
*Joint Response of the
Austrian Federal Ministry of Finance
and the
Austrian Financial Market Authority to the*

TARGETED CONSULTATION ON INTEGRATION OF EU CAPITAL MARKETS

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(bitte immer anführen!)

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PART 1

1. Simplification and burden reduction

No response.

2. Trading

[...]

- 23) Crypto-markets have seen the emergence of a market architecture whereby retail investors have direct access to a crypto-asset trading venue. Do you see merit in allowing or promoting the direct access of retail participants to trading venues for financial instruments, without an intermediary?

Yes	No	No opinion
X		

If your response is 'yes', please explain the advantages and disadvantages of such a model, as well as the risks and how they could be mitigated.

Please explain:

Based on responses to MiCAR-specific consultations, market stakeholders seem to be in favor of easy but regulatory reliable interaction with crypto-asset markets. Considering maintaining the effectiveness and competitiveness of EU financial markets, we see the point in such requests if they also respect MiCAR principles, for instance, regarding crypto-asset services, which should aim at fair, transparent and professional conduct towards consumers and investors.

[...]

3. Post-trading

3.1. Barriers to cross-border settlement and other CSD services

[...]

3.1.5. Barriers and other aspects under the SFD

- 52) What are the main barriers to the smooth operation of the settlement finality framework in the EU?

Please indicate how many barriers have you identified?

1 barrier	2 barriers	3 barriers
X		

Explanation of the barrier:

Inconsistent implementation of the SFD across the EU (e.g., recognition of third country finality at national level).

Please justify your answer to question 52, in particular identifying potential risks:

The main barrier is the inconsistent implementation of the SFD across the EU (e.g., recognition of third country finality at national level).

- 53) Are there any aspects of the SFD that have created barriers for the market or market participants, in particular in a cross-border environment?

Yes	No	No opinion
X		

- 54) Do the definitions, in particular the definition of a “system” and “transfer orders”, result in barriers related to the change in market practice in the set-up of systems as well as the use of DLT?

Yes	No	No opinion
X		

- 55) Is SFD protection important for settlement systems, such as those based on DLT, that settle trades instantly and atomically, and not on a deferred net basis or in settlement batches?

Yes	No	No opinion
X		

[...]

- 57) Are the criteria that need to be met for a system to be designated under the SFD creating unjustified barriers to entrance?

Yes	No	No opinion
X		

- 58) Do diverging national practices for notifying systems create an uneven level playing field or legal uncertainty?

Yes	No	No opinion
X		

- 59) For the purposes of designating a system under the SFD, are the current list of participants, the designation process and the focus on entities rather than on the service provided creating barriers for new entities to provide settlement services in a system designated under that Directive?

Yes	No	No opinion
X		

- 60) Does the non-aligned definition of 'collateral security' (SFD) and 'financial collateral' (FCD) create complexities for efficient collateral management?

Yes	No	No opinion
X		

- 61) Is there legal certainty on the scope of the settlement finality protection under SFD?

Yes	No	No opinion
	X	

- 62) Is the lack of harmonised settlement finality moments in SFD (i.e. leaving it to the rules of the system or national law) creating legal uncertainty and preventing the development of a single capital market?

Yes	No	No opinion
X		

- 63) The SFD does not apply to third-country systems, however, Member States can extend the protections in the SFD to domestic institutions participating directly in third-country systems and to any relevant collateral security ('extension for third-country systems').

Is the lack of transparency related to Member States extending for third country systems creating barriers to the provision of services in the single market or creating a non-level playing field for EU entities?

Yes	No	No opinion
X		

- 64) Stakeholders have indicated they would like to have an overview of all participants in different SFD designated systems, e.g. shared on one website publicly accessible.

Is the lack of transparency related to the participants of designated systems creating barriers to the single market?

Yes	No	No opinion
	X	

- 65) Has the fact that SFD designation is not mandatory for all systemically important systems (except when mandated under Art. 2(1) and 2 (10) CSDR and Art. 17(4)(b) EMIR), including payment systems, created barriers to the single market?

Yes	No	No opinion
	X	

- 66) Are there any national barriers in relation to legal certainty arising from how the SFD is transposed in the Member States?

Yes	No	No opinion

X		
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67) Some stakeholders suggested a centralised overview over the insolvency of participants of all SFD designated systems is needed, ie. published on a common centralised website.

Is a lack of transparency related to the insolvency of participants of designated systems creating barriers to the single market?

Yes	No	No opinion
X		

68) Are there any other barriers created by the SFD which are not mentioned above?

Yes	No	No opinion
	X	

Please justify your answer to question 68, in particular identifying potential risks:

Specifying answer to question 51 to 68:

It is worth highlighting that the ongoing efforts to broaden the applicability of the SFD to additional types of market participants (e-money and payment-institutions) across the EU demonstrates a positive trend towards greater harmonization. However, the lack of concrete procedural guidelines for the designation process of a systems undermines the establishment of a level playing field across the EU. In this context, the absence of a clear definition of the term ‘adequacy of the rules of the system’ (see Art. 2 (a) SFD) is particularly problematic. It creates ambiguity in the recognition process and further complicates efforts to ensure consistent application and mutual trust across jurisdictions.

Legislative changes regarding a concretization of the designation process of a system as well as a definition of the term ‘adequacy of the rules of the system’ (see Art. 2 (a) SFD) would prove highly beneficial.

[...]

PART 2

4. Horizontal barriers to trading and post-trading infrastructures

[...]

4.4. Innovation – DLT Pilot Regime (DLTPR) and asset tokenisation

[...]

- 35) The Commission recently published a [study on the use of permissionless blockchains for enhancing financial services](#), which set out operational robustness criteria for assessing permissionless blockchains.

Do you believe that beyond the Digital Operational Resilience Act (DORA), additional legislative or non-legislative action is needed to ensure appropriate mitigation of risk stemming from decentralised IT systems such as permissionless blockchains?

Yes	No	No opinion
	X	

Please explain your answer to question 35:

No. DORA has just been adopted and it is too early for another revision, as the entry into application and effects of the new rules, introduced by DORA, should be waited for and observed first.

[...]

5. Asset management and funds

[...]

5.2. Authorisation Procedures

[...]

5.2.3. Treatment of service providers and depositories during the authorisation process

[...]

- 24) With the entry into application of Directive (EU) 2024/927, to what extent are barriers still expected to persist for investment funds in accessing competitive, good-quality depository services for AIFs?

Yes	No	No opinion
	X	

Please explain your answer to question 24 and provide a ranking having regard to the impact of proposed solutions as high, medium or low priority:

As rules regarding depository services for investment funds have just been amended via Directive (EU) 2024/927, it is too early for another revision, as the entry into application and effects of the new rules, introduced by Directive (EU) 2024/927, should be waited for and observed first.

[...]

6. Supervision

6.1. Effectiveness of the current framework

- 1) How effective are current EU supervisory arrangements in achieving the objectives or performing the tasks below?

	1	2	3	4	5	No opinion
Contributing to financial stability					X	
The functioning of the internal market					X	
The integrity, transparency, efficiency and orderly functioning of financial markets					X	
The enforcement of EU rules					X	
The prevention of regulatory arbitrage and promotion of equal conditions of competition					X	
Supervisory convergence across the internal market						X
Development of the Single Rule Book				X		
Consumer and investor protection					X	
Support financial innovation in the market					X	
Market monitoring					X	
Supervisory data management including data sharing	X					
Responsiveness, transparency					X	
Stakeholder engagement and involvement					X	
Use of resources		X				
Proportionality of the fees for direct supervision					X	

- 2) What prevents the ESAs from reaching the objectives or performing the tasks listed in Question 1?

Please explain your answer:

Reasons, which prevents the ESAs from reaching the objectives or performing the tasks listed above, could be the lack of use of given powers and no risk appetite to approach important and big stakeholders.

ESMA often tries under the cover of supervisory convergence to put all CCPs under one umbrella not considering the different size, complexity, organisation and risk profile of those institutions. This makes supervision burdensome and ties up resources.

With the new regulation on reporting requirements some of the issues in the area of data management and the sharing of supervisory data, will be addressed. Additionally, the report that is proposed to be conducted by the EC in relation to a single supervisory data hub needs to be awaited, before concrete proposals are made in this respect.

- 3) Please assess ESMA's governance model currently in place for the direct supervisory mandates. Currently, the Board of Supervisors adopts supervisory decisions prepared either by ESMA staff (for example for credit rating agencies (CRAs)) or the CCP supervisory committee (for tier 2 third country CCPs). You may want to consider elements, such as ability to take decisions swiftly, independent decision in EU public

interest, quality of the decisions being taken, ability to take into account supervised entities and other stakeholders.

1	2	3	4	5
		X		

6.2. Specific questions on supervisory arrangements for different sectors

- 4) Do you have ideas how EU-level supervision of financial markets could be structured (for example the whole or part of the sector should be supervised at EU level, supervisory decisions could be taken at EU level or national, etc.)?

Yes	No	No opinion
	X	

Please explain your ideas and explain what broad changes they would involve:

In general, we are of the opinion that the existing competencies regarding supervision of the ESAs are sufficient and there is no need to drastically extend them. Thus, the current supervisory landscape is efficient, less invasive and less costly than a newly implemented centralized supervision. However, with further deep analysis to be conducted, some movements of direct supervisory competences to the EU-level might make sense, especially, if risk and efficiency gains arise from this.

Further, Austria is of the opinion that NCAs need to play a role in the supervisory architecture, as they have the market knowledge, expertise and are close to the market participants. Changing the structure of supervision to a model, where NCAs play no role at all does not seem to be the right and most effective way forward. A concept of joint supervisory teams would be a good way forward. Here it needs to be analyzed, if deviations are necessary in relation to the different sectors or supervisory areas. New competencies of the ESAs need to be connected to a verifiable value added compared to the current supervisory model on national level.

If virtual colleges for large cross-border companies may be considered, ESAs should use their already existent powers to achieve a common supervision rule set.

In terms of monitoring the markets and supervising market abuse the size of markets needs to be considered as well. ESMA will be bound to the knowledge of the NCAs with regards to the markets. There is the need of clear rules regarding the competences (who is responsible for/competent for what).

With regards to CCPs, a tiering system as it is foreseen for third-country CCP supervision would be preferred. This would consider the size and risk profile and especially cross border risk for large entities, whereas small and local CCPs could be under the supervision of NCAs only while ensuring an information right for Colleges and ESMA. This

would also ensure proportionality, safe costs, and ESMA could bundle its resources on the big players on the market.

- 5) Some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors. What is your view on building on these NCAs and creating EU centres of supervisory expertise by sectors?

Please explain:

Austria does not see any merit considering that the arguments against broad-based centralisation are also valid for this approach. This would create duplications on all levels and might create disadvantages for market participants that are located in MS outside of the EU centre. Hence, such a supervisory model could lead to clustering of market participant in the MS that operates the EU supervisory centre in a specific market segment. This is not perceived as a method to promote true European capital markets, as market participants from a specific sector will be clustered in one MS.

- 6) Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?

Please explain:

No, we do not see any benefits in pooling together resources and expertise in regional hubs, as complexity would increase. Furthermore, the markets in the different Member States differ and are of different size. A pooling approach introduces the danger of losing these specificities of the markets.

- 7) What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants? Please explain your reply highlighting benefits and downsides.

Please explain your reply highlighting benefits and downsides:

The role of “regional hubs” is in our opinion already conducted by the NCAs and it does not make sense to build a parallel structure of ESMA in this respect. There is already now a close interaction between NCAs and market participants and it is not clear what additional benefit ESMA staff could offer that cannot be covered by NCA staff. Working together in supervisory teams is a better option compared to building a parallel supervisory structure. In our opinion it would also confuse market participants, whom to approach – ESMA local hub or NCA.

6.3. Questions on the supervision of EU CSDs

6.3.1. Identifying costs related to the current supervisory framework and benefits of more integrated EU supervision

- 8) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of CSDs? Please rate from 1 to 5 (1 very convergent, 5 very

divergent) Please provide examples of divergent outcomes of supervisory practices for CSDs in different Member States.

1	2	3	4	5
		X		

Please provide examples of divergent outcomes of supervisory practices for CSDs in different Member States:

CSDs differ in size, business, complexity and organisation and sometimes the convergence cannot reflect all these aspects to every single point.

[...]

- 10) Do you consider that the current supervisory framework ensures efficient supervision and legal certainty?

Yes	No	No opinion
X		

Please explain your answer to question 10, providing examples, where possible:

We agree with this statement.

- 11) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)? [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. It could reduce EU CSDs' regulatory costs;			X			
b. It could enhance the quality of supervision over EU CSDs;			X			
c. It could facilitate the provision of cross-border services by EU CSDs, and cross-border issuance by EU issuers;				X		
d. It could simplify and accelerate the procedure to apply for authorisation for EU CSDs;					X	
e. It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of services or activities offered in the EU or to outsource EU CSD core services);					X	
f. It could simplify and accelerate supervisory procedures and approvals, e.g. with regard to the provision of services by EU CSDs in host Member States, links and provision of banking-type ancillary services;				X		
g. It could lead to more efficient use of supervisory resources;					X	
h. It could decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;		X				

i. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;					X	
j. It could create a level playing field between EU CSDs;		X				
k. It could ensure a harmonised understanding of decentralised technologies and the novel risks they may bring to the EU CSDs to supervise;		X				
l. It could improve the resilience of EU CSDs;			X			
m. It could reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;			X			
n. Other (please specify in reply to the next question).						X

12) Do you consider that more integrated EU supervision could also produce negative side-effects?

Yes	No	No opinion
X		

Please explain your answer to question 12:

Yes, more integrated EU supervision could also produce negative side-effects for various reasons as for example:

- the supervision might be modelled to benefit large markets and disregard the needs of smaller markets which could manifest in market concentration
- missing understanding of smaller markets as their needs as well as their specificities
- unharmonized tax law and civil law harmonisation
- language barriers and the missing integration within the national jurisdictions
- increased regulatory costs stemming from duplication of functions,
- absence of checks and balances and any more

[...]

6.3.2. How could more integrated EU supervision of CSDs function?

14) Please indicate to which extent you support the following possible models of more integrated EU supervision. For each model, options to choose from: 1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

5	a. A single EU supervisor, responsible for the supervision of all EU CSDs
6	b. A centralised EU supervisor, responsible for the supervision of only certain, systemic EU CSDs (other CSDs to remain subject to national supervision)
5	c. A centralised EU supervisor over all EU CSDs, but with powers in certain key areas with other powers remaining at national level (see questions on areas below)
6	d. A centralised EU supervisor, responsible for the supervision of only certain, systemic EU CSDs and with powers in certain key areas (other powers, as

	well as non-systemic EU CSDs to remain subject to national supervision)
6	e. Supervisory colleges with enhanced powers
1	f. Other set-up (please explain in the textbox)

Please explain your answer, providing, where possible, quantitative evidence and examples:

The supervision of small locally-based CSDs should be provided by NCAs, with information rights to ESMA and the respective college.

- 15) Would joint supervisory teams, e.g. under options (c) and (d) in question 14, composed of national experts and representatives of the EU supervisor, under the EU supervisor's lead, be an efficient tool to provide technical support of the supervision by the EU level supervisor? Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
			X		

Please explain your answer to question 15:

-

- 16) To ensure stronger EU-level supervision of CSDs, which of the following authorities or bodies should be closely involved in supervision? For each point, options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

3	a. ESMA;
4	b. EBA;
4	c. Relevant authorities as defined in CSDR;
4	d. The Eurosystem;
4	e. Competent authorities of other Member States;
2	f. Supervisory colleges;
4	g. The competent authority designated under MiFID;
4	h. The competent authority designated under the CRR;
6	i. Other (please specify, in reply to the next question).

Please explain your answer providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

In our opinion, no one of the mentioned authorities or bodies has to be more closely involved in supervision in order to ensure stronger EU-level supervision of CSDs.

[...]

6.4. Questions on the supervision of EU CCPs

6.4.1. Identifying the costs of the current supervisory framework and benefits of more integrated EU supervision

- 18) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of CCPs? Please rate from 1 to 5 (1 very convergent, 5 very divergent) Please provide examples of divergent outcomes of supervisory practices for CCPs in different Member States.

1	2	3	4	5
X				

Please provide examples of divergent outcomes of supervisory practices for CCPs in different Member States:

ESMA in its role as college member in all CCP colleges and with its new mandates under EMIR 3 plays a huge role with regards to supervisory convergence. Sometimes we believe that even too much. This leads to situations where ESMA tries (under the cover of ensuring convergence) to bring all CCPs under an umbrella, although CCPs are still different in size, business, complexity and organisation.

- 20) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision? (please rate from 1 to 5) [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. It could reduce EU CCPs' regulatory costs;			X			
b. It could enhance the quality of supervision over EU CCPs;			X			
c. It could simplify and accelerate the procedure to apply for authorisation to provide clearing services in the EU;				X		
d. It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of services or activities offered in the EU);					X	
e. It could simplify and accelerate validation procedures for risk models and parameters;					X	
f. It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;					X	
g. It could lead to more efficient use of supervisory resources;					X	
h. It would decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;		X				
i. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;					X	
j. It would create a level playing field between EU CCPs;		X				
k. It would create a level playing field between EU CCPs on the one hand and third-country CCPs on the other hand;		X				
l. It would improve EU capacity to deal with the cross-border risks arising from greater amounts of clearing in		X				

the EU;						
m. It could ensure a harmonised understanding of decentralised technologies and the novel risks they may bring to the CCP to supervise;		X				
n. It could improve the resilience of EU CCPs;		X				
o. It would reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;			X			
p. Other (please specify in reply to the next question).						

21) Do you consider that more centralised EU supervision could also produce negative side-effects?

Yes	No	No opinion
X		

Please explain your answer to question 21:

To give a good example, with regards to CCPs it should be mentioned, that the aim of EMIR 3 was to reduce complexity in supervision, harmonise supervisory processes and make it easier and faster for CCPs to get an approval for extensions of services or model/parameter changes. The effect, in practice, so far, is the opposite. Within the new supervisory bodies too many parties (CCPSC, ESMA, College, NCA) are involved in decision making. Furthermore, CCPs now have to obtain an approval or even to conduct a supervisory process also for not significant changes and even for business as usual issues. This makes it very burdensome for CCPs as well as for CCP NCAs in its supervisory work.

[...]

6.4.2. How could more integrated EU supervision function?

23) Please indicate to which extent you support the following possible models of more integrated EU supervision of CCPs - (please rate from 1 to 5) [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. A single EU supervisor with all supervisory powers, responsible for the supervision of all EU CCPs					X	
b. An EU supervisor with powers in certain key areas					X	
c. Supervisory colleges with enhanced powers					X	
d. Other set-up (please explain) "tiring system" (see below)	X					

Please explain your answer providing, where possible, quantitative evidence and examples:

To give a good example, with regards to CCPs it should be noted that there are still big differences within CCPs (size, organisation, Business, products, complexity, risk profile).

Integrated supervision and a strong role for ESMA with regards to supervisory convergence is only useful for big institutions with cross-border risk and a relevant risk profile. Integrated supervision of small local-based CCPs should be in charge of CCP NCAs only with information rights to ESMA and the respective college. We would appreciate tiring system approaches as the regulation foresees it for third country CCPs.

- 24) Would joint supervisory teams, composed of national experts and representatives of the EU supervisor, be an efficient tool to provide technical support of the supervision by the EU level supervisor? Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
			X		

- 25) To ensure stronger EU-level supervision, which of the following authorities or bodies should be closely involved in supervision - (please rate from 1 to 5) [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. European Central Bank and the relevant central banks of issue of Member States					X	
b. ESMA				X		
c. Single Supervisory Mechanism and other bank supervisors for non-Banking Union Member States					X	
d. Competent authorities of other Member States	X					
e. Supervisory colleges			X			
f. Other (please specify, in reply to the next question)						

- 26) To ensure stronger EU-level supervision, where should the centre of gravity of supervisory activity be allocated - (please rate from 1 to 5) [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. European Central Bank and the relevant central banks of issue of Member States					X	
b. ESMA				X		
c. Single Supervisory Mechanism and other bank supervisors for non-Banking Union Member States					X	
d. Competent authorities of other Member States	X					
e. Supervisory colleges			X			
f. Other (please specify, in reply to the next question)						

[...]

6.5. Questions on the supervision of significant EU trading venues

6.5.1. Identifying the pros and cons of the current supervisory framework and possible benefits of a more integrated EU supervision

- 28) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of trading venues? Please rate from 1 to 5 (1 very convergent, 5 very divergent) Please provide examples of divergent outcomes of supervisory practices for trading venues in different Member States.

1	2	3	4	5
	X			

Please provide examples of divergent outcomes of supervisory practices for trading venues in different Member State:

In our view, the convergence of supervisory practices across Member States in the area of the supervision of trading venues seems to be rather convergent.

- 29) To which extent do you agree with the following statement about the pros and cons of the current supervisory framework for trading venues in the EU, compared to a possibly more integrated EU supervisory framework?

	1	2	3	4	5	6
a. The current supervisory framework enables an efficient supervision thanks to the proximity of NCAs with the supervised entities;	X					
b. It results in sufficiently consistent supervision over EU trading venues;		X				
c. It is optimal in terms of regulatory costs for trading venues (i.e. it allows costs to be kept to a minimum);	X					
d. It allows an efficient use of national and EU supervisory resources;	X					
e. It creates an uneven playing field for EU trading venues;				X		
f. It creates legal uncertainty because of different implementation or interpretation of EU legislation in different Member States or by NCAs and ESMA;				X		
g. It does not allow an effective supervision for groups operating across EU-borders;					X	
h. It prevents economies of scale for trading venues with operations cross-border;					X	
i. It makes it more complex and costly for EU trading venues to develop their activities across borders;					X	
j. It makes it more difficult for EU trading venues to attract market participants;					X	
k. Other (please specify in reply to the next question).						

[...]

- 31) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)? [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
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a. It could reduce EU trading venues' regulatory costs;					X	
b. It could enhance the quality and consistency of supervision over EU trading venues;				X		
c. It could facilitate cross-border activities of trading venues;					X	
d. It could increase the effectiveness of supervision for groups allowing for a comprehensive EU-wide understanding of the activities performed by each individual trading venue;				X		
e. It could simplify and accelerate the procedure to apply for (additional) authorisation for EU trading venues;					X	
f. It could simplify and/or accelerate procedures for obtaining supervisory approvals;					X	
g. It could simplify and/or accelerate the procedure for obtaining the agreement for amendments to the exchange rulebooks;					X	
h. It could lead to more efficient use of supervisory resources;					X	
i. It could decrease uncertainties currently arising from different implementation or interpretation of EU legislation in different Member States or by NCAs and ESMA;			X			
j. It could remove the need for market participants to deal with duplicative instructions from more than one supervisory authority;				X		
k. It could create a level playing field between EU trading venues in scope;				X		
l. It could ensure a harmonised understanding of new technology/new types of instruments (e.g. smart contracts) used by EU trading venues and the novel risks they may bring to the EU trading venues to supervise;			X			
m. It could reduce the need for detailed regulations, extensive rulebooks, as well as the use of Level 3 tools (e.g. Q&As) to achieve harmonised supervision;					X	
n. Other (please specify in reply to the next question).						

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

Supervisory costs at EU level are much higher due to much higher staff and other costs (see for example costs/fees for DRSP supervision by ESMA compared to fees by NCAs). Supervision of trading venues (by NCAs) is currently consistent, and we do not see potential barriers for cross-border activities caused by the fact that NCAs are (solely) competent for supervision of trading venues.

Regarding e) - h): National procedures are in our experience faster and much more flexible than similar procedures at ESMA. Accordingly, resources are more efficiently used at NCAs. In particular, enforcement at ESMA through an independent investigation officer is in our view a highly ineffective, costly and time-consuming procedure.

Regarding m): The need for such detailed regulations depends not from the fact who is in charge for supervision (Union supervisors vs NCAs) but from more or less qualitatively inferior and overcomplicated legislation at Level 1.

6.5.2. How could more integrated EU supervision function?

32) Please indicate to which extent you support the following possible models of more integrated EU supervision. (Note: the models are not mutually exclusive (e.g. an EU-level supervisor could be responsible for the supervision of all trading venues and have all or only some of the MiFID/R powers): For each model, options to choose from: 1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion)

	1	2	3	4	5	6
a. An EU-level supervisor, responsible for the supervision of all EU trading venues.					X	
b. An EU-level supervisor, responsible for the supervision of certain EU trading venues according to certain criteria described in the next section.					X	
c. An EU-level supervisor with all MiFID/R supervisory powers.					X	
d. An EU-level supervisor with powers in certain key MiFID/R areas.					X	
e. Joint supervisory colleges with enhanced powers				X		
f. Other set-up (please explain)						

Please explain your answer to question 32., providing, where possible, examples and quantitative evidence, including on potential costs and benefits:

See detailed answers on question 31 above. We do not see any benefits in a more integrated EU supervisory function with regards to trading venues. In addition, we currently do not see sufficiently competent staff nor management present at ESMA to fulfil such supervisory tasks.

33) In the case of a single EU-level supervisor (a, b, c and d in question 32), to which extent would you support the two possible models described below? For each model, options to choose from: [1] Model a) 1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion); [2] Model b) 1 (very unsatisfied), 2 (unsatisfied), 3 (neutral), 4 (satisfied), 5 (very satisfied), 6 (no opinion)

4	a) ESMA is the direct supervisor, with decisions taken by the ESMA Board of Supervisors and certain tasks delegated to NCAs.
5	b) Within ESMA, a Supervisory Committee composed of representatives of ESMA, relevant NCAs and possibly independent experts is in charge of the on-going supervision. The ESMA Board of Supervisors could retain decision making powers on a limited number of important MiFID/R issues.

- 34) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead be an efficient tool to achieve a more harmonised and efficient ongoing supervision of trading venues? Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
			X		

Please explain your answer to question 34:

We do not see any additional value in such joint supervisory teams, not least because ESMA currently lacks qualified experts in trading venue supervision.

If you consider that none of the above presented options would be adequate for (certain) trading venues, which alternative supervisory model would you support? Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

We are of the opinion that the current supervisory model works well and most progress could be made by improved material legislation.

[...]

6.5.3. How could the potential scope of a possible EU-level supervision be defined?

- 36) Which criteria should be used to define the scope of trading venues that should fall under EU-level supervision?

<input type="checkbox"/>	i. Only trading venues that are deemed significant based on their size or owing to their third country dimension (i.e. trading venues belonging to non-EU groups)
<input type="checkbox"/>	ii. Only trading venues with a significant cross-border dimension within the EU
<input checked="" type="checkbox"/>	iii. Only trading venues that fulfil both above criteria
<input type="checkbox"/>	iv. other (please specify)

- 37) Assuming competences are split between an EU-level supervisor responsible for the supervision of significant relevant trading venues and NCAs responsible for the supervision of less significant institutions ('LSI'), do you believe that the EU-level supervisor should also have any oversight function with respect to LSI supervision?

Yes	No	No opinion
	X	

- 38) Among the following options to determine, if entities belonging to the same group should be in scope of EU-level supervision, please indicate which one you would most support:

<input type="checkbox"/>	i. if a trading venue belonging to a group is in scope of EU-level supervision, all trading venues located in the EU and belonging to that group should be in scope, irrespective of whether the quantitative criteria for being in scope are met for each of these individual trading venues;
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<input checked="" type="checkbox"/>	ii. only EU trading venues of a group that individually reach the criteria should be in scope;
<input type="checkbox"/>	iii. quantitative criteria should be calculated on the basis of a group and hence all EU trading venues belonging to that group should be in the scope;
<input type="checkbox"/>	iv. other (please specify);
<input type="checkbox"/>	v. Has no view.

39) What should be the appropriate criteria in terms of size to assess the significance of a trading venue(s) for the purpose of EU-level supervision? If you responded (iii) to question 38, the reference to a trading venue should be understood as a reference to a group. Please select any of the following options.

<input checked="" type="checkbox"/>	i. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for all asset classes (e.g. shares, bonds, etc) is equal or higher than a certain percentage
<input type="checkbox"/>	ii. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for only some but not all asset classes is equal or higher than a certain percentage.
<input type="checkbox"/>	If you picked (ii), please specify which asset classes.
<input type="checkbox"/>	iii. Trading volume (in EUR) of the trading venue relative to the total volume traded in the EU for at least one asset class is equal or higher than a certain percentage.

[...]

43) Should it be possible for a trading venue to opt-in into EU-level supervision even though it does not meet the relevant criteria?

Yes	No	No opinion
		<input checked="" type="checkbox"/>

44) Please indicate for the following areas of MiFID II to which extent you agree/disagree that EU-level supervision of (certain) trading venues could provide benefits. Certain powers may be logically bundled. A non-exhausting list of relevant articles is provided in brackets. For each point, options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion). Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

	1	2	3	4	5	6
a) Authorisation/withdrawal of authorisation for regulated market/MTF/OTF (e.g. Articles 5, 7, 8 and 44 of MiFID II)				<input checked="" type="checkbox"/>		
b) Requirements on management bodies, shareholders and members with qualifying holdings and those exercising a significant influence (e.g. Articles 9, 10, 11, 12, 13, 44 and 45 of MiFID II)				<input checked="" type="checkbox"/>		
c) General organisational requirements, conflict of interests and ongoing supervision (e.g. Articles 16, 21, 22, 23, 47, 48, 49 and 54 of MiFID II)				<input checked="" type="checkbox"/>		
d) Trading process in MTF, OTF and regulated market,			<input checked="" type="checkbox"/>			

admission of financial instruments to trading (e.g. Articles 18, 19, 20, 51 and 53 of MiFID II)						
e) Market transparency and integrity (e.g. Articles 31, 32 and 52 of MiFID II)				X		
f) SME growth markets (e.g. Article 33 of MiFID II)			X			
g) Rights of investment firms (cross-border provision of services) and provisions regarding CCP and clearing and settlement arrangements (e.g. Articles 34, 36, 37, 38 and 55 of MiFID II)				X		
h) Commodity derivatives regime (e.g. Articles 57 (8) and 58 of MiFID II)				X		
i) Supervisory powers (e.g. Article 69 of MiFID II):			X			
j) Sanctions (e.g. Articles 70, 71, 72 and 73 of MiFID II)			X			
k) Group level supervision				X		
l) Provisions related to prevention or detection of cases of market abuse pursuant to Regulation (EU) 596/2014, e.g. analysing and referring suspicious transactions to NCAs					X	
m) Other						

- 45) Please indicate for the following areas of MiFIR to which extent you agree/disagree that EU-level supervision of (certain) trading venues could provide benefits. This is notwithstanding that certain powers may be logically bundled. A non-exhausting list of indicative relevant articles is provided in brackets. For each point, options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion). Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

	1	2	3	4	5	6
a) Transparency requirements for equity and non-equity instruments (e.g. Articles 4, 7, 9, 11 and 11a of MiFIR)				X		
b) Transmission of data, obligation to maintain recording and report transactions (e.g. Articles 22, 22a, 22b, 22c, 25 and 26 of MiFIR)				X		
c) Non-discriminatory access to a CCP and to a trading venue (e.g. Articles 35 and 36 of MiFIR)				X		
d) Other (please specify)			X			

6.6. Questions on the supervision of funds and asset managers

6.6.1. Identifying costs related to current supervisory framework and benefits of more integrated EU supervision

- 46) How would you rate the convergence of supervisory practices across Member States in the area of the supervision of funds and asset managers? Please rate from 1 to 5 (1 very convergent, 5 very divergent) Please provide examples of divergent outcomes of supervisory practices for CSDs in different Member States.

1	2	3	4	5
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X				
---	--	--	--	--

[...]

- 48) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)? [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a. It could reduce UCITS funds, their fund managers' and AIFMs' regulatory costs;					X	
b. It could enhance the quality of supervision over UCITS funds, their fund managers and AIFMs;					X	
c. It could simplify and accelerate the procedure to apply for authorisation of UCITS funds, their fund managers and AIFMs in the EU;					X	
d. It could simplify and accelerate the procedure for additional authorisations of managers (e.g. to extend the scope of services or activities offered in the EU);					X	
e. It could simplify and accelerate the procedures for marketing UCITS funds and AIFs in the single market (outside the home Member State of the fund);					X	
f. It could simplify and accelerate the procedures relating to regulatory notifications and approvals of marketing materials and changes to fund documentation;					X	
g. It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;					X	
h. It could lead to more efficient use of supervisory resources;					X	
i. It would decrease uncertainties that currently arise from different implementation or interpretations of EU Regulations in different Member States or by Member States and ESMA;					X	
j. It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;					X	
k. It would create a level playing field between UCITS funds, their fund managers and AIFMs;					X	
l. It would create a level playing field between EU authorised funds and fund managers on the one hand and third-country investment funds and managers on the other hand;					X	
m. It would reduce the need for detailed regulations and extensive rulebooks to achieve harmonised supervision;					X	
n. Other						

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

In general, we do not view a more integrated / centralized EU supervision as beneficial. On the one hand, ESMA already has broad powers, which should be used, and on the other hand, a national supervision ensures an efficient and proportionate supervision. The questions are too broad and too general in order to be able to identify the mentioned benefits. The questions would benefit from further differentiation. However, with further deep analysis to be conducted, some movements of direct supervisory competences to the EU-level might make sense, especially, if risk and efficiency gains arise from this.

- 49) Do you consider that more integrated EU supervision could also produce negative side-effects?

Yes	No	No opinion
X		

Please explain your answer to question 49:

Possible negative side-effects include: ESMA might not be able to accommodate for national language, cultural and legal differences as well as the NCAs. Moreover, there is a risk of a loss of NCA's know-how.

[...]

6.6.2. How could more integrated EU supervision function?

- 51) Please indicate to which extent you support the following possible models of more integrated EU supervision. Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits, taking into account experience with voluntary colleges established so far. If you replied 'Other', please indicate what was intended. For each model, options to choose from: 1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion).

	1	2	3	4	5	6
A single EU supervisor, responsible for the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision for asset managers with limited or no cross-border activity, UCITS funds and AIFs;				X		
b. A supervisory college, chaired by an EU supervisor, having the main responsibility for, and taking joint decisions on, the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision of asset managers with limited or no cross-border activity, UCITS funds and AIFs.				X		
c. A supervisory college, chaired by a "lead NCA", having		X				

the main responsibility for, and taking joint decisions on, the supervision of asset managers with significant cross-border activities, while NCAs remain responsible for the supervision of asset managers with limited or no cross-border activity, UCITS funds and AIFs						
d. A supervisory coordination college comprised of all relevant national competent authorities and ESMA while supervisory responsibilities remain unchanged.		X				
e. Other set-up						

Please explain:

We prefer supervisory coordination colleges as described in option c and d.

- 52) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead, be an efficient tool to achieve a more harmonised and efficient supervision of AIFs, UCITS and their fund managers? Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
			X		

Please explain your answer to question 52:

More information would be needed, how such approach would actually work.

[...]

6.7. Questions on the supervision of EU crypto-asset service providers (CASPs)

- 54) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)? [1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)]

	1	2	3	4	5	6
a) It could reduce the CASPs regulatory costs				X		
b) It could enhance the quality of supervision over CASPs;				X		
c) It could simplify and accelerate the procedure to apply for authorisation to provide crypto-asset services in the EU;					X	
d) It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of crypto-asset services or activities offered in the EU);				X		
e) It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;				X		
f) It could lead to more efficient use of supervisory resources;				X		
g) It would decrease uncertainties that currently arise			X			

from different implementation or interpretations of the EU MiCA Regulation in different Member States or by Member States and ESMA;						
h) It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;				X		
i) It would contribute to creating a level playing field between EU CASPs by eliminating regulatory arbitrage and gold plating;			X			
j) It would improve EU overview and cooperation over cross border activities;			X			
k) It could improve the resilience of EU CASPs;				X		
l) It would reduce the need for detailed regulations, extensive rulebooks and supervisory convergence activities to achieve harmonised supervision;				X		
m) It could contribute to a harmonised understanding of complex organisational structures and the different CASP business models.					X	
n) Other						

Please explain your answer providing, where possible, quantitative evidence and examples. If you indicated 'Other', please specify what was intended.

- On supervisory quality: ESAs currently lack practical supervisory experience in the CASP sector. NCAs, by contrast, have already established operational structures, market knowledge, and expertise through national frameworks. Centralising supervision risks weakening this established capability and introducing delays or inconsistencies in supervisory interventions.
- On efficiency and simplification: The creation of a centralised supervisory structure would not necessarily simplify authorisation or approval procedures. On the contrary, it could introduce new procedural layers and coordination burdens, particularly in a dual supervision setting involving both ESAs and NCAs.
- On resource efficiency: The operationalisation of EU-level supervision would require significant new resources and institutional structures within ESAs, likely drawing capacity away from NCAs. This could lead to duplication, fragmentation, or even capacity gaps in the short to medium term.
- On convergence and harmonisation: While we recognise that supervisory divergence under MiCAR poses challenges, these should primarily be addressed through strengthened convergence tools and active monitoring of national implementation by ESAs, rather than through centralisation. The latter would not remove the need for convergence activities - it might instead reduce pressure to develop them effectively.
- On resilience and systemic risks: Building resilience in the CASP sector depends more on effective risk-based supervision, operational proximity, and cooperation

with national bodies (e.g. cybersecurity agencies and FIUs) than on the formal level at which supervision is exercised.

55) Do you consider that centralised EU supervision could also produce negative side-effects.

Yes	No	No opinion
X		

Please explain your answer to question 55:

Yes, we consider that centralised EU supervision, while potentially beneficial in certain contexts, could also give rise to negative side-effects.

- In particular, NCAs have developed substantial supervisory knowledge, institutional memory, and market proximity in field of crypto-assets. Their close engagement with supervised entities and understanding of local market dynamics are essential for effective day-to-day supervision and enforcement.

Moreover, the ESAs, while having made valuable contributions to the development of policy frameworks, have thus far primarily operated as policy-making and coordination bodies. Their supervisory experience remains comparatively limited and has relied heavily on the substantive support of the NCAs. A premature centralisation of supervisory responsibilities could therefore risk weakening the effectiveness and responsiveness of supervision during a critical phase of regulatory implementation.

Rather than a shift toward full centralised supervision, we see greater value in strengthening supervisory convergence across Member States. The ESAs should focus more intensively on facilitating consistent supervisory practices, supporting capacity building, and issuing practical guidance, all in close collaboration with NCAs. This approach would ensure that the benefits of local supervisory expertise are preserved while enhancing regulatory coherence across the Union.

- A centralised supervisory framework risks reducing flexibility in the application of proportionate and context-sensitive supervision. NCAs are well positioned to adjust their supervisory approach to the specific risk profile, size, and business model of supervised entities. This flexibility is essential in areas characterised by innovation and diversity.

By contrast, direct supervision at EU level may lead to uniform procedures that do not adequately reflect national market conditions. A centralised authority could apply more rigid, standardised processes that - while enhancing formal consistency - may lack the necessary agility to respond to local developments or emerging risks. This may result in a disproportionate burden, especially on smaller entities. In the long

term, such an approach could discourage innovation, limit market access, and negatively impact competition, especially in evolving markets.

- A shift towards more centralised supervision at EU level would, in practice, require the establishment of a dual supervisory structure, where responsibilities are shared or split between the ESAs and NCAs. Such a model is unlikely to replace national supervision entirely and would therefore introduce an additional supervisory layer rather than simplify the overall framework.

This dual structure brings significant coordination challenges and legal-technical complexity. Overlapping mandates can create uncertainty for both supervisors and market participants, particularly in areas where regulatory responsibilities are not clearly delineated.

The need for continuous coordination - both on day-to-day matters and in supervisory decision-making - risks slowing down processes and reducing supervisory responsiveness. This is especially critical in dynamic sectors like crypto-assets, where swift action and regulatory clarity are essential.

56) Do you consider significant crypto-asset service providers to be subject to different risks than smaller crypto-asset service providers? If yes, what are these risks?

Yes	No	No opinion
X		

Please explain your answer to question 56:

Significant CASPs are exposed to different risks compared to smaller CASPs, primarily due to their size, business model, and market presence.

Significant CASPs usually operate on a (large) cross-border basis, serve large and often retail-dominated client bases, and offer a wide range of services within a single group structure. This multiplies their operational, compliance, and legal risks across jurisdictions.

Some may also reach a level of market relevance such that their failure could trigger broader market disruptions - through loss of client funds, breakdown of liquidity provision, or adverse effects on confidence in crypto markets more generally. Their centrality in certain token ecosystems can further exacerbate such risks.

Due to their scale and visibility, they are also more attractive targets for cyberattacks.

57) Can these risks be addressed by supervision of crypto-asset service providers at EU level?

Yes	No	No opinion
X		

Please explain your answer to question 57:

While certain risks - such as cross-border operations or market interdependencies - may have a European dimension, these do not automatically require direct EU-level supervision. In fact, many of the risks faced by significant CASPs (e.g. cybersecurity threats, operational failures) are best mitigated through close, continuous, and risk-sensitive engagement - something that NCAs are well positioned to deliver given their proximity to market participants and existing supervisory experience.

Unlike NCAs, ESAs currently also lack practical supervisory experience in the crypto-asset space. They have so far operated primarily as policy coordinators, with limited operational capacity for direct oversight. Entrusting them with day-to-day supervision at this stage would risk creating supervisory gaps and delay the effective identification and mitigation of emerging risks.

Moreover, many relevant risks - such as cyber incidents or consumer protection failures - require swift, locally coordinated responses involving law enforcement, cybersecurity units, and FIUs. Such cooperation is already embedded in national frameworks and would be difficult to replicate at EU level in a timely and effective manner.

Rather than shifting supervision to the EU level, we believe that risks can be more effectively addressed by enhancing supervisory convergence, improving cross-border cooperation between NCAs, and further developing technical capacities within the existing decentralised framework.

58) Do you have other comments on the current supervisory framework of EU crypto-asset service providers (CASPs)?

We would like to underline the importance of strengthening supervisory convergence across the EU as a core priority going forward. Divergences in supervisory practices and interpretations - particularly in emerging and cross-border areas such as crypto-assets - can lead to regulatory arbitrage, undermine investor protection, and hinder the development of a truly integrated capital market.

In this context, ESAs should place a stronger strategic focus on promoting consistent supervisory outcomes across Member States. This includes not only issuing guidelines and facilitating dialogue among NCAs, but also systematically monitoring how convergence instruments are applied in practice and ensuring that national implementation is aligned with EU objectives.

We see value in enhanced peer reviews, structured follow-up mechanisms, and more transparent reporting on convergence efforts and national deviations. ESAs should be equipped with the necessary tools and mandates to verify adherence to common standards and to intervene where persistent divergences exist.

Effective convergence does not require a shift toward centralised supervision, but rather a reinforcement of the existing framework through credible, coordinated, and enforceable convergence measures. This approach would preserve the benefits of national expertise and proximity, while ensuring the consistency and integrity of the EU regulatory environment.

6.7.1. How could more integrated EU supervision of CASPs function?

59) Please indicate to which extent you support the following possible models of more integrated EU supervision of CASPs. For each model, options to choose from: 1 (strongly support), 2 (rather support), 3 (neutral), 4 (rather not support), 5 (strongly not support), 6 (no opinion). Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits.

	1	2	3	4	5	6
a. A single EU-level supervisor, responsible for the licencing and supervision of all EU CASPs.					X	
b. An EU-level supervisor, responsible for the supervision of a subset of CASPs, for example significant CASPs, while NCAs would be responsible for the supervision of not significant CASPs.					X	
c. An EU-level supervisor over all EU CASPs, but with powers in certain key areas with other powers remaining at national level (see questions on areas below)				X		
d. An EU-level supervisor, responsible for the supervision of only certain, systemic EU CASPs and with powers in certain key areas (other powers, as well as not significant CASPs to remain subject to national supervision)				X		
e. A supervisory model for significant crypto-asset service providers, like the one for issuers of significant Asset Referenced Tokens in the current MiCA regime (authorisation by the NCA and if certain criteria are met, supervision passes to EBA with the help of a supervisory college)				X		
f. Other set-up						

Please explain your answer to question 59, providing, where possible, quantitative evidence and examples, including on potential costs and benefits:

We are firmly opposed to a full centralisation of CASP supervision at EU level (option a), and likewise to a split model in which only significant CASPs fall under EU supervision (option b). Both models would lead to a weakening of established supervisory capacity at NCA level, result in a loss of market proximity, and require the creation of costly new structures within ESAs. These changes would bring limited added value, while introducing legal, operational, and institutional complexity.

Option c, involving partial EU-level powers, raises similar concerns. Dividing competences between EU and national levels would risk overlaps, conflicting responsibilities, and delays in supervisory action. It would also create legal uncertainty for market participants as to which authority has ultimate responsibility in specific situations.

While options d and e - targeting only systemic CASPs or following a model similar to that under MiCAR for significant ART issuers - are more limited in scope, we remain sceptical. Defining systemicity in a dynamic and opaque sector such as crypto-assets is inherently difficult and risks inconsistent application. Moreover, supervisory colleges, as foreseen in option e, can add coordination burdens without necessarily improving supervisory outcomes, unless very clearly structured and well-resourced.

In our view, the most effective approach lies in preserving national supervisory responsibility, while significantly strengthening the role of ESAs in ensuring supervisory convergence. This includes consistent interpretation and application of MiCAR, robust peer reviews, and active monitoring of national supervisory practices. Such convergence mechanisms can improve supervisory quality and consistency without undermining established expertise or creating parallel structures.

- 60) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead, be an efficient tool to achieve a more harmonised and efficient authorisation, supervision and monitoring of CASPs? Please choose between: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
			X		

Please explain the reasoning for your answer to question 60:

We recognise that joint supervisory teams may, in theory, contribute to improved information sharing and supervisory convergence. However, we have reservations about their efficiency and practical added value in the context of CASP supervision.

In particular, teams led by ESMA could blur responsibilities between ESMA and NCAs, introduce coordination burdens, and reduce the speed and clarity of decision-making - especially during authorisation or incident response processes, which often require expertise knowledge and rapid supervisory judgement.

There is also a risk of duplicative or parallel structures emerging, which would undermine the efficiency such teams are intended to achieve. The diverse risk profiles and business models of CASPs further limit the utility of one-size-fits-all supervisory formats.

Instead, efforts should focus on enhancing supervisory convergence tools, such as peer reviews, common supervisory methodologies, and consistent interpretation of MiCAR provisions, while preserving clear responsibilities and accountability at the national level.

61) Please identify under what circumstances more integrated EU supervision would provide the most benefits for CASPs. For each point; options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion). Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

	1	2	3	4	5	6
a. The size of the crypto-asset service provider.			X			
b. Whether it is part of an international group/conglomerate with subsidiaries in many different Member States and/or third countries.		X				
c. Whether it has a complex organisational structure featuring holding companies established in third countries.		X				
d. There is increased cross border activity. What would you consider "increased cross border activity"?		X				
e. A large percentage of its clients reside in a different Member State.		X				
f. The crypto-asset service provider provides certain crypto-asset services deemed more complicated (i.e. operates a crypto-asset platform).			X			
g. The crypto-asset service provider relies on outsourcing arrangements with entities that are not located in the same Member State as the crypto-asset service provider.			X			
h. Whether the crypto-asset service provider is part of a group which includes issuers of asset referenced tokens and e-money tokens.			X			
i. Other (please specify, in reply to the next question).						

Please explain your answer to question 61., providing, where possible, quantitative evidence and examples:

We recognise that certain circumstances may justify a stronger coordinating or oversight role at EU level, particularly where cross-border complexity or structural opacity pose challenges for effective supervision by a single NCA:

- b, c, d, e: CASPs that are part of international groups, operate across multiple Member States, or serve a majority of clients outside their home jurisdiction could benefit from stronger coordination mechanisms. In such cases, supervisory fragmentation and jurisdictional disputes can hamper effective oversight. However, this coordination does not necessitate full EU-level supervision; rather, enhanced cooperation through supervisory colleges, common risk assessments, and convergence tools is more proportionate and effective.
- a, f, g, h: Size alone is not a sufficient indicator of supervisory complexity, as some large CASPs may have straightforward business models. Similarly, the complexity of services (e.g. operating a platform) or group linkages (e.g. to ART or EMT issuers) must be considered in context and do not automatically require EU

supervision. National authorities can manage such risks effectively with the right resources and frameworks.

- On increased cross-border activity, we would consider this to exist when a CASP has:
 - Regulatory permissions in three or more Member States,
 - A client base with more than 50% of users outside its home Member State,
 - or operational dependencies (e.g. servers, personnel, outsourcing) located in multiple jurisdictions.

In conclusion, while certain complex, cross-border cases may justify stronger EU-level coordination, we do not support a structural shift of supervisory responsibility. Instead, targeted tools - such as joint risk assessments, supervisory colleges, and convergence monitoring - offer a more effective and proportionate response.

62) Do you consider the threshold for significant CASPs in Article 85(1) of MiCA adequate, high, or too low? (the threshold is currently 15 million active users on average in one calendar year)

Too high	Adequate	Too low
	X	

63) Would a threshold based only on size be an appropriate criterion for supervision at EU level, or would it be more appropriate to consider further nuanced criteria, taking into account the indicators mentioned in question 61?

<input type="checkbox"/>	A threshold based only on size would be an appropriate criterion
X	It would be more appropriate to consider further nuanced criteria
<input type="checkbox"/>	No opinion

Please explain your answer to question 63:

We consider the threshold of 15 million active users in the Union, as defined in Article 85(1) MiCAR, to be an appropriate and proportionate benchmark to identify significant CASPs. It effectively targets providers with substantial market reach and potential cross-border impact.

However, relying exclusively on the number of active users may not sufficiently reflect the full range of risks or systemic relevance. In particular, additional criteria should be considered, such as:

- Volume and value of assets under custody,
- Transaction volumes,
- Degree of cross-border activity,
- Operational and group complexity or interconnectedness with other financial entities or infrastructures.
- the CASP's role as a relevant liquidity provider.

A CASP that facilitates a significant share of trading volume or acts as a central counterparty in crypto-asset markets may have systemic importance, even if it does not meet the user threshold. The concentration of liquidity in a small number of entities can amplify market disruption in the event of failure or operational incidents.

We therefore support maintaining the current threshold, but recommend that it be complemented by additional qualitative and quantitative factors, including market function indicators, to allow for a more comprehensive and risk-sensitive identification of significant CASPs.

7. Horizontal questions on the supervisory framework

7.1. New direct supervisory mandates and governance models

- 1) Would you agree that EU level supervision is beneficial to achieve a more integrated market? Please provide your answer by choosing from 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

1	2	3	4	5	6
	X				

Please explain your answer to question 1:

Supervision at EU level can undoubtedly be beneficial for the internal market. Any other conclusion would amount to calling into question the legal basis for the direct supervisory powers that ESMA in particular already has been granted. However, we are of the opinion that the advantages are greater for aspects of prudential supervision (see, for example, the SSM) and for new, cross-border players (see, for example, trade repositories).

However, EU-level supervision can strengthen the internal market on the one hand and weaken the economy within this internal market on the other, if competences are not clearly delineated. This also applies within the EU level: For, example, in the context of banking supervision, EBA should focus on its core competences, i. e. further harmonization of the regulatory framework and the promotion of convergence of supervisory practices while the SSM is responsible for direct supervision.

The European single market was created for the economy and not against it. That is why any further integration should be market-driven. In this respect, we support the joint paper by the Ministries of Finance of Austria, Slovenia and Croatia. In this spirit, the past review processes on the European Supervisory Authorities have each weighed things up sensibly.

However, any market-driven use of regulatory arbitrage and supervisory arbitrage must not be accepted. However, “black sheep” should be responded to with tightened convergence tools instead of direct supervision.

[...]

- 3) What should be the key objectives behind a decision to grant direct supervision to the ESMA? Please provide your answer by choosing from 1 (agree - very important objective), 2 (agree important objective), 3 (neutral), 4 (rather disagree (i.e. less important), 5 (disagree (not important), (no opinion).

	1	2	3	4	5	6
a) Streamlined supervisory process			X			
b) Single supervisory point of contact and efficiency in the engagement with a single supervisor, instead of multiple NCAs			X			
c) Reduced volume of Level 2 legislation (technical standards) and supervisory guidelines				X		
d) Coherent supervisory outcomes for the EU market as a whole	X					
e) more harmonised application of EU rules	X					
f) enhanced pool of expertise and resources				X		
g) building synergies and avoiding duplications,		X				
h) ensuring a high level of supervision across EU			X			
i) reduced costs			X			
j) others						

- 4) What would be the costs (one off costs and ongoing costs) and savings for your organisation associated with new direct supervisory mandates at the EU level?

The associated costs and potential savings for an NCA depend significantly on the specific governance and applicable funding framework of the ESAs, within which the new direct supervisory powers are exercised. In addition, the scope of the non-harmonized law to be taken into account in the Member States must be considered. Depending on the supervisory matter, there may be extensive harmonization hurdles in the TFEU and TEU.

Under the assumption of a supervisory model that grants direct supervision powers to ESMA without any involvement of the NCAs, national resources are still required during a medium-term build-up phase of the new centralised supervision entity. In the long run, certain local resources are still required at national level as competence centres. However, certain competences delegated to the NCAs will be necessary in any case. To summarise, we expect additional costs in the build-up phase irrespective of the governance model chosen and cost neutrality (at best) in the long run.

With regard to the single supervisory contact point, the extent to which the NCAs must support ESMA in taking into account relevant non-harmonized law of the Member States should be considered, among other things.

With regard to reduced volume of Level 2 acts and guidelines, but regardless of the supervisory architecture, a regulatory approach should increasingly be followed in which all political issues are stated as far as possible at Level 1 and the remaining technical

issues at Level 2. In addition, a principles-based regulatory approach would result in a reduced amount of Level 2 measures.

With regard to the enhanced pool of expertise and resources, expected benefits are largely based on network effects. It should not be ignored that NCAs are often also competence centers whose national expertise cannot simply be transferred to the ESAs.

With regard to ensuring a high level of supervision across the EU, it should be noted that the administrative level does not necessarily say anything about the quality of administration.

With regard to reduced costs, it should be noted that, based on previous experience, it would be both challenging and imperative that any supervisory reform for NCAs should – at the very least – be cost-neutral.

5) Which governance do you consider most suitable for a given model of direct supervision?

	<p>a) A Supervisory Committee. It would be composed of a limited number of independent members (employed by ESMA) and representatives of those NCAs in whose jurisdiction directly supervised entities are operating. This committee will guide the supervisory tasks given to the EU level and carried out by ESMA staff and/or joint supervisory teams. The committee could have different formations/configurations for each of the sectors supervised. In terms of decision making, three alternatives could be envisaged:</p>
	<p>1. Final decision making by the Supervisory Committee</p>
<p>x</p>	<p>2. Supervisory Committee in charge but Board of Supervisors (BoS) would have a veto right on certain decisions when a set of pre-defined criteria would be met (e.g. particular political sensitivity/importance)</p>
	<p>3. As per the current CCP Supervisory Committee, the new Supervisory Committee would prepare the decisions, but the BoS would be the final decision-making body</p>
	<p>b) Establishing an Executive Board composed of the Chair of ESMA and a small number of full-time independent members. It will take all decisions towards individual supervised entities. The BoS would ensure some NCAs involvement, and it would still be able to provide its opinion on any decision about directly supervised entities. This model would be similar to the one designed for the Anti-Money Laundering Authority (AMLA).</p>
	<p>c) A governance model based on the current setting of direct supervision as for example for CRAs. In this model, ESMA would become the sole direct supervisor without any direct participation of NCAs' staff in the authorisation and ongoing supervision. All EU NCAs would remain involved in all supervisory decisions through the BoS approval process, regardless of whether they are home NCA or not. When it comes to day-to-day supervision, this should be performed by ESMA staff. ESMA would be able to decide to delegate certain tasks to NCAs, but would continue to remain responsible for any supervisory decision.</p>

Please explain your answer to question 5 and explain for which reasons you think this governance model is the most suitable (e.g. speed of decision making, inclusiveness of process)? You may differentiate your reply per sector:

In general, we are of the opinion that more information and scrutiny is needed to find the final most suitable option. However, at a first glance “option a” seems to be the most suitable one. In general, we support the in this option the approach that there is a joint supervisory committee in charge composed of ESMA and NCA staff those changes depending on the sector that is supervised. NCAs that have entities in their jurisdiction that are directly supervised need to be part of this committee that steers and guides the supervisory tasks.

We consider a Supervisory Committee in charge, from which issues can be escalated to the Board of Supervisors (BoS), to be the most appropriate approach. However, the escalation criteria should be formal and not material. For example, a quorum of supervisory authorities represented on the Supervisory Committee could request that matters be referred to the BoS.

However, every option has its advantages and disadvantages and in the end, it needs to be analysed in further detail which option is the most suitable.

[...]

7.2. Supervisory convergence

Please select the ESA(s) for which you want to reply in this section:

<input checked="" type="checkbox"/>	ESMA
<input checked="" type="checkbox"/>	EIOPA
<input checked="" type="checkbox"/>	EBA

- 7) ESMA: Please rate the effectiveness of supervisory convergence tools. Please provide your answer by choosing from 1 (least effective), 2 (rather not effective), 3 (neutral), 4 (rather effective), 5 (most effective), (no opinion).

	1	2	3	4	5	6
Breach of Union law					X	
Binding mediation					X	
Peer reviews			X			
Emergency powers	X					
Opinions				X		
Recommendations				X		
Product intervention powers				X		
Inquiries			X			
No action letters						X
Guidelines				X		
Colleges of supervisors					X	
Coordination groups				X		

Collaboration platforms				X		
Warnings				X		
Questions and Answers				X		
Supervisory handbooks				X		
Stress tests				X		
Union strategic supervisory priorities			X			
other						

Please explain your answer to question 7:

Regarding breach of Union law: In our opinion, the effectiveness could be considered from two different point of views, the effectiveness in principle and the effectiveness of Use of this instrument. We understand that the question on hand only covers the first aspect.

Regarding peer reviews: Sample peer reviews have proven to be less effective in the past. In some cases, the questionnaires were of poor quality, too. Effectiveness is also jeopardized if the review perspective changes from the peers to a top-down perspective.

Regarding stress tests: Stress tests have proven their worth in prudential supervision. They have so far proved less suitable for many other areas of supervision like conduct supervision.

Regarding supervisory colleges: The case of supervisory colleges under the remit of the EBA shows that a lead supervisor such as the ECB within the SSM greatly reduces the functionality of a supervisory college as a convergence instrument. The convergency of the methods is predominantly driven by the lead supervisor.

Regarding union strategic supervisory priorities (USSPs): The effectiveness of USSPs depends heavily on their implementation. If USSPs are linked to Common Supervisory Actions, their impact is high. However, if, for example, timetables are adjusted in such a way that some USSPs are ultimately pursued over two years and others over five years, they lose their effective steering and coordination effect.

7.3. Increasing the effective use of supervisory convergence tools

Please select the ESA(s) for which you want to reply in this section:

<input checked="" type="checkbox"/>	ESMA
<input checked="" type="checkbox"/>	EIOPA
<input checked="" type="checkbox"/>	EBA

- 8) Do you think that the current supervisory convergence tools are used effectively and to the extent that is possible?

Yes	No	No opinion
X		

Please explain your answer to question 8 for ESMA and give examples.

The current supervisory tools offer effective use to create and maintain a level-playing field for all market participants and NCAs. As already mentioned above, we strongly encourage the ESAs to make stronger use of those instruments already foreseen in regulation. Furthermore, to fully incorporate recent market developments (AI, crypto assets, sustainable finance, etc.), we strongly encourage the ESAs to take on their responsibility in these fields. However supervisory convergence tools are not used to the extent that they could be. Consequently, there is often a problem of usage rather than regulation.

- 9) Do you think that the current governance and decision-making processes within ESAs provide sufficient incentives for the use of supervisory convergence tools?

Yes	No	No opinion
X		

- 10) How could the mandate of the Chair and Executive Director of ESAs be modified to allow them to act more independently and effectively in promoting supervisory convergence?

<input type="checkbox"/>	Prohibition of re-election
X	Longer term
<input type="checkbox"/>	Other
<input type="checkbox"/>	No opinion

[...]

7.4. Enhancements to existing tools

Please select the ESA(s) for which you want to reply in this section:

X	ESMA
X	EIOPA
X	EBA

- 12) Do you see limitations or weaknesses in supervisory convergence tools in addressing significant divergences in supervisory practices between NCAs?

	Yes	No	No op.
Breach of Union law	X		
Binding mediation		X	
Peer reviews		X	
Emergency powers		X	
Opinions		X	
Recommendations		X	
Product intervention powers	X		
Inquiries		X	
No action letters	X		
Guidelines		X	
Colleges of supervisors		X	

Coordination groups		X	
Collaboration platforms		X	
Warnings		X	
Questions and Answers	X		
Supervisory handbooks		X	
Stress tests		X	
Union strategic supervisory priorities		X	
other	X		

If the answer is yes, please explain why and in which specific areas.

Regarding Breach of Union law (BoUL): In the BoUL procedure, the effort and impact are not proportionate. An identified breach should always have concrete, enforceable consequences.

Regarding product intervention powers: ESAs and NCAs typically agree on which cases give rise to product intervention and that they should be addressed across the EU. However, because the ESAs only have temporary powers, in such cases the NCAs usually have to repeat the ESAs' efforts in a coordinated manner in order to take permanent national measures.

Product intervention measures only apply to entities that are subject to the respective regulation. In the past, it was argued in favour of this restriction that otherwise the Treaty's basis for the respective financial market regulation would often be exceeded. If a certain financial market practice or the design of a certain financial product in the hands of regulated entities is incompatible with financial market stability or investor protection, this is true to everyone. The limited personal scope of application opens the door to regulatory arbitrage.

Regarding no action letters: No action letters are an important instrument. However, there is still room for improvement in terms of legal certainty.

Regarding Questions and Answers (Q&As): So-called Q&As of category 1, which concern the European Commission's interpretative competence, have a back-lock in practice.

If your answer is yes, what concrete changes would you propose to address the limitations or weaknesses flagged and make these tools more effective?

Supervisory convergence tool	Potential improvements
Breach of Union law	The BoUL procedure should be more closely interlinked with the European Commission's Treaty-infringement procedure.
Binding mediation	
Peer reviews	
Emergency powers	
Opinions	

Recommendations	
Product intervention powers	ESAs should also be given the power to set open-ended product interventions. Insofar as concerns from the Member States need to be addressed, open-ended product interventions could be linked to a quorum in the Board of Supervisors. The personal scope of product intervention measures placed on regulated entities should be open to be extended to anyone.
Inquiries	
No action letters	No action letters should be safeguarded as measures under Article 290 TEU in the same way as regulatory technical standards.
Guidelines	
Colleges of supervisors	
Coordination groups	
Collaboration platforms	
Warnings	
Questions and Answers	The involvement of Commission staff in the development of Q&As should lead to better alignment through corresponding obligations on the part of the ESAs and the European Commission. The introduction of deadlines for the European Commission could help to ensure that Q&As are published promptly in response to requests from the market or problems arising from supervisory practice.
Supervisory handbook	
Stress tests	
USSPs	
other, please specify	Digitalization of the EBA Single Rule Book would contribute to strengthening supervisory convergence, if such approach ensures an easy access to the EBA Single Rule Book that encompasses all provisions on Level 1, 2 and 3. According to Article 519c CRR 2 EBA is mandated to develop a digital EBA Single Rule Book. The Use of AI in this context should be evaluated and might also be beneficial in this regard.

- 13) ESAs founding regulations and sectoral legislation lay down the requirements to delegate tasks and responsibilities both from NCAs to ESAs or from ESAs to NCAs. This tool has been rarely used. What kind of changes would be warranted to increase its usability?

Please explain, highlighting benefits and downsides.

If IT workflows and processing procedures were more harmonised – for example via supervisory handbooks – the delegation of tasks could also be used more frequently.

7.5. Possible new supervisory convergence tools

Please select the ESA(s) for which you want to reply in this section:

<input checked="" type="checkbox"/>	ESMA
<input checked="" type="checkbox"/>	EIOPA
<input checked="" type="checkbox"/>	EBA

- 14) Do you see limitations in the current supervisory convergence tools to address home/host issues?

Yes	No	No opinion
<input checked="" type="checkbox"/>		

Please explain:

- what potential measures could be introduced to assess and ensure the effectiveness of home and host supervision in a given sector
- for which sectors would you support the new measures
- the cost and expected benefits of these new measures

Within home-host supervision, the sectoral regulation provides for a variety of escalation procedures, some of which are marginal and some of which differ greatly, if home supervision does not fulfil its tasks. This increases the inhibition threshold for escalation, as the specifics must be taken into account in each case. We do not see any valid reasons for such deviations. Instead, the escalation procedures in home-host supervision should be harmonised across all sectoral regulations.

- 15) In the context of supervision of products or of conduct of business rules, supervisory convergence powers could be reinforced. The ESAs may identify cases where home supervision is deemed ineffective either through ongoing monitoring or in response to a specific complaint. For example, the ESAs could be given the power to issue an opinion/binding advice regarding ineffective national supervision to avoid that products or entities are granted access to the EU-market without adequate supervision. Do you think that ESAs should be empowered to issue an opinion in cases where national supervision is deemed ineffective?

Yes	No	No opinion
<input checked="" type="checkbox"/>		

Please explain your answer to question 15:

In our opinion the power of the ESAs to issue non-binding opinions could be feasible tool in a situation of ineffective supervision. In general, it is very important to determine a clear cascade of events that would lead to the ESAs to issue such an opinion. In a first step the respective ESA needs to analyse what is the reason for the ineffective supervision and thus could go into a deep dialogue with the home supervisory authority. Only after such a dialogue it might issue a non-binding opinion with a time span to resolve the breach of Union law that is causing the ineffective supervision of the home NCA. After that some other measures are also conceivable afterwards. However, if none of the previous

measures bring a satisfactory change, the issuance of a binding opinion against the NCA could be a feasible final solution.

- 16) Do you think that ESAs should be empowered to issue a binding advice in cases where national supervision is deemed ineffective?

Yes	No	No opinion
		X

- 17) What would be the cost and expected benefit of such a system?

In general, we are of the opinion that a cascade of measures needs to happen before and only if those do not bring the satisfactory change, a binding opinion can be issued. See answer to question 15).

[...]

7.6. Data and technology hub

Please select the ESA(s) for which you want to reply in this section:

<input checked="" type="checkbox"/>	ESMA
<input checked="" type="checkbox"/>	EIOPA
<input checked="" type="checkbox"/>	EBA

- 19) Which area(s) would benefit most from an ESA(s)' enhanced role as a data and technology hub?

There are legal obstacles currently preventing European and national institutions from accessing supervisory data in a comprehensive and timely manner. This issue is especially pressing with respect to systemic risks, since securities markets are international and fast-paced. Therefore, there is a need for a legal basis and organisational arrangements between ESAs and NCAs to ensure timely and comprehensive sharing of data in both directions. This could be achieved through a central data hub that could be hosted by a European institution such as an ESA, the ECB/ESRB or another suitable institution.

Regarding the idea of a technology hub we wish to draw on our positive experience with a decentralized analytical community between and across the current hub-an-spoke setup of NCAs and ESAs, where innovative competition and the spirit of cooperative innovation are currently gaining momentum: Knowledge sharing among supervisory agencies can occur in multiple ways. Code-sharing among supervisors has become increasingly popular with the ECB (Virtual Lab) and ESMA (Data Platform) hosting code for different supervisory use cases that was either developed by themselves or national institutions. Adaptation to otherwise different legal and analytical backdrops is ensuring the relevance of the otherwise converging and summable NCA analysis.

In more detail:

Market Monitoring across all EU markets may be an issue of enhanced role of technology hub. ESMA already processes a large amount of data through TREM. Having in mind that some transaction data is missing (purely national transactions) some adoptions of the rules are needed. As ESAP is coming that data could be linked and a cross-market monitoring could be achieved and give insights beyond the abilities of the National Competent Authorities. The results must be shared with all concerned NCAs so that they can assess and investigate – maybe under ESMA’s coordination. It is important to emphasize that a data hub function at the ESAs basically serves the analysis function remaining with the competent supervisory authorities. The responsibilities would be circumvented if the analysis were centralized in data-driven supervision and the decisions of the competent supervisory authorities were thus predetermined, as it were.

Furthermore, the regulatory reporting could benefit from a stronger role for the ESAs as a data hub. The EBA provides a good example here. Whether the associated benefits can be realised ultimately depends on governance issues. For example, within the ESAs, the question sometimes arises as to how the data can be used secondarily, and in relation to the NCAs, the question should be clarified as to whether the NCAs remain data owners alongside the ESAs.

- 20) In which sectors/areas would the development of supervisory technology tools (suptech, i.e. use of technology by supervisors to deliver innovative and efficient supervisory solutions that will support a more effective, flexible and responsive supervisory system) be most beneficial to enhance efficiency and consistency of supervision? Please give examples.

In the broad field of market monitoring the development of supervisory technology tools could be beneficial. Having said that the core criteria for each and every tool is that the results are comparable, comprehensible and replicable (the result is the same independent of how often the search is started).

Crypto markets, as one example, would be particularly suitable for a common platform and for a common supervisory market data base. We would prefer such a platform to be open to all NCAs and NCBs, and flexible enough to connect to infrastructure (eg: via well-defined APIs).

Apart from that, please, see answer to the previous question.

Examples related to EBA:

- Digitalization of the EBA Single Rule Book: According to Art. 519c CRR2 EBA is mandated to develop a digital EBA Single Rule Book to ensure easy access to all provisions on Level 1, 2 and 3. OeNB/FMA strongly encourage to address this mandate in a timely manner and would suggest to also evaluate the use of AI in this context.

- EBA Pillar 3 data hub – Use for other institutions than SNCI: EBA publishes on its website in the so called “Pillar 3 Data Hub” the disclosures of small, noncomplex institutions (SNCI) on the basis of the information reported by those institutions to competent authorities. According to Art. 434c CRR3 EBA is mandated to prepare a report until 10 July 2027 on the feasibility of applying this procedure to institutions other than SNCI. OeNB/FMA strongly encourage to advance the work on this mandate.

21) How should ESAs’ supotech tools be funded?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | Privately by the supervised sector which would benefit from them |
| <input type="checkbox"/> | Charges from NCAs proportionate to the use of the tool |
| <input type="checkbox"/> | General budget (EU/NCA) |
| <input checked="" type="checkbox"/> | Other |

Please specify to what other way(s) of funding you refer in your answer to question 21:

A combination of the three mentioned funding methods.

7.7. Funding

Please select the ESA(s) for which you want to reply in this section:

- | | |
|-------------------------------------|-------|
| <input checked="" type="checkbox"/> | ESMA |
| <input checked="" type="checkbox"/> | EIOPA |
| <input checked="" type="checkbox"/> | EBA |

22) ESAs’ budget is currently composed of:

- contributions from the NCAs which are complemented by a contribution from the EU budget, with NCAs contributing 60% and the EU budget 40%;
- In case of direct supervisory mandates, also of fees charged to market participants to cover the full costs of direct supervisory activities. ESMA has nine separate fee income streams and they represent approx. 30% of ESMA’s revenue;
- other payments from NCAs for ESAs to be able to undertake tasks on their behalf.

Do you consider the provisions on financing and resources for the tasks and responsibilities of the ESAs appropriate?

Yes	No	No opinion
	X	

Please explain your answer to question 22:

The co-financing of the ESAs by the NCAs is based on their contribution to supervisory convergence. For this reason, the direct supervision of the ESAs is financed exclusively through fees paid by market participants. However, it is also unacceptable that tasks such as the ESAP, which increase market transparency in the common European interest but are neither necessary for the supervisory mandate nor for supervisory convergence, are

co-financed by the NCAs. For this reason, tasks of the ESAs that are in the common European Interest should be financed exclusively from the EU budget.

The co-financing system means that any increase of an ESA's general budget by the European Commission during the year must be co-financed by the NCAs. This strongly interferes with the budget autonomy of the NCAs. Budget increases during the year by the European Commission should therefore generally be borne entirely by the EU budget. In particular, any increase in the general budget arising after its annual adoption by the BoS and due to mandatory indexation mechanisms under Union Staff Regulations, which are outside the control of NCAs, should be fully borne by the EU.

- 23) ESAs face pressure to fulfil a growing number of mandates while staying within the ceilings of the multi-annual financial framework (MFF). Taking into account the limitations of public financing, should ESAs be fully funded by the financial sector?

Yes	No	No opinion
		X

Would you be in favour of targeted indirect industry funding for certain convergence work (indirect fees), e.g. for specific tasks, like voluntary colleges, opinions, etc.?

Yes	No	No opinion
		X

- 24) Do you think the current framework includes sufficient checks and balances to ensure that ESAs make efficient and effective use of their budgets?

Yes	No	No opinion
X		

- 25) Which of the following measures could be envisaged to ensure efficiency and effectiveness of ESAs budgets?

<input checked="" type="checkbox"/>	Periodic performance audits assess the organisation's efficiency and effectiveness in executing its mandates, using resources, and achieving its goals.
<input type="checkbox"/>	Stronger role for the Commission on budgetary matters (at present, the Commission has no voting rights except the budget where it has one vote)
<input type="checkbox"/>	Veto power for the Commission on the budget
<input checked="" type="checkbox"/>	Transparency and monitoring mechanisms
<input type="checkbox"/>	An obligation to publish details on the calculation and use of the fees charged to directly supervised entities
<input type="checkbox"/>	Other

Für den Vorstand

Mag. Lukas Eder
Stellvertretender Abteilungsleiter

Dr. Christoph Seggermann

elektronisch gefertigt