comply with their own rules. However, in the spirit of compromise we could support the introduction of a harmonized EU code of conduct for issuer-sponsored research developed by ESMA. CY: We are in favour of the PCY compromise proposal, ie. for ESMA to draft the harmonised code of conduct through RTS. ES: As we said in the meeting, we need to determine whether the category of issuer-sponsored research is intended to sit under the MAR definition of investment recommendations

Commission proposal	Presidency compromise	MS Comments
		(Article 3(1)(35)). As ESMA confirmed in the past concerning the scope of MAR in relation to Mifid categories of investment research, "irrespective of the label attached to a note [an issuer-sponsored research in our case], as long as it meets the MAR definition of "investment recommendations" (Article 3(1)(35)) or of "information recommending or suggesting an investment strategy" (Article 3(1)(34)), is in scope of Article 20(1) and (3) of MAR". DK: DK supports the amendments to the process of the issuer-sponsored research framework. PT: We cannot support the PRES compomise proposal to have ESMA draft a harmonised code of conduct since there is no evidence of any issue with the current regime. We consider that having ESMA draw a code of conduct based on other national codes whose construction is not clear may add unnecessary complexity to the current regime, which could

Commission proposal	Presidency compromise	MS Comments
		ultimately result in a challenging implementation by market participants and NCAs. Therefore, we favour the Comission proposal, athough we consider that the code of conduct endorsed by NCAs and market operators could be also combined with ESMA guidelines. **<u>Drafting suggestion:</u>** The code of conduct shall set out minimum standards of independency and objectivity to be complied with by the providers of such research. The market operator or the competent authority shall publish the code of conduct on its website and review and re-endorse it every 2 years. **<u>ESMA shall develop guidelines addressed to the competent authorities, covering the independency and objectivity of the code of conduct.</u>** PL: We still support the proposal to grant the right to prepare a code of conduct for issuer-sponsored research to market participants, as

Commission proposal	Presidency compromise	MS Comments
		well as the right to approve or officially adopt such a code prepared by the market participants by the market operator or the relevant NCA. This would ensure that the provisions of the code of conduct are best suited to the conditions of individual national markets, which will be guaranteed if the code of conduct can be endorsed by the relevant national entities. As a compromise we could agree that the main principles and guidelines that should apply in any case should be generally indicated at the level of EU law, either directly in the Regulation, or in ESMA guidelines/RTS.
	In establishing the code of conduct ESMA shall take into account the content and parameters of codes of conduct which have been established at national level prior to the application of the regulatory technical standards, especially where such codes have been widely endorsed and adhered to.	CZ: Please see our comment above.
	ESMA shall submit those draft regulatory technical standards to the Commission [by 18 months after the date of entry into force of this Directive].	CZ: Please see our comment above.
	Power is delegated to the Commission to adopt the regulatory technical standards	CZ:

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Commission proposal	Presidency compromise	MS Comments
	referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.	Please see our comment above.
	The EU code of conduct shall be made available on the website of ESMA.	CZ: Please see our comment above.
	ESMA shall assess on a regular basis and at least every 5 years whether the EU code of conduct needs to be reviewed, in which case it shall submit amended draft regulatory technical standards to the Commission.	CZ: Please see our comment above. IT: A period of maximum 3 years to assess whether the Code of Conduct needs to be reviewed seems more appropriate.
	Member States shall provide that investment firms that produce or distribute issuer-sponsored research have in place organisational arrangements to ensure that such research is produced in compliance with the EU code of conduct developed by ESMA as referred to in paragraph 3b and complies with paragraph 3a and 3c.	CZ: We think that the reguirement to set in place organisational arrangements is a little bit excessive. Drafting suggestion: ***Investment firms that produce or distribute issuer-sponsored***

Commission proposal	Presidency compromise	MS Comments
		research should ensure that such research is produced in compliance with the code of conduct adopted in accordance with the rules on code of conduct as refered to in paragraph 3b and with paragraph 3a and 3c. FR: Same comment as above. We propose the following redrafting : "Member States shall provide that investment firms that produce or **use** ~~**distribute**~~ issuer-sponsored research have in place organisational arrangements to ensure that such research is produced in compliance with the EU code of conduct developed by ESMA as referred to in paragraph 3b and complies with paragraph 3a and 3c."
3c. Member States shall ensure that any issuer may submit its issuer-sponsored research, as referred to in paragraph 3b of this Article, to the relevant collection body as defined in	~~**3c. Member States shall ensure that any issuer may submit its issuer-sponsored research, as referred to in paragraph 3b of this Article, to the relevant collection body as defined in [Article 2(2) of the proposal for a**~~	PT: We agree with the Presidency compromise in deleting this provision, as the conditions for voluntary submission of information to ESAP are regulated in the ESAP Regulation.

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Commission proposal	Presidency compromise	MS Comments
[Article 2(2) of the proposal for a Regulation on a European Single Access Point[27]].	~~**Regulation on a European Single Access Point[28].**~~	
3d. Research that is labelled as issuer-sponsored research shall indicate on its front page in a clear and prominent way that it has been prepared in accordance with a code of conduct. The name of the market operator or competent authority that has developed or endorsed such code of conduct shall also be mentioned. Any other research material paid fully or in part by the issuer but not produced in compliance with a code of conduct as referred to in paragraph 3b shall be labelled as marketing communication.’;	3~~d~~**c**. Research that is labelled as issuer-sponsored research shall indicate on its front page in a clear and prominent way that it has been ~~**prepared**~~**produced** in accordance with ~~**a**~~ **the EU** code of conduct. ~~**The name of the market operator or competent authority that has developed or endorsed such code of conduct shall also be mentioned**~~. Any other research material ~~**paid**~~ fully or part**ially paid** by the issuer **and distributed by an investment firm,** but not produced in compliance with **the**~~**a**~~ **EU** code of conduct ~~**as**~~ referred to in paragraph 3b shall be labelled as marketing communication.	CZ: Please see our comments above regarding (rules on) code of conduct. FR: Same comment as above. We propose the following redrafting : “Any other research material fully or partially paid by the issuer and **used** ~~**distributed**~~ by an investment firm, but not produced in compliance with the EU code of conduct referred to in paragraph 3b shall be labelled as marketing communication.”
(b) in paragraph 9a, point (c) is replaced by the following:	**(b) ~~in~~ paragraph 9a~~, point (c)~~ is amended as follows: ~~replaced by the following~~:**	HR:

[27] Proposal for a Regulation [2021/0378.COD].
[28] Proposal for a Regulation [2021/0378.COD].

Commission proposal	Presidency compromise	MS Comments
		We agree that investment firms should have an option to choose whether they will use joint or separate payments. As we previously stated even if the threshold is raised, many market participants are reluctant to start this kind of divided pricing for different kinds of companies or to renegotiate the current contracts between asset managers and research producers. So the option to rebundle or unbundle should be left to them. We agree that the investment firm should informs its clients about the separate or joint payments, as the case may be, for execution services and research made to the third party providers of research. IT: We support the Presidency compromise concerning paragraph 9a.
‘(c) the research for which the combined charges or the joint payment is made concerns issuers whose market capitalisation for the period of 36 months preceding the provision of the research did not exceed EUR 10 billion, as expressed by end-year quotes for the years when	~~**‘(c) the research for which the combined charges or the joint payment is made concerns issuers whose market capitalisation for the period of 36 months preceding the provision of the research did not exceed EUR 10 billion, as expressed by end-year quotes**~~	~~**DK:**~~ In the spirit of compromise and the arguments presented by the Commission on the relation to

Commission proposal	Presidency compromise	MS Comments
those issuers are or were listed or by the own-capital for the financial years when those issuers are or were not listed.'; 	~~**for the years when those issuers are or were listed or by the own-capital for the financial years when those issuers are or were not liste**~~	competitiveness and relations to third country jurisdictions DK can be open to the deletion of this regime at this time. PT: We welcome the compromise proposal on re-bundling, as the Commission's initial proposal already excluded the majority of issuers in the EU. Additionally, we consider that the benefits of the unbundling regime are not clear and may have had more negative impacts than positive in smaller markets.
	(i) the first subparagraph, is replaced by the following:	
	The provision of research by third parties to investment firms providing portfolio management or other investment or ancillary services to clients is to be regarded as fulfilling the obligations under paragraph 1 if the investment firm informs its clients about the separate or joint payments, as the case may be, for execution services and research made to the third party providers of research.	

Commission proposal	Presidency compromise	MS Comments
	(ii) the following subparagraphs are added:	
	Investment firm may keep a record of separate payments and gather information distinguishing the part of combined charges or joint payments for execution services and research that is attributable to research provided to such firms and inform its clients annually in an aggregated form of the annual expenditure to research of the investment firm that is attributable to the client.	NL: NL (Drafting suggestion): (see for rationale our comments on recital 4) Investment firm ~~may~~ **shall** keep a record of ~~separate~~ **combined charges or joint** payments **which contains** ~~and gather~~ information distinguishing the part of combined charges or joint payments for execution services and research that is attributable to research provided to such firms and inform its clients annually in an aggregated form of the annual expenditure to research of the investment firm that is attributable to the client. FR: Following the discussion of the last CWP, we should be cautious not to create constrait that would annihilate the benefits of a rebundling,

Commission proposal	Presidency compromise	MS Comments
		such a mandatory joint payment system. That system is one of the reasons the partial rebundling has not had real effects and we do not see how it could be managed in a efficient manner in the context of a full rebundling. Should the Council decide to add additional safeguards to prevent conflicts of interest, that should take the form of reporting obligations to the NCA. CY: We have concerns with regards to the repeal of the research unbundling rules, ie. full re-bundle. We don't think that information provided to clients on a voluntary basis is in the right direction to ensure investor protection. ES: We perceive that the record safeguard might be not sufficient as a counterbalance measure for improving market transparency. We would be open to study alternatives, such as the

Commission proposal	Presidency compromise	MS Comments
		mandatory nature of the record and the information to the clientes on an annual basis. HR: The proposed paragraph (ii) is not clear as the word "may" implies that the investment firm may keep a record of separate payments and may gather information distinguishing the part of combined charges or joint payments …**we propose to substitute it with the word „*shall*"** PT: We believe the drafting of this provision could be improved as to clarify its voluntary nature. **Drafting suggestion:** Investment firm**s** may keep a record of separate payments and gather information distinguishing the part of combined charges or joint payments for execution services and research that is attributable to research provided to such firms and **may** inform its clients annually in an aggregated form of the annual expenditure to

Commission proposal	Presidency compromise	MS Comments
		research of the investment firm that is attributable to the client.
	By [3 years after the date of entry into force of this Directive], the Commission shall prepare a report with a comprehensive assessment of the market developments regarding research as understood in this Article. This assessment shall at least incorporate the research coverage of listed firms, the costs of that research and the level of fulfillment of the demand for research by investors and other buyers.	CZ: We are not sure of the added value of a report prepared so shortly after the entry into force of this Directive. If there is a desire among other member states for such report, we at leas sugest prolongation of the period up to 5 years. We also sugest to maintain the terminology – this provision uses report and assesment while refering to the same think.
	Based on this report, the Commission may, if appropriate, prepare an impact assessment, and submit to the European Parliament and the Council a legislative proposal concerning targeted changes to the rules laid down in this Directive regarding research.	
(3) Article 33 is amended as follows:	(3) Article 33 is amended as follows:	HR: We agree
(a) paragraphs 1 and 2 are replaced by the following:	(a) paragraphs 1 and 2 are replaced by the following:	

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Commission proposal	Presidency compromise	MS Comments
'1. Member States shall provide that the operator of a MTF may apply to its home competent authority to have the MTF or a segment thereof, registered as an SME growth market.	'1. Member States shall provide that the operator of a**n** MTF may apply to its home competent authority to have the MTF or a segment thereof, registered as an SME growth market.	
2. Member States shall provide that the home competent authority may register the MTF, or a segment thereof, as an SME growth market if the competent authority receives an application as referred to in paragraph 1 and is satisfied that the requirements in paragraph 3 are complied with in relation to the MTF, or that the requirements in paragraph 3a are complied with in relation to a segment of the MTF.';	2. Member States shall provide that the home competent authority may register the MTF, or a segment thereof, as an SME growth market if the competent authority receives an application as referred to in paragraph 1 and is satisfied that the requirements in paragraph 3 are complied with in relation to the MTF, or that the requirements in paragraph 3a are complied with in relation to a segment of the MTF.';	
(b) the following paragraph 3a is added:	(b) the following paragraph 3a is added:	
'3a. Member States shall ensure that the relevant segment of the MTF is subject to effective rules, systems and procedures which ensure that the conditions referred to in paragraph 3 and all of the following conditions have been complied with:	'3a. Member States shall ensure that the relevant segment of the MTF is subject to effective rules, systems and procedures which ensure that the conditions referred to in paragraph 3 and all of the following conditions have been complied with:	
(a) the segment of the MTF registered as 'SME growth market' is clearly separated from the other market segments operated by the MTF operator, which is *inter*	(a) the segment of the MTF registered as 'SME growth market' is clearly separated from the other market segments operated by the MTF operator, which is *inter*	

Commission proposal	Presidency compromise	MS Comments
alia indicated by a different name, different rulebook, different marketing strategy, and different publicity, as well as a specific allocation of the market identification code to the SME growth market segment;	*alia* indicated by a different name, different rulebook, different marketing strategy, and different publicity, as well as a specific allocation of the market identification code to the SME growth market segment;	
(b) the transactions made on the specific SME growth market segment are clearly distinguished from other market activity within the other segments of the MTF;	(b) the transactions made on the specific SME growth market segment are clearly distinguished from other market activity within the other segments of the MTF;	
(c) upon request of the MTF's home competent authority, the MTF shall provide a comprehensive list of the instruments listed on the SME growth market segment concerned, as well as any information on the operation of the SME growth market segment that the competent authority may request.';	(c) upon request of the MTF's home competent authority, the MTF shall provide a comprehensive list of the instruments listed on the SME growth market segment concerned, as well as any information on the operation of the SME growth market segment that the competent authority may request.';	
(c) paragraphs 4 to 6 are replaced by the following:	(c) paragraphs 4 to 6 are replaced by the following:	
'4. The criteria laid down in paragraphs 3 and 3a are without prejudice to compliance by the investment firm or market operator operating the MTF, or a segment thereof, with other obligations under this Directive relevant to the operation of MTFs.	'4. The criteria laid down in paragraphs 3 and 3a are without prejudice to compliance by the investment firm or market operator operating the MTF, or a segment thereof, with other obligations under this Directive relevant to the operation of MTFs.	

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Commission proposal	Presidency compromise	MS Comments
5. Member States shall provide that the home competent authority may deregister a MTF, or a segment thereof, as an SME growth market in any of the following cases:	5. Member States shall provide that the home competent authority may deregister a**n** MTF, or a segment thereof, as an SME growth market in any of the following cases:	
(a) the investment firm or market operator operating the MTF, or a segment thereof, applies for its deregistration;	(a) the investment firm or market operator operating the MTF, or a segment thereof, applies for its deregistration;	
(b) the requirements in paragraph 3 or 3a are no longer complied with in relation to the MTF, or a segment thereof.	(b) the requirements in paragraph 3 or 3a are no longer complied with in relation to the MTF, or a segment thereof.	
6. Members States shall require that if a home competent authority registers or deregisters a MTF, or a segment thereof, as an SME growth market under this Article, that authority shall as soon as possible notify ESMA of that registration or deregistration. ESMA shall publish on its website a list of SME growth markets and shall keep that list up to date.’;	6. Members States shall require that if a home competent authority registers or deregisters a**n** MTF, or a segment thereof, as an SME growth market under this Article, that authority shall as soon as possible notify ESMA of that registration or deregistration. ESMA shall publish on its website a list of SME growth markets and shall keep that list up to date.’;	
	(ca) paragraph 7 is replaced by the following:	CZ: We regard as highly problematic the fact, that an obligation would be set to issuer while he/she did not consent to the admission to trading on another trading venue. If we oblige issuer and

Commission proposal	Presidency compromise	MS Comments
		there is a causal link to the admission to trading, the admission to trading should be based on the consent of the issuer. HR: We agree with the proposal that where a financial instrument of an issuer is admitted to trading on one SME growth market, the financial instrument may also be traded on another trading venue **only where the issuer has been informed and has not objected and if he has not objected he must comply to any obligation with regard to that trading venue.** We also support the accompanying amendments and the COM review.
	7. Member States shall require that where a financial instrument of an issuer is admitted to trading on one SME growth market, the financial instrument may also be traded on another trading venue only where the issuer has been informed and has not objected. Where the other trading venue is not an SME growth market, the issuer shall	CZ: Drafting suggestion: *7. Member States shall require that where a financial instrument of an issuer is admitted to trading on one SME growth market, the financial instrument may also be traded on*

Commission proposal	Presidency compromise	MS Comments
	be subject to any obligation relating to corporate governance or initial, ongoing or ad hoc disclosure with regard to the latter trading venue.	*another trading venue only where the issuer has been informed and has* ~~**not objected**~~ **expressed consent.** *Where the other trading venue is not an SME growth market, the issuer shall be subject to any obligation relating to corporate governance or initial, ongoing or ad hoc disclosure with regard to the latter trading venue.* PT: We are in favour of the Presidency compromise. IT: As mentioned above, we would support the proposal, as long as the requirement for the issuer to comply with any further regulatory requirement compulsory on the second trading venue is maintained, in line with the ESMA conclusions in its Final Report on SME GM.
(d) paragraph 8 is replaced by the following:	(d) paragraph 8 is replaced by the following:	
‘8. The Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Directive by further specifying	‘8. The Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Directive by further specifying	

Commission proposal	Presidency compromise	MS Comments
the requirements laid down in paragraphs 3 and 3a of this Article. Those requirements shall take into account the need to maintain high levels of investor protection to promote investor confidence in those markets while minimising the administrative burdens for issuers on the market. They shall also take into account that de-registrations do not occur nor shall registrations be refused merely because of a temporary failure to comply with the requirement laid down in paragraph 3, point (a), of this Article.’;	the requirements laid down in paragraphs 3 and 3a of this Article. Those requirements shall take into account the need to maintain high levels of investor protection to promote investor confidence in those markets while minimising the administrative burdens for issuers on the market. They shall also take into account that de-registrations do not occur nor shall registrations be refused merely because of a temporary failure to comply with the requirement laid down in paragraph 3, point (a), of this Article.’;	
(4) the following Article 51a is inserted:	(4) the following Article 51a is inserted:	
‘*Article 51a* **Specific conditions for the admission of shares to trading**	‘*Article 51a* **Specific conditions for the admission of shares to trading**	ES: We acknowledge the proposal of the Presidency is not controversial. However, we feel that the additional rules provided for in article 51a of the proposal may fail to provide EU-wide legally binding standards to be met in all Member States, by offering those the possibility of having each a set of different national rules. For this reason, our proposal would consist on the following:

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Commission proposal	Presidency compromise	MS Comments
		1) General rule: 10% free float with a minimum capitalization of a company to be around 30 million euros, in line with the requirement set by the United Kingdom (30 million pounds). 2) Alternative to the general rule: where 10% free float is not reached, there could be a set of possible criteria to be met and that should be determined by ESMA (number of investors, other criteria that evidence wide customer base …). 3) Specialty for SMEs: for companies below a certain capitalization volume (i.e. 30 million or to be set by ESMA), a minimum free float threshold of 15-20-25% (to be decided by Esma by taking into account national specificities). As we previously said, a 10% free float capitalisation for small caps can lead to issuers with very low liquidity, posing risks for supervisory purposes as well. DK:

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Commission proposal	Presidency compromise	MS Comments
		DK supports the compromise proposal from the Presidency regarding article 51a. HR: We can agree with the proposed amendments, and especially welcome the change to apply the 10% threshold only at the time of admission to trading and the changes to recital 10 regarding "admission to official listing".
1. Member States shall require that the foreseeable market capitalisation of the shares for which admission to trading is sought, or if this cannot be assessed, the company's capital and reserves, including profit and loss, from the last financial year, shall be at least EUR 1 000 000 or an equivalent amount in a national currency other than the Euro.	1. Member States shall require **that regulated markets ensure** that the foreseeable market capitalisation of the shares for which admission to trading is sought, or if this cannot be assessed, the company's capital and reserves, including profit and loss, from the last financial year, shall be at least EUR 1 000 000 or an equivalent amount in a national currency other than the Euro.	CZ: We are not comfortable with this change as in our regard, it is impossible to set an obligation to regulated markets. Is is possible to set an obligation to specific subjects (e.g. NCA, market operator,…) but not to the market as a whole. Drafting suggestion: *1. Member States shall require **that ~~regulated markets~~ market operator ensures** that the foreseeable market capitalisation of the shares for which admission to trading is sought, or if this cannot be assessed, the company's*

Commission proposal	Presidency compromise	MS Comments
		capital and reserves, including profit and loss, from the last financial year, shall be at least EUR 1 000 000 or an equivalent amount in a national currency other than the Euro. ES: We propose to delete the excerpt "that regulated markets ensure" and keep the beginning of the section as proposed by the Commission. The text of the Presidency would mean that for IPOs of shares it will be the NCA, and not the market, who ensures compliance with this requirement for the admission to trading of shares on regulated markets.
2. Paragraph 1 shall however not apply to the admission to trading of shares fungible with shares already admitted to trading.	2. Paragraph 1 shall however not apply to the admission to trading of shares fungible with shares already admitted to trading.	
3. Where, as a result of an adjustment of the equivalent amount of the Euro in national currency, the market capitalisation expressed in national currency remains for a period of 1 year at least 10 % approximately the value of EUR 1 000 000, the Member State shall, within the 12	3. Where, as a result of an adjustment of the equivalent amount of the Euro in national currency, the market capitalisation expressed in national currency remains for a period of 1 year at least 10 % ~~**approximately**~~**more or less** the value of EUR 1 000 000, the Member State	

Commission proposal	Presidency compromise	MS Comments
months following the expiry of that period, adjust its laws, regulations or administrative provisions to comply with paragraph 1.	shall, within the 12 months following the expiry of that period, adjust its laws, regulations or administrative provisions to comply with paragraph 1.	
4. Member States shall require that regulated markets ensure that at any time at least 10% of the subscribed capital represented by the class of shares concerned by the application for admission to trading is held by the public.	4. Member States shall require that regulated markets ensure that ~~**at any time**~~ at least 10% of the subscribed capital represented by the class of shares concerned by the application for admission to trading is held by the public **at the time of admission**.	NL: NL (Comments): We argue for **continuous** compliance with the 10% free float. **BG:** **BG:** We would like to thank the Presidency for taking into account our concerns. ES: **DE:**

Commission proposal	Presidency compromise	MS Comments
		We strongly support the presidency compromise that the free float requirement needs only to be met at the time of admission. PT: We are in favour of the reduction of the free float threshold from 25% to 10% but could also support a further reduction to 5%. We consider that the threshold should be also fulfilled continuously, as to ensures a minimum liquidity, and to mitigate potential reductions in market liquidity in case of difficulties experienced by the issuer, such as capital increases. Thus although we prefer the Comission proposal, we can accept the PRES proposal, as a way of compromise.
	5. By way of derogation from paragraph 4, Member States may require that regulated markets establish at least one of the following rules for the application for admission to trading of shares at the time of admission:	**BG:** **BG:** We would like to thank the Presidency for providing flexibility for Member states.

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Commission proposal	Presidency compromise	MS Comments
		ES: Please read our previous comments, we are concerned that the Presidecny's text might not provide sufficient harmonization of the admission requirements potentially leading to the displacement of admissions to markets with more lax requirements.
	(a) a sufficient number of shares is held by the public;	
	(b) the shares are held by a sufficient number of shareholders;	
	(c) the market value of the shares held by the public represents a sufficient level of subscribed capital in the class of shares concerned.	
5. Where the percentage of shares held by the public is below 10% of the subscribed capital, Member States shall ensure that regulated markets require that a sufficient number of shares is distributed to the public to fulfil the requirement laid down in paragraph 4.	~~5~~**6**. Where the percentage of shares held by the public is below 10% of the subscribed capital, Member States shall ensure that regulated markets require that a sufficient number of shares is distributed to the public to fulfil the requirement laid down in paragraph 4.	
6. Where admission to trading is sought for shares fungible with shares already admitted to	~~6~~**7**. Where admission to trading is sought for shares fungible with shares already admitted to	

Commission proposal	Presidency compromise	MS Comments
trading, regulated markets shall assess, to fulfil the requirement laid down in paragraph 4, whether a sufficient number of shares has been distributed to the public in relation to all the shares issued and not only in relation to the shares fungible with shares already admitted to trading.	trading, regulated markets shall assess, to fulfil the requirement laid down in paragraph 4, whether a sufficient number of shares has been distributed to the public in relation to all the shares issued and not only in relation to the shares fungible with shares already admitted to trading.	
7. The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend this Directive by modifying the thresholds referred to in paragraphs 1 and 3 or in paragraphs 4 and 5 or in both, when the applicable thresholds impede the liquidity on public markets taking into account the financial developments.’;	~~7~~**8**. The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend this Directive by modifying the thresholds referred to in paragraphs 1 and 3 or in paragraphs 4 and 5 or in both, when the applicable thresholds impede the liquidity on public markets taking into account the financial developments.’;	AT: The rules for the admission of shares to trading are of utmost importance to the functioning of the trading venue itself and should always be well calibrated in order to avoid any unintended consequences which could - in the worst case – harm the financial market of the respective MS. In our view, any changes to the thresholds in Art. 51a should therefore only be made on level 1 and not through delegated Acts. **BG:** **BG:** We insist on par.8 to be deleted as in our opinion the thresholds do not represent non-essential

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Commission proposal	Presidency compromise	MS Comments
		elements of the legislative acts as this is a substantial issue and should be discussed at level 1. Moreover, we do not support the proposal to adjust the threshold after an assessment of liquidity only on the basis of these thresholds as the liquidity depends on a lot of the factors and the interaction amongst them. An amendment of these thresholds could lead to a negative impact on small markets like the Bulgarian one. **DE:** **The empowerment to the Commission to modify all the thresholds in paragraphs 1 and 3 or in paragraphs 4 and 5 or in both is quite far reaching. In light of the PCY compromise text, the empowerment to the Commission to modify all thresholds seems no longer necessary.** PT:

Commission proposal	Presidency compromise	MS Comments
		We have reservations about how this provision could potentially lead to a rise in the free float threshold. **Drafting suggestion:** The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend this Directive by **reducing** ~~modifying~~ the thresholds referred to in paragraphs 1 and 3 or in paragraph~~s~~ 4 and **modifying the rules referred to in paragraph** 5 or in both, when the applicable ~~thresholds~~ **conditions** impede the liquidity on public markets taking into account the financial developments.
	(5) Article 69 is amended as follows:	CZ: We are not of the view that the proposal as currently stands represent the goal behind the idea. That is to ensure that issuer-sponsored research would not be distributed as "research" if it does not comply with the code of conduct. We also find the cessation of investment services provided based on such non-compliant research as excessive.

Commission proposal	Presidency compromise	MS Comments
		Drafting suggestion: ***(5) In article 69,paragraph 2, the following points (v) and (w) are added:*** *' **(v) require that the issuer-sponsored research to be marketed or distributed as such only if it is produced in compliance with the code of conduct;*** ***(w) demand the suspension of distribution or marketing by investment firm of any issuer-sponsored research not produced in compliance with the code of conduct as „research" and issue warnings to inform the public that research which has been labled as an issuer-sponsored research is not produced in compliance with the code of conduct.** '* HR: We support the SE PRES proposal
	a) in paragraph 2, the following point (v) is added:	
	(v) take all necessary measures to	

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Commission proposal	Presidency compromise	MS Comments
	(i) control that investments firms have in place organisational arrangements to ensure that issuer-sponsored research that they receive, is produced in compliance with the code of conduct developed by ESMA	
	(ii) suspend the distribution by investment firms of any issuer-sponsored research not produced in compliance with the code of conduct developed by ESMA	FR: Same comment as above. We propose the following redrafting : (ii) suspend the **use** ~~**distribution**~~ by investment firms of any issuer-sponsored research not produced in compliance with the code of conduct developed by ESMA
	(iii) require the temporary or permanent cessation of investment service(s) based on the issuer-sponsored research that the competent authority considers not to be in compliance with the code of conduct developed by ESMA	CZ: We are strongly against this provision. The quality of investment services is not inherently dependant on the fact wether they are base on issuer sponsored research or marketing. We therefore regard this provision as overly excessive.

Commission proposal	Presidency compromise	MS Comments
	(iv) issue warnings to inform the public that research which has been labled as an issuer-sponsored research is not produced in compliance with the code of conduct developed by ESMA.	
	(6) Art 70 is amended as follows:	
	a) in paragraph 3, the following point (xa) is added :	
	(xa) Article 24(3) b	
(5) Article 89 is amended as follows:	(**5**7) Article 89 is amended as follows:	
(a) paragraphs 2 and 3 are replaced by the following:	(a) paragraphs 2 and 3 are replaced by the following:	
'2. The delegation of power referred to in Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7), Article 52(4), Article 54(4), Article 58(6), Article 64(7), Article 65(7) and Article 79(8) shall be conferred on the Commission for an indeterminate period of time.	'2. The delegation of power referred to in Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7), Article 52(4), Article 54(4), Article 58(6), Article 64(7), Article 65(7) and Article 79(8) shall be conferred on the Commission for an indeterminate period of time.	

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Commission proposal	Presidency compromise	MS Comments
3. The delegation of power referred to in Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7), Article 52(4) Article 54(4), Article 58(6), Article 64(7), Article 65(7) and Article 79(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’;	3. The delegation of power referred to in Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7), Article 52(4) Article 54(4), Article 58(6), Article 64(7), Article 65(7) and Article 79(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’;	
(b) paragraph 5 is replaced by the following:	(b) paragraph 5 is replaced by the following:	
‘5. A delegated act adopted pursuant to Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7),	‘5. A delegated act adopted pursuant to Article 2(3), Article 2(4), Article 4(1)(2), second subparagraph, Article 4(2), Article 13(1), Article 16(12), Article 23(4), Article 24(13), Article 25(8), Article 27(9), Article 28(3), Article 30(5), Article 31(4), Article 32(4), Article 33(8), Article 51a(7),	

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Commission proposal	Presidency compromise	MS Comments
Article 52(4), Article 54(4), Article 58(6), Article 64(7), Article 65(7) or Article 79(8) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.'.	Article 52(4), Article 54(4), Article 58(6), Article 64(7), Article 65(7) or Article 79(8) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.'.	
	(6) Article 90 is amended as follows:	
	The following paragraph 5 is added:	
	By [four years after entry into force of this Directive] the Commission shall review and assess whether the provision for non-objection in Article 33(7) remains appropriate to pursue the objectives for SME growth markets as stated in this Directive.	CZ: We have doubts regaring the added value of such review conducted so shortly after the entry into force. We suggest at least a prolongation of the period, if not deleting the whole provision. We also prefer explicit approval of issuer instead of just non-objection.

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Commission proposal	Presidency compromise	MS Comments
Article 2 **Repeal of Directive 2001/34/EC**	Article 2 **Repeal of Directive 2001/34/EC**	DK: DK supports the repeal of Directive 2001/34/EC, since this will increase market harmonisation at Union level. DK also supports transferring relevant provisions from the Listing Directive into MiFID II. Further we support the prolonged period of repeal.
Directive 2001/34/EC is repealed as of … [OP please insert the date = 24 months from date of entry into force of this Directive].	Directive 2001/34/EC is repealed as of … [OP please insert the date = **36~~24~~** months from date of entry into force of this Directive].	CZ: Welcome the change. HR: We welcome the extension of repeal to 36 months.
Article 3 **Transposition**	Article 3 **Transposition**	
1. Member States shall adopt and publish, by … [OP please insert the date = 12 months	1. Member States shall adopt and publish, by … [OP please insert the date = **24~~12~~** months	CZ:

Commission proposal	Presidency compromise	MS Comments
after the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	after the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	Welcome the change. FR: We would kindly suggest the PCY to consider providing for an early entry into application of the rebundling provisions (amendments to art. 24(9a)), otherwise the current unbundling rule for research concerning companies with a market capitalisation above 1bn€ will remain applicable until 2027. There is urgency to revive the research ecosystem in the EU, and the UK is likely to act in a much swifter way to achieve the same result. We would propose that, by derogation, the transposition period for Art. 24(9a) be specifically limited to 12 months and the application kicks in on the same date as the transposition deadline. Proposed wording (to be inserted after the second subparagraph).

Commission proposal	Presidency compromise	MS Comments
		By derogation to the first and second subparagraph, Member States shall adopt and publish, by … [*OP please insert the date = **12** months after the date of entry into force of this Directive*] at the latest, the laws, regulations and administrative provisions necessary to comply with point (b) of Article 1(2) of this Directive, and shall apply those provisions from … [*OP please insert the date = **12** months after the date of entry into force of this Directive*]. We could also evisage to do the same for issuer-sponsored research. **BG:** **BG:** We welcome the prolonged timeline for transpostion. DK: DK supports the prolonged transposition period. PT:

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Commission proposal	Presidency compromise	MS Comments
		We agree with the Presidency compromise.
They shall apply those provisions from … [OP please insert the date = 18 months after the date of entry into force of this Directive].	They shall apply those provisions from … [OP please insert the date = **30~~18~~** months after the date of entry into force of this Directive].	CZ: Welcome the change.
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
Article 4 **Entry into force**	Article 4 **Entry into force**	
This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.	This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.	
Article 5 **Addressees**	Article 5 **Addressees**	

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Commission proposal	Presidency compromise	MS Comments
This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	
Done at Brussels,	Done at Brussels,	
For the European Parliament For the Council	For the European Parliament For the Council	
The President The President	The President The President	
		End