The European Parliament's proposed MISP amendments

We, *Finance Sweden, Swedish Investment Fund Association and Swedish Securities Market Association* are strong supporters of well-developed, liquid, and well-integrated capital markets. We welcome the Market Integration and Supervision Package (MISP), which introduces some regulatory enhancements like the extension of the DLT Pilot Regime and standardized authorization processes for asset managers. We also welcome the European Parliament's amendments that have regard to the competitiveness and international attractiveness of Union capital markets. While MISP has the potential to contribute to some of the SIU objectives, there are parts that need to be appropriately and carefully calibrated. In this letter we express our joint concerns about the extension of centralized supervision to large asset management groups and depositaries.

Direct supervision of large asset management groups

In the proposal, the submission of large asset management groups to direct supervision by ESMA is motivated by the enhanced efficiency of those groups in structuring their operations and removing barriers to their cross-border activity. According to the explanatory statement, the Rapporteur is highly doubtful whether the existing supervisory model for EU-wide operations still suffices for the future. While direct supervision may be meaningful for certain types of entities, expanding it to the asset management ecosystem without a proper cost benefit analysis is not a meaningful step at this stage.

We subscribe to the fact that it is imperative for asset management groups to be able to conduct their operations in the most efficient and seamless way possible. However, direct supervision is not the silver bullet for achieving this outcome. Improving efficiency and reducing barriers can be achieved by regulatory changes, offering simplified requirements and burden reduction that facilitate the day-to-day operations of asset management groups and allow them to operate seamlessly both domestically and across borders. The intragroup delegation (article 23 paragraph 3 UCITS) proposed by the Commission is a good example, as it would contribute to huge efficiency gains and burden reduction for many asset management groups. We are therefore concerned about its' removal (amendment 19 in the Master Directive) without any further justification and analysis. We kindly ask the rapporteur and members of the ECON Committee to reintroduce this provision so crucial for the operations of asset management groups.

While recital 14 of the Master Directive aims to capture groups based on the significant size of their market presence and impact within the Union, as measured by their net asset values and the extent of their cross-border operations and activities, this view is not captured by the very narrowly set criteria in article 97a UCITS and article 44a AIFMD. The threshold together with the criteria to be established, manage or market UCITS and AIFs in more than one member state are too narrowly set and do not necessarily reflect EU-wide operations and impact. The proposal will capture groups with limited EU operations – for example, the marketing of a UCITS in one other Member State – and would make direct supervision even less meaningful. It would rather mitigate than stimulate cross-border marketing of funds and have a negative impact on competition counter to the aim of improving the EU retail market.

One of the Savings and Investments Union's primary objectives is to increase retail participation in capital markets. We represent a fund market with a high level of retail participation and strong consumer trust. Ensuring strong investor protection and trust and keeping local presence are therefore key issues for us. If problems emerge in the market or customers want to fail a complaint, it is easier to do so in a local environment and with a local supervisor, who can act swiftly. A remote agency would not be able to pick up emerging local issues, which would be detrimental to retail investors.

We note that the thresholds for the annual review are very narrowly set (between 50 and 150 billion EUR) compared to the Commission proposal of 300 billion EUR, which strikes a better and more proportionate balance. More importantly, we also note that there are two different thresholds set for direct supervision in amendments 37 and 74, although the provisions are identical. A potential consequence of amendment 37 (the 100 billion EUR threshold) could be that the annual review may also capture firms subject to direct supervision, as no change has been proposed to article 110b paragraph 1 subparagraph 1 point b UCITS.

To ensure supervisory convergence and foster a sound home-host relationship, colleges could be established for larger asset managers and or groups instead of direct supervision and annual reviews. Authorities, including ESMA, would have a meaningful exchange of information and supervisory practices that would contribute to the development of a single rulebook, more integrated capital markets, and stronger investment protection.

To conclude, we propose the deletion of amendments 10,19, 37, 39, 40, 41, 42, 43, 44, 45, 51, 74 77, 78, 80, 81 and 86.

Direct supervision of depositaries

Depositaries are proposed to be supervised by ESMA given their size and systemic nature, and in order to increase supervisory consistency and ensure cross-border legal certainty. It is our firm view that such a one size fits all approach is not sensible, as depositaries vary in size, business models, and the extent of cross-border activities. As mentioned above, the introduction of direct supervision is not the universal solution to the creation of a single market and the SIU.

More importantly, providing depositary services is not only a matter of compliance with UCITS and AIFMD. The professional obligations of the depositary are heterogeneous in the EU. Depositaries also need to comply with and have knowledge about national legislation, like securities, tax, insolvency, civil law, and local requirements when it comes to fund liquidation. The same applies to its supervisor, who is tasked to monitor compliance with the depositary obligations. Introducing direct supervision without addressing harmonization more broadly would not contribute to supervisory convergence, legal certainty and a level playing field but rather amplify significant risks and uncertainties.

To conclude, we propose the deletion of amendments 8, 31, 38,54, 55, 65, and 92.