10 June 2025

FIA response to the European Commission's targeted consultation on integration of EU Capital Markets

1. Simplification and burden reduction

INTRODUCTION

FIA welcomes the opportunity to provide feedback to the European Commission's ('Commission') consultation on the integration of EU capital markets.

We observe that the consultation and the questionnaire would have benefited from a more strategic long-term vision of EU market structures. A debate with all stakeholders is needed on how capital markets would best serve the real economy, but also what role derivatives have to play. It is crucial to also recognise that equity and non-equity markets are different and require tailored approaches.

While we appreciate the speed with which the European Commission intends to make a difference in this mandate, we highly recommend appropriate engagement with the industry and a meaningful impact assessment before any legislative proposals are made in Q4 2025, as the envisaged structural changes deserve a meaningful and detailed debate. Also, we should be careful not to break up certain structures that were established in the past decade that continue to work well.

A mindfulness towards open markets considerations is key to capital markets. Opportunity exists to continue to grow the EU's financial markets and make them even more competitive in a global environment, while striking the appropriate regulatory balance to maintain financial stability. This can be achieved by

- Promoting an open, competitive, pragmatic, predictable, safe, well-regulated and fair marketplace for domestic and international financial institutions alike
- Increasing transparency, public stakeholder engagement and certainty to ease the often complex and lengthy legislative process in the EU
- Establishing a fit-for-purpose regulatory environment that benefits both regulated financial institutions and their customers
- Facilitating client choice on where to clear and protecting and promoting the international competitiveness of EU market participants

FIA believes these objectives can be met largely through fine-tuning existing regulations, rather than overhauling them, and by international dialogue with peer regulators and global standard setters to avoid a patchwork of regulations that increases costs for all involved and disincentives investment.

Since the financial crisis, the industry has been in constant implementation mode. While targeted changes should certainly be made, we are calling for some form of regulatory stability that will free up time and cost that can be used for firms to develop innovative products, technologies and strategies that will ultimately serve the real economy and its citizens.

It must be emphasized that openness and market-driven solutions are key ingredients when building robust financial markets and deeper liquidity pools. FIA and its members have long advocated that optimally managing financial stability risks begins with regulatory and supervisory cooperation at a global level. This approach ensures authorities have the information they need to protect market participants and benefit the economy.

However, perhaps even more critical is the assurance of regulatory certainty and creating a true level playing field across all EU member states. Consistent and transparent regulations will not only strengthen market participants confidence but also promote economic stability; by prioritising these principles, the EU can reinforce its position as a trustworthy and resilient jurisdiction.

SIMPLIFICATION EFFORTS

FIA has identified some specific steps that EU policymakers could undertake to help achieve these objectives, including:

- Establish suitable implementation schedules for both the industry and regulatory bodies by also setting appropriate transitional requirements in Level 1.
- Allow sufficient time for implementation of requirements before carrying out regulatory and legislative reviews and align compliance dates of Level 1 and Level 2 requirements
- Overhaul public engagement/consultation with industry and utilise independent experts on important Level 3 rules before publishing them. In addition, it is essential to ensure adequate response times for these significant consultations, including those related to Level 1 & 2 consultation processes.
- Respect a strict principle of hierarchy in the architecture of texts for any new regulation; Level 1 should remain principle-based, and leave the definition and calibration of parameters required for the implementation of these principles to Level 2 and Level 3.
- Provide meaningful cost-benefit analysis before proposing new requirements and add a competitiveness test as part of important policy proposals –impact assessments should not be a tick-box exercise.
- Optimise the CCP equivalence process by amending Article 25 EMIR.
- Establish appropriate capital requirements and reduce other restrictive measures to alleviate clearing capacity for intermediaries.
- Ensure globally consistent margin requirements to enable clearing margin transparency
- Drastically reduce divergence of national rules on all fields affecting securities and derivatives trading and clearing. Harmonise certain aspects of non-bank insolvency laws in the EU. No meaningful harmonisation and consolidation will be achieved without the appropriate adjustments in securities and tax laws; e.g. withholding tax regimes.

<u>Scope</u>

- Establish clear definitions of scope in EU legislation (Level 1), early clarifications on territorial scope and personal scope.
- Each piece of EU regulation should make clear what parties are in and out of scope, and whether and to what extent third-country firms are impacted by EU regulation.
- They should clearly define when requirements come into effect, especially where Level 2 work is required, to avoid short-term compliance efforts and investment while the final

rules are not yet in place.

- Regulations should be clearly set out to enable market participants to determine whether a regulatory requirement applies to over-the-counter (OTC) derivatives and/or to exchange-traded derivatives (ETDs). For example, EMIR defines 'derivatives' and 'OTC derivatives' but does not include a definition of ETDs, while Markets in Financial Instruments Regulation (MiFIR) does.

Implementation timeframes

After often lengthy Level 1 negotiations, FIA recommends allowing sufficient time for implementation of requirements before carrying out regulatory and legislative reviews.

In the EU, the industry is often confronted with challenging implementation timeframes. The industry is increasingly concerned by the emerging pattern (the EMIR 3.0 active account requirements being a recent example) whereby Level 1 provisions are expected to apply before the corresponding Level 2 final Regulatory Technical Standards (RTS) have been finalised and published in the Official Journal of the European Union (OJEU). Experience with recent regulatory reforms has underscored the importance of allowing the European Supervisory Authorities (ESAs), national competent authorities (NCAs), and market participants sufficient time to effectively manage change and implement financial reforms. A more proportionate, coordinated and sequential implementation – where Level 2 rules operationalise the principles set out in Level 1 – is essential to ensure legal certainty and facilitate effective compliance across the industry.

In accordance with the general principles of EU law, in particular the principles of legal certainty and proportionality, Level 2 technical requirements should not be applied before their formal adoption and entry into force:

- The principle of legal certainty requires that rules affecting the rights and obligations of market participants be clear, precise, and predictable in their effects. Premature application of draft or non-finalised Level 2 measures would undermine this principle by exposing stakeholders to regulatory obligations that lack a definitive legal basis.

- The principle of proportionality dictates that regulatory burdens must be appropriate and necessary to achieve the intended policy objectives. Imposing compliance with non-finalised or evolving technical standards risks creating unnecessary operational and legal uncertainty, as well as adding greater burden to industry for no additional benefit.

Deferring the applicability of the most problematic measures until their formal adoption and publication in the OJEU is essential to ensure an orderly and uniform application of the rules across Member States. It also preserves a level playing field and reduces the risk of fragmented or inconsistent implementation practices, which is particularly concerning for cross-border institutions operating in multiple EU jurisdictions.

These considerations align with the EU's target to reduce administrative burden and simplify the regulatory framework, as reaffirmed in the Better Regulation Agenda and the Savings and Investments Union (SIU) plan. In this context, the premature application of Level 1 requirements, prior to their formal adoption and publication of the technical Level 2 requirements, would run counter to these principles by introducing legal uncertainty and operational inefficiencies, ultimately hampering the EU's efforts to create a streamlined, efficient regulatory environment.

REPORTING SIMPLIFICATION

A fit-for-purpose regulatory environment benefits both regulated financial institutions and their customers.

For the EU, based on legislation agreed by the co-legislators, ESMA and NCAs predominantly regulate the derivatives industry. However, derivatives clearing is a global business and many of our members provide services in multiple jurisdictions, which means they must navigate multiple legislative and regulatory regimes.

To avoid conflicting or duplicative requirements, which can complicate the ability of sell-side and buy-side firms to serve their customers and can increase the cost of doing business, regulatory cooperation and engagement by global standard setters is of paramount importance, including in the EU. We note the EU has already recognised the risks of diverging transpositions of EU Directives in Member States' legal regimes and has set out many of the financial services requirements in EU Regulations.

Following the 2008 financial crisis, regulatory reporting obligations have evolved over time. FIA recommends that a holistic review of EU regulatory reporting regimes, including EMIR, MiFIR, SFTR and REMIT, is conducted in order to streamline reporting obligations and reduce regulatory overlap. The guiding principle of this review should be to determine what data attributes are essential for regulatory authorities to perform their duties, be that oversight of systemic risk or the detection and prevention of market abuse. In addition to this review, we also believe that the scope of EU reporting requirements should be limited to EU entities and exclude branches in MiFID reporting given that local reporting is already conducted.

DATA SHARING BETWEEN AUTHORITIES

Many of the barriers in the reporting of derivatives are due to data sharing issues between authorities.

Challenges persist due to a lack of ability of NCAs and ESMA to share data across the European Union. The ESMA database is accessible by the ESRB, with NCAs being able to only see some segments. Moreover, some jurisdictions have rules in place that prohibit data sharing. ESMA's database should be available to all relevant authorities when necessary and the mechanism for data sharing should be made more effective based on meaningful and comprehensive MoUs.

As we pointed out in our response to the EC's review on commodity markets:

A centralised data collection mechanism would help to improve data quality and minimise errors and/or inaccuracies in reported data, for the consumption of the regulators, which could improve market abuse and systemic risk detection and supervision. Improved data quality could result in less supervisory requests for additional information. Additionally, the various regulators engaged in this effort, could collaborate to create synergies in their data quality analysis, completeness of reporting across regimes, and a review of exclusion of dual/duplicative reporting under REMIT and EMIR.

In general and on commodity markets more specifically, we support information sharing between energy and securities market supervisors, as we believe this can enhance regulators' understanding of the commodities market business and be beneficial for effective supervision, but we oppose any additional requirements that may arise from this data transmission. Market participants are already making both their physical and financial trading information in energy products available to the relevant regulatory bodies.

We note that there are arrangements in place to allow data sharing, such as the memorandum of understanding between ACER and ESMA of 6 March 2023.

We consider that these arrangements are sufficient and that any such sharing of information should be with respect to instruments that fall under the jurisdiction of both the energy regulators and financial services regulators e.g. gas and power derivatives. We are concerned with the sharing of data regarding C6 carve out contracts and the spot market between ACER/ NRAs and ESMA/ NCAs to the extent they do not relate to instruments or regulation within the jurisdiction of ESMA/NCAs and blurs the distinction between REMIT II and financial services regulation. Our members do not believe that additional reporting requirements are needed for this purpose, such additional requirements would carry a risk of duplicating reporting. Instead, supervisory reporting channels could be expanded and/or competent authorities should be granted access to a single data collection mechanism.

Combining single format reporting and a single data repository also has the potential to make the regulators' requests and reviews more comprehensive by nature, allowing them to identify potential gaps faster and combine forces across regulatory bodies to enhance market abuse detection capabilities.

However, we strongly oppose the implementation of any such mechanism in a way that adds to the burden on market participants, and we believe that such an outcome is achievable.

NO ACTION LETTER POWERS

Market participants, NCAs, ESAs, and especially ESMA, have repeatedly faced challenges due to tight implementation timelines and effective dates. The lack of flexibility has caused market and supervisory disruptions. Unlike European lawmakers setting strict requirements for implementation timing, other jurisdictions' regulators can provide relief during implementation challenges. The European process needs improvement to prevent market disruption and offer more flexibility.

We strongly recommend to enact more meaningful ESA regulatory forbearance powers and a more practical reading of the Meroni doctrine[1]. The ESAs should have more meaningful powers to temporarily suspend the application of specific regulatory requirements in certain circumstances and within a reasonable timeframe. This would provide market participants with much needed legal certainty that no enforcement action will occur during those circumstances.

[1] Legal analysis accompanying joint trade associations submission on ESAs review proposal https://www.fia.org/sites/default/files/2019-05/2018-01-23-NRFLLP-Legal-analysis-for-ESAs-review-submission-final.pdf

MORE MEANINGFUL COST-BENEFIT ANALYSIS

It is important to provide meaningful cost-benefit analyses before proposing new requirements and add a competitiveness test as part of important policy proposals. We recommend to establish a renewed focus on data-driven and evidence-based policymaking by supporting policy designs and implementation practices with knowledge, information and meaningful cost-benefit analyses.

ENGAGEMENT WITH THE INDUSTRY

We strongly encourage to conduct more public engagement/consultation with industry and independent experts on important rules before publishing them. Thorough engagement and consultation with industry and independent experts, including end users of derivatives, is a key feature of good policy making. We suggest strengthening this on every rule making level as part of the rule making process and simplification efforts.

Effective rulemaking relies on consulting market participants, professional users, and consumers. While consultative and stakeholder groups are important, consultation should extend beyond these members. Continuous engagement with interested parties in capital markets is essential for lawmakers and regulatory authorities to understand complex issues. This approach aligns with the Commission's Better Regulation philosophy and helps identify potential issues early. We believe the current way of consulting the industry is not fully satisfactory.

REPORTING

In the EU, regulatory reporting requirements have been established in piecemeal fashion which has resulted in individual reporting regimes which require a particular dataset in order to achieve the regimes' objectives. As noted in our response to Q1 above, we encourage policymakers to conduct a holistic review of the EU reporting framework in order to establish synergies across regimes, minimise silos and reduce duplication of reporting which plagues today's regulatory reporting framework.

While there is value in achieving interoperable and/or harmonising requirements across jurisdictions, our members have established separate reporting systems for EU and UK reporting requirements. As a result, we encourage EU authorities not to let the desire for harmonisation diminish the ambition of this exercise. Changes to the EU reporting framework inevitably involve a transitional cost, but a sufficiently meaningful burden reduction would justify this investment. If successful, this effort will position the EU to continue to attract capital markets activity as other jurisdictions make progress on their own streamlining efforts.

This consultation and recent efforts create an opportunity to review the existing regulatory reporting framework and consider areas where the regulatory burden on market participants could be alleviated without compromising the oversight role performed by regulatory bodies.

In particular, we suggest a number of priority areas of focus for the review:

Remove ETDs from EMIR Article 9 reporting: Post-financial crisis commitments set out to enhance the transparency of OTC derivative markets. Applying the same reporting ruleset to OTC and ETD contracts fails to account for the differences in trading, clearing, processes and risks associated by these derivative types. ETDs are centrally cleared, highly standardised instruments that offer little of the bespoke functionality seen in OTC contracts. On account of this, FIA recommends that ETDs are removed from the scope of EMIR Article 9 reporting.

Duplicative reporting: Given the growth of reporting obligations over time, reporting requirements and data elements have become duplicative across reporting regimes, adding undue burden on firms. Where data points are reported in compliance with multiple reporting regimes, we recommend that these duplicative requirements are addressed and removed as part of this review. Furthermore, FIA supports the use of standards such as the Legal Entity Identifier (LEI) and the International Securities Identification Number (ISIN) for ETDs. These standards are well established within the EU reporting framework and, as a result, reporting entities should no longer be obliged to report underlying data attributes which can be obtained via the LEI and ISIN.

Report once framework: FIA members encourage policymakers to consider adopting a report-once framework encompassing all EU reporting regimes. As previously noted, the EU reporting regime has developed over time in piecemeal fashion. This has resulted in reporting firms being tasked with complying with numerous reporting obligations which require a similar dataset. A report-once framework would enable firms to submit an agreed dataset and allow authorities to remove data extracts in order to fulfill their regulatory duties. This would remove the duplicative nature of reporting a similar dataset multiple times in order to comply with various reporting regimes. Furthermore, this would enhance the attractiveness and competitiveness of EU markets by reducing the regulatory burden on firms.

Back reporting: This is a mounting burden on firms, and the value to supervisors is minimal in many instances. We suggest limiting back reporting to only material changes and simplify back reporting requirements so that firms are only required to correct the impacted data point, rather than resubmitting the entire report. Additionally, we ask that, where back reporting is required on transactions predating any rule changes, the original format of the report should continue to be accepted.

Single-sided reporting: FIA members recommend establishing a single sided reporting model in order to improve efficiencies and limit the impact on firms having to report on behalf of others. We propose that ESMA work in collaboration with all stakeholders, including investment firms, Trading Venues, ARMs, Trade Repositories and CCPs in order to create a more efficient reporting model.

Non-EU Branches: additionally, the regulatory obligations imposed on non-EU branches of EU-based firms create a considerable reporting burden without delivering substantial benefits to EU regulators.

OPERATIONAL RESILIENCE

In the operational resilience space, FIA recommends streamlining DORA with other regulations, for example the Cyber Resilience Act (CRA), to avoid duplicating reporting in the cyber/operational resilience space. Moreover, financial entities need to be able to apply proportionality and a risk-based approach when implementing DORA. Firms continue to face significant obstacles complying with subcontractor chain requirements ('fourth-party risk). Financial entities devote an unproportional level of resources in efforts to ensure subcontractors adjust their internal policies and practices to comply with DORA. Level 2 no-action relief should be made available to ensure a proportional implementation of DORA. Adding additional layers of horizontal EU regulations (e.g. CRA) to this space would create duplications and additional costs for market participants.

2. Ensuring fair access to market infrastructure to foster deep and liquid EU-wide markets

OPEN ACCESS

Previously, discussions about open access revolved around two distinct topics:

1. Multiple trading venues can utilize the services of a CCP for clearing their products, as outlined in Article 35 of MiFIR. FIA members believe that this type of 'open access' under Article 35 of MiFIR is already in practice (except for exchange-traded derivatives), has been effective, and does not present specific financial stability risks.

2. And vice versa, the ability for multiple CCPs to clear products traded on one specific trading venue. This was the 'non-discriminatory access to a trading venue' addressed by Article 36 of MiFIR.

Generally speaking, FIA Members believe that facilitating client choice on where to clear does contribute to the international attractiveness of EU markets and the competitiveness of EU market participants. We hence support open access (complemented, where necessary, by interoperability arrangements between CCPs to make it truly effective) in security markets.

The situation is different for ETDs, for which we believe that open access would be operationally complex, difficult and potentially risky to implement. Open access for ETDs is not something that FIA members would support, particularly in light of the fact that the MiFID II Review was recently concluded on this point. We hence consider that there is no need to reopen the open access debate for ETDs.

24/7 TRADING FOR DERIVATIVES

24 hour trading (Section 2.6.1, Q47-49 for equities). See also FIA response to the CFTC request for comment on trading and clearing derivatives on a 24/7 basis[2]

- The Commission should formally evaluate the potential issues and benefits of 24-hour trading, considering how developments in other regions could affect the competitiveness of EU capital markets.

- Tokenization could play a significant role in giving market participants the ability to move collateral on a real-time 24/7 basis. However, this infrastructure is still in the early stages and is not ready to support an immediate, wide-scale move to 24/7 trading/clearing.

- Trading hours are determined on a product-by-product basis taking into consideration a variety of factors including market participants' commercial practices, risk management needs and the liquidity and trading profile of the underlying commodity. Trading hours are set to meet customers' needs, the needs of the individual market and the characteristics of the product; there should thus never be a one-size approach mandated by law. We recommend to identify and resolve the operational, financial, regulatory, and other issues that 24/7 presents, and then consider on a product-by-product basis whether 24/7 is appropriate. 24/7 trading may not be appropriate for all markets/products. However, where a market goes to 24/7 we think participation in that market is inevitable (even if not mandatory) in order to manage risk.

- Several issues and considerations would need to be addressed, such as the potential for systemic, operational, and regulatory risk requiring new risk management tools (with associated costs and operational challenges for firms), possible liquidity and margin risk, and the necessity of infrastructure downtime for maintenance. Any potential benefits from expanded hours must be weighed against the risks that continuous trading introduces significant challenges to markets and market participants: This includes that extended trading hours could dilute liquidity and market depth, distort price discovery and increase market, liquidity and default risks, for the exchange, clearing house and market participants during extended periods of low liquidity. It should also be noted that especially during overnight and thinly traded time periods, liquidity and market depth decreases. Those circumstances may reduce the reliability of market prices and inhibit price discovery. Markets can also become highly volatile during periods of low volume. This volatility, combined with limited mobility of collateral and the potential absence of 24/7 staffing for all market participants, could result in severe price movements where clearing members or their clients lack sufficient margin to cover their positions, which in turn may increase the risk of default.

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[2] https://www.fia.org/fia/articles/fia-responds-cftc-request-comment-trading-and-clearing-derivatives-247-basis

SUPPORT CLEARING AND FINANCIAL STABILITY

The approach to facilitate and incentivise clearing should centre on establishing appropriate capital requirements and reducing other restrictive measures to alleviate clearing capacity for intermediaries. This will ensure a successful clearing obligation mandate transition, as well as provide a 'clearing home' for those who need it in times of market stress, in particular in the event of a clearing member default (also known as porting).

EQUIVALENCE REVIEWS AND RECOGNITION OF THIRD-COUNTRY CCPs

We recommend optimising further CCP equivalence reviews and improve transparency. Equivalence is a core principle of the regulatory framework overseeing the global nature of derivatives markets.
FIA recommends the Commission makes best use of CCP equivalence reviews to ascertain where changes could be made and provide greater transparency on outstanding decisions on remaining jurisdictions. In cases of equivalence determinations being revoked, or a third country CCP de-recognition by ESMA, market participants should have sufficient transitional timeframes. Regulators should also consider equivalence decisions in other areas for the benefit of EU participants.

While EMIR 3.0 introduces a more proportionate equivalence regime for third-country CCPs, we recommend considering 'de-linking' the EMIR Article 25 equivalence decision process and the QCCP status under EU CRR, specifically in the context of the capital regime that applies to third-country CCPs that have applied for, but not yet received, recognition by ESMA. The current own funds regime for exposures to CCPs relies and depends entirely on EMIR Article 25 equivalence (see EU CRR Article 497 for the temporary QCCP status) even where the risk profile of the third-country CCP remains unchanged. We believe in establishing a better, more proportionate and risk-based assessment to determine the capital treatment that applies to exposures that clearing members have related to third country CCPs not yet recognised or that have lost recognition (for example, because of their jurisdiction being 'blacklisted' for anti-money laundering reasons or due to a missing MoU between ESMA and a third-country regulatory authority). We appreciate this would require innovative thinking by ESMA, EBA and other authorities, but we would welcome a new, fit-for-purpose 'test' for a CCP to become a QCCP for capital purposes (as opposed to for market access purposes).

ECB OPENING HOURS:

The European Central Bank's (ECB) current operating hours under TARGET II do not match the needs of global financial markets, especially in the US and APAC. Extending these hours would improve market efficiency, reduce settlement risks, and strengthen Europe's role in the global financial system by supporting seamless cross-border operations and liquidity management. It would also lessen the reliance of EU clearing members and CCPs on USD payments for late-day margin calls.

FRAGMENTATION:

There continue to be significant regulatory differences between EU member states, both at the national level and in the way EU directives are incorporated into domestic legal frameworks. While the EU seeks to harmonise financial, economic, and industry regulations across its member states, the implementation of directives is often subject to national interpretation, leading to variations in enforcement, compliance standards, and legal obligations.

Addressing these differences through more consistent implementation of EU directives and regulations and enhanced coordination among member states is crucial in ensuring a level playing field.

In addition, regulatory inconsistencies between EU member states extend beyond general financial frameworks to crucial areas such as insolvency regulation, which varies significantly across EU jurisdictions. Deeper integration remains a complex challenge, requiring balance between national legal traditions and the broader need for market stability and competitiveness.

3. Innovation – DLT Pilot Regime and asset tokenization

We are pleased that the consultation gives consideration to DLT and asset tokenization as this has a great potential to benefit the competitiveness goals and the development of the SIU. A further deep dive with the industry is recommended.

DLT

On the DLT Pilot regime, quick fixes should be explored that are of interest to the industry and could be aligned with ESMA's recent recommendations on areas for improvement.

The Rulebook needs to be reviewed to ensure it is technology-neutral, for DLT and tokenization. Securities regulation (CSDR, SFD) needs to be reviewed with this angle in mind.

The main barrier to entry is the requirement for DLT settlement systems to be an authorised CSD in order to be a Pilot Regime participant. Due to regulatory and commercial restraints, authorisation as a CSD cannot be attained easily by credit institutions and investment firms. A further issue is the threshold for instruments traded on DLT platforms, currently capped at 6 billion, which limits the scope for activity and renders the regime less competitive.

Another obstacle is the lack of broader understanding about the use and opportunities of DLT and how risks can be managed in that environment.

TOKENISATION

FIA believes the derivatives industry is now at an inflection point in the adoption of tokenisation[3]. Years of work on this technology are beginning to bear fruit, and many leading institutions see meaningful potential for this technology in the clearing and settlement process for derivatives.

[3] FIA white paper: Accelerating the velocity of collateral -The potential for tokenisation in cleared derivatives markets

We are seeing positive developments in the adoption of distributed ledger technology across a range of financial markets, and regulators around the world are moving to encourage this innovation.

One of the best use cases for tokenisation is in collateral management. The trading of derivatives drives the movement of billions in collateral every business day. Tokenisation has the potential to make this process far more efficient and pave the way for 24/7 trading. Therefore, tokenization could play a significant role in giving market participants the ability to move collateral on a real-time 24/7 basis. However, it must be noted that this infrastructure is still in the early stages and is not ready to support an immediate, wide-scale move to 24/7 trading/clearing.

Over the last 12 months there has been a flurry of announcements from major market infrastructure operators about their interest in deploying blockchain technology in collateral mobility, and many observers now see a palpable sense of enthusiasm about the potential benefits for the industry.

Although tokenisation is a relatively new technology in mainstream financial markets, it is already being used at scale for moving collateral in the crypto asset markets that have sprung up outside the existing regulatory frameworks. These markets operate on a 24/7/365 basis and for roughly a decade they have been using bitcoin and other crypto assets as collateral for derivatives. Some institutional participants in the crypto markets are now looking to mainstream financial institutions to support their use of tokenised collateral.

Tokenisation would address multiple challenges. First, it would increase the speed of asset transfer, especially for non-cash collateral. Transfers of tokenised assets on a blockchain can happen in near real time, cutting the settlement time from days to minutes.

Second, it would allow for extended trading hours, including the potential for 24/7 trading, by decoupling the settlement system from the operational hours of traditional banking system payment rails. This would solve the funding problems that arise during holidays and weekends and make it possible to operate cleared derivatives markets around the clock every day of the year.

Third, tokenisation would allow market participants to pledge or transfer non-cash collateral without needing to convert those assets into cash.

Fourth, using a distributed ledger to make transactions and keep records of ownership means that all parties to the transaction would rely on the same source of data. This would reduce the errors that arise when each entity keeps its own record of the transaction on its own system and the inefficiencies that arise from the duplication of processes across financial institutions.

These benefits of tokenisation make its adoption extremely compelling for the cleared derivatives markets. Its adoption, however, will require the industry to raise its understanding of tokenisation and take pragmatic steps in a controlled environment to build trust around this new technology.

As the cleared derivatives industry seeks to deploy this technology at scale, several important issues will need to be considered, like operational standards, fragmentation of the tokenisation landscape, privacy issues, legal and liquidation certainty, prudential treatment and cybersecurity.

In the EU, the main challenges involve aligning various national laws, corporate regulations, and securities laws. These challenges hinder the potential benefits of tokenisation as an innovative tool. Analysing the necessary changes to the EU framework is essential.

Tokenized assets should be treated the same way non-tokenized assets are treated. While operational risks may require different management approaches, the nature of the asset itself remains unchanged. It is important to maintain technology neutrality. For example, blockchain is currently treated differently and EU regulations currently lack a technology-neutral approach in this domain.

Prudential treatment: Under the current standards for bank capital requirements, it is not clear whether clearing firms that are part of banking organisations can obtain the same capital relief for tokenised assets that they get if they use traditional assets as collateral.

4. Supervision

Supervisory divergence between EU member states harms the competitiveness of the EU as a whole by creating inconsistency, duplication, and costs for firms.

While in principle a move towards more centralised supervision could help address this, its success will depend on any future pan-European supervisory framework increasing competitiveness, rather than gold-plating.

It is particularly important to avoid this leading to the addition of an extra layer of supervision with duplications of requirements.

An important element is also that a secondary objective of competitiveness of European markets be added to the operative part of the ESMA Regulation.

The banking sector has experienced central supervision for the larger EU banks. To date, this has not led to a reduction in the intensity of supervision compared to a decentralized system; quite the opposite. Numerous requests are sent from the central supervisor, who, unlike several of its peers, deviates from a risk-based approach and implements a very formal oversight, based on a 'tick-the-box' approach.

Therefore FIA members think that the EU should be careful not to add additional layers of supervision: there can be benefits to single supervision but there are pre-conditions that would need to be met before going down that road. The central supervisor must be appropriately resourced and have the right experience, with an understanding of the operational realities of market participants.

Any step towards central supervision should only be undertaken provided that the cost for the supervised entities does not increase.

Centralized supervision for crypto and large cross-border groups may be beneficial. We caution against institutions like the ECB taking excessive legislative powers through binding guidelines; rulemaking should remain at the right level. Current governance structures at ESMA are ineffective, leading to slow decision-making.

Some members fully support giving ESMA more supervisory powers and centralizing supervision for CCPs. However, if ESMA is to supervise CCPs, it must adapt its methods. While members back possible changes, they stress the need to adjust ESMA's agility, governance, and interaction with market stakeholders. Despite political calls for tighter control over ESMA, there should be caution regarding increased regulation and guidance. More power to ESMA is needed for larger infrastructures but should be mindful of the net impact of any changes. Considering the long-term situation, we need to advance towards having a single supervisor. ESMA is currently the only candidate, but its current operations may not be entirely satisfactory. FIA members believe that we are heading towards greater EU integration, but there are necessary steps to be taken along this path.

Other members prioritize central supervision over a central supervisor, but a central supervisor is acceptable if it works smoothly with local supervisors (many of whom have deep sector- or market-specific expertise). Efficiency is not the sole factor of importance; it is also critical who leads in times of stress. A European supervisor may be best suited for overseeing cross-border groups or firms that operate within EU markets, rather than those serving only national markets.

Some members believe that the local supervisor is closer to the marker than ESMA and remain in favour of national supervision.

Another member views highlights reservations to further centralisation of supervision:

We are not aware of problems in the existing supervisory structure that would be resolved by more EU supervision of ETD markets. Derivatives markets in the EU do not suffer from fragmentation, they are already consolidated. The EU's internal market is a core strength for derivatives exchanges operating in the EU, as it allows a single exchange to operate under one license in a single Member State to service the whole of the EU, and access global financial markets.

We furthermore fear that –due to political compromises- more EU level supervision will lead to complex supervisory structures involving NCAs, regional clusters of NCAs or even supervisory colleges that would split responsibilities among different supervisors and bodies. This would be highly inefficient and could lead to fragmentation: It would involve NCAs not familiar with the situation at hand in a given Member State. This could also due to political reasons within the college- in some cases lead to inconsistent and arbitrary decisions, thereby actually causing fragmentation instead of preventing it.

We also caution against jumping to the extreme of a single centralised supervisor without first assessing and addressing potential divergent supervisory interpretations. Creating a single supervisor would not remedy divergent interpretations in Member States. A single supervisor would rather face challenges in authority, effectiveness and legitimacy. The approach should rather be that in areas where fragmentation can be identified (equity, not however derivatives markets), sufficient groundwork in harmonising supervisory practices across Member States should be undertaken. It wouldn't necessarily replace national supervisors but instead ensure that all Member States operate under the same regulatory standards, practices, and interpretations of European law. Regular peer reviews and mutual evaluations could help identify supervision discrepancies between Member States and allow for corrective action where necessary.

Last, we believe that a revision of the current supervisory architecture (including the establishment of a single, centralised supervisor) is not a panacea for solving all the challenges Europe's capital markets are facing. More substantial issues should be addressed. The debate on how to scale EU capital markets should hence not become dominated by questions on supervision.