

# MARKET INTEGRATION PACKAGE

## CENTRAL SUPERVISION

### GENERAL OBSERVATION

Some form of more integrated EU supervision is, ultimately, inevitable if we are to achieve the goals of market unity and supervisory convergence. The digital, borderless nature of modern financial markets requires stronger and closer cooperation. Notably, an effective convergence can be achieved through different means and levels of cooperation. Regardless which direction is taken, the absence of a strong execution of supervisory mandate; that is, taking actions to cease the non-compliance, will fall short of its objectives.

### CURRENT SHORTCOMINGS IMPACTING THE SINGLE MARKET

Based on our experience, we need to immediately solve and address the following issues:

- uneven playing field impacting compliant firms (gold-plating and forum shopping, reverse solicitation)
- lack of supervisory convergence and double standards (different approaches and standards regarding authorisation, implementation, enforcement and supervision)
- Unfair competition
- divergent interpretations
- different national priorities in supervision
- national laws that hinders direct applicability of regulation
- ineffectiveness of available convergence tools

A good examples of unfair competitive practices that bypass MiCA without the supervisory notice are:

- leverage of global corporate structures (onboarding by a non-authorized global entity, extended product offering without a license or beyond regulatory limits)
- uncontrolled and grey-line of marketing and sponsorships often without a licences
- anti-competitive client acquisition (reverse-solicitation)
- misleading information regarding regulatory approvals

### CENTRALISATION AS A TOOL

Centralised supervision (CS), needs to be seen as one option - a tool - to bring about fair competition and unity. It is certainly a high stake approach. We are in favour of any solution that will stop practices that circumvent MiCA rules and ensure effective enforcement, supervision and robust authorisation. However, CS cannot be regarded as a golden remedy, especially when unfair practices and ongoing shortcomings are not fully understood and continue to be overlooked or left unenforced. Moreover, even if ESMA will be in charge, yet some national discretionary (divergent) requirements are still applicable, the CS will not solve the problem but risk adding bureaucratic burden and confusion.

### CENTRAL SUPERVISION OF ALL CASPS

We do not oppose CS for ALL CASPs. Bringing every entity regardless of size, under one supervisor brings us closer to the harmonised single market and level-playing field. Distinction based on size, can risk further fragmentation. Importantly, CS model will only function properly if the supervisory authority itself is:

- prepared to proportionately apply rules and be responsive and agile to market developments (e.g., dedicated task force for SMEs and start-ups)
- fully operational team with crypto and blockchain expertise that regularly engage with market players

### CRYPTO CENTRAL SUPERVISION AND MIFID

Crypto and blockchain upgrades and elevates current financial technologies and processes. The interconnectedness of systems is inevitable in building the new financial system. We need to avoid the situation where CASPs that also hold MiFID or PSD/EMD licence or engage in traditional financial instruments without authorisation, are left outside the supervisory mandate of ESMA. Therefore, ESMA should be able to also supervise MiFID licence and practices falling under traditional instruments, even if activities are ancillary to the main crypto activities authorised under MiCA. For example, certain market practices offer leverage up to 125x on perpetual products without a MiFID license, significantly exceeding the limits set for CFDs. Currently, these practices often operate in a 'supervisory shadow'—unregulated and unchecked. We must close these loopholes to ensure a level playing field and robust consumer protection.

## **BEFORE SWITCHING TO CENTRAL SUPERVISION**

The emphasis needs to be placed on conducting a proper Audit of:

- current problems and practice of unfair competition
- shortcomings in supervisory actions
- bottlenecks to harmonisation resulting from local requirements and policies

If we move to a central model without first ensuring technical expertise, responsive (speedy) governance model, sufficient resources to execute, clear supervisory priorities, a truly harmonized MiCA rulebook, we risk replacing national hurdles with one giant new wall. Consequently, the focus should be on effectiveness, simplicity and execution from day one.

## **URGENT INTERMEDIATE SOLUTION NEEDED**

The Commission's forecasted plan, at best case, is for ESMA to be operational somewhere by mid 2028, while direct supervision would start only as of mid-2029. Full staffing for the supervision of CASPs should, however, be achieved gradually until 2031 (158 FTE for approx. 600 CASPs). This timeline is unacceptable for eliminating the ongoing issues (further delays in legislative process are to be expected). Hence, we need an urgent solution for any transitional phase.

## **PROPOSAL FOR THE INTERMEDIATE SOLUTION**

As a solution that could alleviate and remedied current shortcomings, we propose to expand and strengthen available convergence mechanisms and tools by:

- Granting legally binding and enforceable opinion of ESMA so that NCAs are obliged to stop the non-compliance
- Imposing obligation of NCAs to inform ESMA about unfair competitive practices, strengthening cooperation
- Expanding mandate of ESMA to take own-initiative actions to remedy non-actions of national authorities or when the single market is compromised (example of merger supervision could serve as a blueprint)
- Establishing new coordination mandates between NCAs and ESMA, such as quarterly meetings to evaluate implementation, supervision and non-compliance.