



# ABBL Position Paper on the European Commission's Market Integration and Supervision Package (MISP)

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## 1. Introduction and Strategic Perspective

The Luxembourg Bankers' Association (ABBL) supports the objective of strengthening the **integration, resilience and competitiveness** of EU capital markets through the **Market Integration and Supervision Package (MISP)**. The reforms, particularly on supervisory architecture and the revision of the **DLT Pilot Regime**, are of structural importance and will shape the development of **tokenised, digitally enabled market infrastructure** across the Union.

Luxembourg's banking and fund servicing community has consistently supported **well-calibrated measures** that enhance **cross-border activity**, reduce fragmentation, and improve investor protection, while preserving a stable, predictable, and **proportionate regulatory environment**.

The ABBL welcomes the MISP's ambition to deepen the Savings and Investment Union, strengthen EU capital markets, and support the green and digital transitions.

At the same time, the ABBL is concerned that certain elements of the current debate – in particular, renewed suggestions of an EU-wide depository passport and the possible centralisation of supervisory responsibilities in the European Securities and Markets Authority (ESMA) – risk diverting the discussion away from the core issues that still hinder effective market integration.

Luxembourg's strength as an international hub for cross-border banking and investment funds rests on three mutually reinforcing pillars:

1. An EU-wide market access, enabling the **free provision of services**.
2. A sophisticated domestic ecosystem of **asset-servicing providers**.
3. A deep, **sector-specific supervisory expertise** and market proximity.

Any reform that touches these foundations must be **carefully calibrated** to avoid unintended consequences for **financial stability, investor protection, and Europe's global competitiveness**.

The ABBL therefore supports a **convergence-first, not centralisation-first approach**: achieving consistent outcomes through cooperation and supervisory convergence rather than through costly institutional restructuring or premature transfers of powers.

Against this backdrop, the ABBL recommends that the MISP should concentrate on:

- Removing residual legal and operational barriers to **cross-border provision of services**, including clarifying home- and host-state responsibilities and streamlining passporting processes.
- Strengthening **supervisory convergence and cooperation tools** among national competent authorities (NCAs), rather than replacing them through far-reaching institutional reallocation of powers.
- **Leveraging hubs like Luxembourg** for innovation and expertise in areas including sustainable finance, digitalisation, and risk management.

## 2. Supervisory Framework: Convergence Without Structural Overreach

**Supervisory convergence** is a legitimate and important objective. However, convergence does not require indiscriminate **structural centralisation**. The expansion of EU-level direct supervision must be strictly justified by demonstrable **EU-wide systemic relevance**. Over-centralisation risks creating overlapping mandates, duplicative reporting lines, legal ambiguity and higher cost without proportionate supervisory benefit. **ESMA peer reviews**<sup>1</sup> highlight alignment gaps, not systemic NCA failures justifying power shifts.

**National competent authorities** retain essential market expertise, model knowledge and proximity to local legal systems and courts, particularly in complex **cross-border financial ecosystems**.

Centralisation would create a complex **dual supervisory layer**, with overlaps, potential competence clashes, slower decisions and additional costs. It also raises governance, transparency and accountability concerns when decisions with local impact are increasingly taken at distance.

The ABBL therefore advocates a **convergence-first approach** as the credible, efficient route to integrated markets, exhausting and enhancing existing tools before any NCA power transfers.

**ABBL position in concrete terms:**

- Direct EU-level supervision should be strictly limited to entities with demonstrable systemic relevance at EU level, based on clear **quantitative and qualitative thresholds**.
- The delineation of competences between EU-level authorities and NCAs must be exhaustive and unambiguous to avoid conflicting supervisory instructions and legal uncertainty.
- A **hybrid supervisory model** should apply during any initial transitional phase where direct EU supervision is introduced. Shared supervision mitigates transition risks and preserves institutional expertise.
- A **mandatory three-year review clause** should be embedded wherever structural reallocation of powers is envisaged. Reforms of this scale require evidence-based reassessment.
- Supervisory intensity must remain **proportionate and risk-based**; centralisation of non-systemic actors should be avoided.

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<sup>1</sup> ESMA Peer Review Report on the Supervision of Depositary Obligations (17 November 2025), covering Czechia, Ireland, Italy, Luxembourg, Sweden<sup>1</sup>



To strengthen convergence without structural overreach, the ABBL recommends:

- Binding common supervisory methodologies and standardised risk assessment frameworks developed by the **ESAs**.
- Mandatory **joint supervisory teams** and thematic peer reviews for significant cross-border institutions.
- Enhanced operational **colleges of supervisors** with structured information-sharing protocols, particularly for prudential and AML/CFT oversight.
- **EU-wide training programmes** and reciprocal staff secondments between NCAs.
- An expanded mediation role for the ESAs in resolving supervisory divergences.
- **Interoperable centralised data hubs** to streamline supervisory reporting and analytics across borders.

### 3. EU Depository Passport: Targeted Flexibility, No Structural Reopening

The ABBL appreciates the Commission's continued efforts to refine EU fund frameworks and welcomes the balanced outcome of the **AIFMD II** and **UCITS review**, which rightly concluded **against establishing a horizontal depository passport**. This decision appropriately recognises the importance of **depository proximity** to the fund, the relevance of domestic legal and insolvency frameworks, and the central role of effective cooperation with the fund's home competent authority, as reflected in AIFMD II.

The ABBL considers that the **targeted derogation** introduced under **Article 23(4) AIFMD II** (effective from April 2026, with a planned review in 2029) provides a pragmatic solution to address specific cross-border capacity shortfalls. This mechanism, combined with **ESMA's convergence tools**, already enables supervisory cooperation and flexibility where demonstrably needed, making broader structural change unnecessary.

**Key consideration against reopening:**

- **No evidence of structural capacity constraints:** The Commission's proposals do not present sufficient data or impact analysis to demonstrate systemic depository capacity shortages. The existing targeted derogations already allow proportionate responses to proven local deficiencies. Maintaining **regulatory continuity** would foster market adaptation and avoid unnecessary "stop-go" changes that create uncertainty for investors and market participants.
- **Risks of market concentration and reduced resilience:** Establishing an EU-wide depository passport could incentivise concentration of depository activities in a limited number of jurisdictions. Such consolidation would heighten operational and systemic risks, undermine the diversity and resilience of the EU fund ecosystem, and likely result in higher costs for **end-investors** while marginalising smaller or specialised providers that play a vital role in local markets.
- **Need to preserve co-location safeguards:** Keeping depositories close to their funds enhances **legal certainty**, facilitates liability attribution, and simplifies investor recourse in the event of asset loss. Allowing extensive cross-border depository structures would multiply applicable legal regimes (across the fund, management company, and depository states), complicating supervision, enforcement, and coherent oversight by NCAs, particularly regarding safekeeping and cash-flow monitoring duties.



- **Incomplete harmonisation of underlying frameworks:** Introducing a harmonised passport before achieving full alignment across Member States on core elements – such as supervisory responsibilities, securities, insolvency and tax laws, and the scope of permitted national discretions – risks creating regulatory arbitrage and lowering investor protection standards.

In light of these considerations, the ABBL **opposes reopening the debate on a full depositary passport** and stands ready to collaborate on targeted enhancements within the current framework, inviting policymakers to reaffirm it as the stable basis for future refinements.

#### 4. Centralisation of Supervision in ESMA – Risks and Limitations

The ABBL supports **high-quality, consistent EU supervision** and appreciates **ESMA's role** in convergence and standards. However, shifting substantial authority to ESMA (for example over CSDs, CCPs, trading venues, PSEs/PEMOs, or CASPs in the context of the MISP) may not be the most balanced path to integration.

Any measures facilitating **cross-border operations** must closely coordinate with **NCA**s.

ESMA should not be empowered to bypass national processes, suspend **passporting rights** directly, or charge supervisory fees that duplicate those of **NCA**s; any **EU-level platforms and mechanisms** must **reduce, not increase**, total supervisory cost for market participants.

##### Key ABBL concerns:

- **Absence of clear empirical evidence** of systemic **NCA failure** that would justify broad power transfers.
- Creation of a **complex dual supervisory layer**, leading to overlaps, competence clashes, slower decision-making and **higher compliance costs**.
- **Loss of irreplaceable local expertise** on markets, business models, local laws and courts that cannot realistically be replicated at EU level without vast resources and unproven superiority over decades of **NCA experience**.
- **Loss of innovation power and agility:** innovation in new products can only succeed with **proximity to the market**. **NCA** are quicker to understand new local structures, to lead faster review and to deliver authorization.
- Governance, transparency and accountability issues where decision-making becomes more distant from supervised entities and domestic stakeholders.

The ABBL therefore reiterates that a **convergence-first** approach is the credible and efficient route to integrated markets and that existing tools must be fully deployed and enhanced before any **structural transfer of powers**.

#### 5. CASP Supervision under MiCA

**MiCA implementation** is still in an **early phase**; supervisory methodologies and enforcement practices are actively being developed at **national level**. Premature centralisation of **crypto-asset service provider (CASP)** supervision would introduce **operational uncertainty** without clear evidence of supervisory deficiency.



In practice, a number of **CASPs** operate within groups that also hold **Payment Institution (PI)** or **Electronic Money Institution (EMI)** authorisations. Risks relating to governance, safeguarding, outsourcing and **operational resilience**, and **AML/CFT controls** are closely interconnected across activities. **NCA-led supervision** allows for a **holistic view** of group-wide risks and helps avoid duplicative requirements or conflicting supervisory instructions across regimes.

The inherently **cross-border nature** of crypto-asset services does not automatically justify **structural centralisation**; **systemic relevance** must remain the determining factor. The ABBL, aligned with many stakeholders, therefore **firmly opposes** the proposed **MiCA amendment** that would transfer a broad category of **CASPs** to direct **ESMA supervision**.

#### Key ABBL proposals:

- **CASP supervision** should remain at **national level**.
- Any future **EU-level supervision** must be triggered solely by **objective systemic thresholds**.
- **National authorities** should retain a meaningful operational role in any redesigned framework.
- A **formal review after three years of MiCA application** should precede any structural reallocation of competences.
- Where exemptions or derogations are available, their application should follow **harmonised EU criteria** and involve ESMA to ensure consistent outcomes, without automatic centralisation.

## 6. DLT and the Digital Transition: Scaling, Settlement and Competitiveness

### 6.1 Overall Position on DLT in the MISP

The ABBL enthusiastically supports the potential of **distributed ledger technology (DLT)** to drive **post-trade efficiency, tokenisation** and alignment with the digital transition.

**Luxembourg's ecosystem** is well-positioned to play a **leading role** in this area, leveraging existing strengths in fund, securities and post-trade services. The ABBL values the Commission's **pilot frameworks** and welcomes the proposed evolution of the **DLT Pilot Regime** within the **MISP** as a key enabler of **institutional-scale tokenisation** and **digitally enabled market infrastructures**.

To maximise these benefits, **DLT-related rules** should be integrated seamlessly with broader **convergence efforts** under the **MISP**, ensuring safeguards that maintain **financial stability, legal certainty and competitiveness**. The framework should remain **technology-neutral** and **outcome-focused**, enabling **market-led innovation** while preserving investor protection and financial stability, and allowing the **EU framework** to remain competitive vis-à-vis similar initiatives in third countries.

Achieving this objective requires **careful calibration**. **Supervisory convergence** must remain **proportionate and evidence-based**. **Scaling parameters** must reflect real market dynamics. Settlement design must preserve **financial stability** while enabling **operational efficiency**.

The framework must support **prudentially robust and regulated digital instruments**, including **central bank money solutions** where available, tokenised commercial bank money (including tokenised deposits), and **MiCA-authorized e-money tokens**, while ensuring **legal certainty** and **regulatory coherence** across sectoral regimes.

## 6.2 Implementation Urgency

The **DLT Pilot Regime** must evolve from a constrained **experimental tool** into a **credible and scalable framework** capable of supporting **institutional participation**, meaningful issuance volumes and **efficient settlement arrangements**. The **DLT Pilot amendments** are embedded within the broader **MISP legislative timeline**. Prolonged implementation risks weakening **EU competitiveness** at a time when other jurisdictions are enabling **large-scale tokenisation** and **faster settlement models**.

**Rapid amendments** should also ensure coherence with the broader **EU financial market infrastructure framework**, so that the Pilot's evolution supports, rather than displaces, ongoing adaptation of the core rulebook to **DLT-enabled market models**. **Scaling** should be implemented through **calibrated safeguards** and **periodic review** to maintain stability while supporting competitiveness.

Key ABBL proposal:

- **Targeted amendments** to the **DLT Pilot Regime** should be prioritised and, where feasible, **fast-tracked** within the legislative process. Implementation should avoid unnecessary delay that undermines **EU competitiveness**.

## 6.3 Scaling Thresholds

The increase from **€6 billion to €100 billion** represents progress. However, **€100 billion** remains insufficient to reflect real **sovereign issuance volumes**, large corporate programmes or institutional-scale infrastructures. To serve as a **credible scaling framework**, the Pilot must reflect actual market dynamics.

Key ABBL proposals:

- **Preferred approach:** Replace the **aggregate market value cap** with a **risk-based scaling framework** based on objective eligibility conditions, supervisory gates and **operational resilience requirements**, ensuring that scaling is driven by demonstrated risk controls rather than an **arbitrary ceiling**.
- **Fallback approach** (if a cap is retained): Increase the **aggregate market value threshold** under the regular **DLT Pilot regime to €500 billion**, implemented with staged calibration and periodic review to maintain a **prudential boundary** while enabling **institutional-scale activity**.
- Introduce a **delegated flexibility mechanism** enabling threshold adjustment upward or downward, based on **ESMA advice**, data and demonstrated risk control. This ensures adaptability to market evolution and risk conditions.
- Codify a **clear transition framework** from Pilot to **permanent authorisation at Level 1**. Market participants must not face **cliff-edge uncertainty** at scale thresholds.
- Apply thresholds on a **group-consolidated basis**. To ensure **proportional and risk-based scaling**, the calculation should reflect the consolidated perimeter of financial groups. Where a cap is retained, the methodology should avoid double counting of intragroup holdings or positions and ensure that limits capture genuine external market exposure. ESMA, in cooperation with NCAs, should define clear and legally certain consolidation and aggregation rules, including criteria for defining the relevant group perimeter and the circumstances in which intragroup positions may be excluded from aggregation (e.g., where legally enforceable and appropriately documented), while ensuring that external exposures and client activity are fully captured. Any



adjustment of thresholds at group level should be data-driven and implemented through delegated measures based on ESMA's technical advice.

## 6.4 Settlement Asset Framework

The scalability and credibility of DLT-based market infrastructure depend on the availability of reliable, prudentially robust euro-denominated settlement assets.

ABBL supports a cascading approach to settlement assets that preserves the two-tier monetary system: central bank money should be prioritised as the anchor settlement asset where available; where it is not available for operational or design reasons, prudentially regulated commercial bank money (including tokenised commercial bank money and tokenised deposits) should be eligible; and MiCA-authorized e-money tokens may complement these options where they meet settlement-grade safeguards and do not undermine monetary policy coherence or financial stability.

To support institutional-scale tokenisation, the framework should enable a broader range of regulated euro-denominated settlement instruments, calibrated according to their risk profiles and underlying prudential safeguards. In parallel, the EU should facilitate the availability of wholesale central bank money settlement solutions, including potential wholesale CBDC arrangements, as these can provide the highest-quality settlement asset for DLT-based market infrastructures.

To ensure legal certainty and promote the development of secure euro-denominated settlement ecosystems, the DLT Pilot Regime should provide clarity on the eligibility of prudentially regulated digital settlement instruments.

Other settlement arrangements should be considered only where they demonstrably meet settlement-grade requirements for stability, liquidity, governance, redemption and effective supervision. This could include, as a supplementary arrangement and not as a baseline settlement asset, MMF-based settlement arrangements designed for settlement use, subject to stringent requirements on liquidity, valuation, redemption, operational resilience and transparency.

### Key ABBL proposals:

- **Support the development and availability** of wholesale central bank money **settlement solutions** (including potential wholesale CBDC arrangements) for institutional DLT markets.
- **Confirm the eligibility** of prudentially regulated **commercial bank money**, including tokenised commercial bank money and tokenised deposits issued by regulated credit institutions, within DLT settlement arrangements, subject to existing banking prudential and supervisory safeguards.
- Confirm the eligibility of MiCA-authorized EMTs as **settlement assets** under the DLT regimes as a complementary option, subject to full MiCA compliance and additional settlement-grade risk controls where necessary.
- Consider **MMF-based settlement arrangements as a supplementary option** where they are structured and supervised for settlement use and meet settlement-grade safeguards (including liquidity management, valuation robustness, redemption arrangements and operational resilience), without undermining financial stability or monetary policy coherence.
- Ensure that settlement eligibility remains strictly linked to **applicable prudential frameworks and risk controls**, maintaining financial stability, market integrity, investor protection and monetary policy coherence.

## 6.5 Settlement eligibility should be risk-tiered

Settlement asset eligibility should follow a **risk-tiered approach** consistent with the cascading principle. Instruments with the strongest prudential safeguards—wholesale central bank money where available and prudentially regulated commercial bank money within the banking perimeter (including tokenised deposits/tokenised commercial bank money)—should form the baseline. MiCA-authorized EMTs may complement these options where they meet settlement-grade safeguards. Other instruments should only be eligible where they meet enhanced stability and liquidity safeguards appropriate for settlement use.

## 6.6 Liquidity and Settlement Models

The design of settlement arrangements under the DLT Pilot Regime will be critical to its commercial viability and operational resilience. **Efficient liquidity management** is essential to support scalable trading activity, reduce settlement friction and ensure smooth market functioning.

A strict prefunding-only requirement would, in many cases, create disproportionate liquidity lock-up, increase funding costs and materially reduce market viability and institutional participation, without necessarily improving risk outcomes when robust prudential safeguards and intraday liquidity controls are available. Traditional financial markets rely on flexible liquidity management tools, including intraday liquidity provision and credit-based mechanisms, within established prudential frameworks.

In the context of DLT-based infrastructures, efficient settlement may rely on a combination of prudentially regulated digital settlement instruments, including MiCA-authorized e-money tokens (EMTs), tokenised commercial bank money (including tokenised deposits) issued by regulated credit institutions, and, where eligible under the settlement asset framework, other prudentially robust regulated instruments, as well as wholesale central bank money solutions where available. Where these instruments remain fully subject to their respective regulatory frameworks, they can support secure and efficient liquidity management without compromising financial stability.

Settlement design should therefore allow for operational flexibility while ensuring that all liquidity arrangements remain anchored in applicable prudential safeguards, risk management standards and supervisory oversight.

### Key ABBL proposals:

- **Permit both prefunded and appropriately safeguarded lending-based settlement models** for eligible settlement assets under the cascading approach, including tokenised commercial bank money (including tokenised deposits) and MiCA-authorized EMTs.
- Ensure that any **lending-based or intraday liquidity arrangements** remain fully subject to existing banking and prudential regulatory frameworks.
- **Avoid settlement design constraints** that create unnecessary liquidity inefficiencies or discourage institutional participation.
- **Maintain financial stability, investor protection and monetary policy integrity** as overriding principles in the design of DLT-based settlement models.

## 6.7 Interoperability

Interoperability is of key importance for market integration. In the context of DLT-enabled market infrastructures, use cases are inherently cross-border, and interoperability outcomes are essential to avoid new forms of fragmentation. The rapid proliferation of Layer 1 and Layer 2 networks, settlement rails and tokenisation models risks creating isolated ecosystems, increasing operational costs, fragmented adoption and limiting collateral mobility. Refining the regulatory approach to interoperability is thus increasingly important.

### Key ABBL proposals:

- **Interoperability** requirements should remain outcome-focused and proportionate.
- Define minimum interoperability outcomes (including **portability and operational compatibility**), supported by common standards where appropriate, while remaining technology neutral.

## 6.8 Trading venue integration

Fully licensed regulated markets and multilateral trading facilities (MTFs), which organise orderly, transparent, and fair trading in financial instruments, should be able to admit DLT-based financial instruments in their normal trading environment. This would be proposed under the assumption that the existing provisions for exchange-tradable financial instruments would be appropriately expanded, and that the necessary interoperability would be in place to ensure orderly settlement

## 7. Conclusion

The **supervisory and DLT reforms** under the **MISP** will determine whether the EU positions itself at the forefront of **next-generation capital markets infrastructure** or remains constrained by **experimental limitations**. To achieve **genuine market integration** while safeguarding stability, the framework must:

- Maintain **technology-neutral and outcome-focused requirements**, avoiding prescriptive technical mandates while ensuring **interoperability outcomes**.
- **Prioritise prudentially robust euro-denominated settlement solutions and monetary policy coherence**, including by supporting **wholesale central bank money solutions** where available.
- Remain **proportionate and strictly risk-based** in supervisory design.
- Avoid **premature or structural centralisation** absent systemic justification.
- Provide **realistic scaling capacity** under the **DLT Pilot Regime**.
- Allow **operationally efficient liquidity models** within established regulatory safeguards.
- Maintain **legal certainty** and **regulatory coherence** across sectoral frameworks.

More broadly, the ABBL supports a balanced MISP that removes genuine cross-border barriers, strengthens NCA convergence, and enhances the global competitiveness of EU capital markets.

Proposals for horizontal depositary passports or extensive ESMA centralisation, including for DLT and CASP supervision, would undermine proven models in established centres like Luxembourg absent clear evidence of market failure.



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The ABBL therefore urges co-legislators to **reaffirm NCA responsibilities, reject an EU-wide depositary passport, prioritise convergence and proportionality over centralisation, and pursue trilogues yielding pragmatic, evidence-based outcomes.**

A scalable, prudentially sound, and internationally competitive supervisory and DLT framework will strengthen cross-border capital formation, boost market efficiency, and enhance the long-term resilience of EU financial markets.

ABBL stands ready to engage constructively with EU institutions, ESAs, and Member States to deliver a **coherent framework that balances innovation, financial stability, and global competitiveness.**