# ECSDA Response to the Call for evidence on the SIU

The **European Central Securities Depositories Association (ECSDA)** welcomes the opportunity to respond to the **Call for evidence for an impact assessment Savings and Investments Union fostering integration, scale and efficient supervision in the single market,** in advance of the more detailed contribution that will be provided with the response to the **Targeted Consultation on integration of EU Capital Markets**.

CSDs are regulated market infrastructures enabling issuance, settlement and servicing of securities in the EU capital markets, interconnecting companies and investors across the EU.

European CSDs play a key role in helping issuers and investors navigate Europe's complex multijurisdictional landscape. They process corporate actions on behalf of issuers and for the benefit of entitled investors, ensuring compliance with the corporate laws of the 27 European jurisdictions and beyond.

By providing secure and increasingly harmonised services, CSDs protect financial stability, reducing counterparty failure risk, keeping safe and certain investors' rights over assets, and promoting transparency. Through ongoing innovation and harmonisation efforts, they support market efficiency and help strengthen investor confidence across the EU.

**Introduction and our recent input in the SIU debate.**

Given that the Call for Evidence marks another step in the ongoing CMU/SIU policy discussion — one in which we have been consistently engaged — we would like to remind our two earlier key contributions:

1) The ECSDA Call for Action on Europe's Capital Markets Competitiveness, where we assessed the persistent fragmentation in the post-trade environment. We noted that many root causes — long identified and requiring public authority intervention — remain unaddressed. The paper put forward targeted proposals to strengthen market integration through incremental, pragmatic solutions.

2) The more recent ECSDA Response to the Call for Evidence on the SIU where we welcomed policy initiatives promoting reforms to enhance market liquidity and streamline regulation. We reiterated the importance of addressing fragmentation at its core, supporting market-led competition, and reinforcing the resilience of Europe's post-trade ecosystem.

We note that the current Call for Evidence rightly recognises the drivers of fragmentation within the EU, explicitly pointing to divergent national rules, inconsistent application of common legislation, varying supervisory approaches across Member States, and market



**European Central Securities Depositories Association, aisbl**
Rue du Congrès, 1, 1000 Brussels – ecsda.eu – info@ecsda.eu
RPM/VAT : BE0464619112 – Tribunal de l'entreprise francophone de Bruxelles

practices that tend to prioritise domestic market functioning over cross-border integration and the acknowledgement that such discrepancies hamper further market-driven consolidation and scale in trading and post-trading and the development of EU-wide liquidity pools.

We also emphasised the need for EU action to remove regulatory barriers, ensure a level playing field, boost market integration, increase market efficiency and competitiveness, support the development of joint market practices that prevent the growth of liquidity pools, and provide a unified regulatory framework. In our views below, we refer to the objective of "assessing the rules on central securities depositories, financial collateral and settlement, and on the trading market structure, with the goal of removing barriers to cross-border activity".

**The main remaining barriers to further post-trade integration reside in the fact of existence of different national legal frameworks (divergent corporate, securities and tax laws) requiring that the authorities perceive the importance of ensuring that local rules are most adjusted to the local needs and require the application of local asset protection. The harmonisation efforts in these areas go beyond the standard remit of the EU regulations and require deep political will.**

Besides that, in advance of the Consultation response, we would like to highlight the following **key points:**

1. **We believe that the solution for driving post-trade integration is to further support fair competition between all actors providing similar services**

The current level of jurisdictional divergence of the EU is rendering the competition for attracting more issuers and investors between the EU CSDs complex, although already present. Indeed, particularly since the first version of the CSDR, European CSDs have started applying similar principles, which have been further translated into the level 2 and 3 provisions and common ECSDA frameworks or interpretations applicable to all EU CSDs. This has contributed to some level of competition. However, today it remains hindered by the challenges related to the need to overcome jurisdictional, tax and operational divergences.

Further efforts should be undertaken to ensure fair competition and burden reduction for all CSDs of all profiles independently from their size, licencing or group structure, based on the balanced requirements between prudence and support for growth. Post-trade competition is not limited to CSDs, as other actors provide CSD-like services, although under a different regulatory framework. The existence of such double standards leads to regulatory arbitrage and deprives CSDs of settlement volumes that cannot generate much-needed economies of scale.



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2. **Innovation & regulatory framework: the existing CSDR framework is fit for purpose, and the 28$^{th}$ regime may bring its benefits in this area**

For modern and innovative EU financial infrastructures capable of offering a large pool of assets disregarding the underlying technology for their initial recording, a level playing field is essential. The principle of the same function, same risk, same regulation is crucial.

In the area of digital assets, **existing projects and use cases have demonstrated the capability of CSDs to use DLT in full compliance with the CSDR and SFD regulatory frameworks**. The eventual clarifications can be effectively and efficiently addressed through Level 3 measures, avoiding the need for legislative change while promoting consistent application across Member States. There is no need to re-open these legislative instruments as they have been proven to address the main objective of financial stability and be interpretable to continue being relevant.

In the medium-term perspective, the DLT Pilot regime may be relevant to ensure the development of new infrastructure for the instruments that are not required to be mandatorily registered in a CSD (such as unlisted securities). However, **as the CSDs do not take risks in relation to the underlying assets used for transactions between the counterparties, there is no reason to limit their capabilities. From the perspective of the SIU Consultation, we believe that it is essential to ensure that as many assets as possible are streamlined through the CSDR based infrastructures benefitting from the full protection and connectivity across Europe.**

The proposal of reconsidering the need to obtain a CSD licence based on CSDR by unbundling core CSD services for the sake of innovation contradicts the core principle of technology neutrality. Such changes could lead to fragmentation in the regulatory environment and undermine the consistency that CSDR seeks to provide.

Furthermore, for the possibility to reach bigger pools of different instruments through a single account and the level playing field, the functions and possibilities allowed for the DLT providers under the Pilot regime should also be fully compatible with the CSDR. **The role of a TSS under the DLT Pilot regime should be accessible to CSDs (as this is the case in Switzerland, where the entity operating a DLT-based platform has licences under the legislation aspiring to both the EU MiFID and CSDR).**

Finally, the attention to legal fragmentation for the DLT environment is instrumental to creating a more integrated solution in the future. In a DLT-based market infrastructure, the continued application of national securities laws has led Member States to adapt their legal frameworks to ensure legal certainty regarding issuance, investor rights, and ownership structures to this new way of recording. This adaptation is creating **a new layer of legal fragmentation, making cross-border deployment of DLT securities more complex and burdensome** than even for traditional securities issuance.

**An optional EU-level "28th regime" for DLT-recorded securities could be considered to address these challenges**. This framework would aim to harmonise critical legal aspects



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affected by the digital transition, facilitating the efficient and consistent adoption of DLT across EU capital markets, without replacing national laws in their entirety.

## 3. Understanding the drivers of the current market architecture is essential

As long as jurisdictional differences in areas relevant to issuance, settlement and custody exist in Europe, CSD links are a fundamental instrument to ensure asset protection, legal certainty of ownership and securities transfers.

Any regulatory measure concerning links should be based on a comprehensive understanding of the current level of market interconnection, the factors driving increased interconnectivity, the existing market architecture, and the practical use of links by market participants.

Volumes determine both the number and specific configuration of links, and CSDs are already highly interconnected today in response to market demand. According to our most recent data:

- **The total number of ECSDA Members links globally is 373,**
- **The number of links between ECSDA CSDs is 258,**
- **11 CSDs have more than 15 links,**
- **ICSDs have extensive EU and global coverage allowing connection to every European country and beyond.**

Building and maintaining links implies costs and is heavily influenced by legal and tax fragmentation.

We are not supportive of measures mandating the building of new links in the absence of further market demand. Any such measure would increase the infrastructure cost and will not by itself address fragmentation or liquidity issues. Should there be new reasons justifying the business case for more links, e.g. in view of the SIU, CSDs will be very attentive to them. The creation of links by themselves will, however, not be sufficient, as the interest of investors to invest in opportunities in the neighbouring EU States and the trading arrangements are essential for the appearance of the business case.

**We call for measures incentivising cross-border investment and collaboration of the whole intermediary chain to facilitate more EU cross-border activity.** With regard to the post-trade side, we suggest focusing the reflection around the following:

a. Identifying and addressing specific local requirements, such as the need for CSDs to obtain special tax status or comply with local corporate law, which often discourages link creation and increases costs; and
b. Simplifying regulatory obligations, particularly in relation to due diligence for CSD links intra-EU (where the authorities authorising the request for establishment of a link should rely on the authorisation provided by the EU authority of the receiving CSD);



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c. Understanding situations where the existing CSD links may not be sufficiently used and would benefit from upstream or downstream connectivity, or more incentives to channel settlement flows to the link.

## 4. T2S is an essential European infrastructure

T2S is a key piece of EU infrastructure and its potential can be further used for settlement in central bank money. **We support initiatives aimed at leveraging T2S by incentivising increased use of the platform and encouraging more T2S settlement activity.** In parallel, we support the update of ESMA's report on settlement internalisation, which should serve as a fundamental data source for gaining a comprehensive understanding of the current post-trade landscape. This should also help assess the scale of cross-border settlement in the EU and the actual usage of T2S for that.

However, it is essential to be clear that ideas like expanding T2S to operate as a CSD would not address the underlying challenges related to legal, tax, and market practice harmonisation. In fact, it would add another CSD to the existing landscape, increasing market fragmentation and contradicting the goals of the SIU. In the absence of harmonisation, such a new CSD would need to be built in compliance with national laws, leading to additional complexity and significant cost implications for the EU. And if the harmonisation or a political decision on a single place for the EU issuance are reached, the private sector would be even better placed to come up with the solution. We are of the view that aspiring to have only one CSD in Europe does not allow for leveraging one of the major values of the EU highlighted in its founding Treaties, the Competition. **Similarly to other sectors, for financial infrastructure, we believe the competition is essential to preserve and increase a high level of innovation capacity and global competitiveness**.

## 5. Freedom of issuance can be further enhanced

Cross-border issuance ultimately depends on market volumes and the strength of the underlying business case. Even in the absence of significant regulatory barriers in CSDR, demand will remain limited if the issuers' interest to issue in another EU State is not compelling (e.g. vs keeping it local or issuing in the US or HK). The reality is that **requests for cross-border issuance remain rare even when passports have been obtained by CSDs, and any regulatory initiative in the field will probably bring limited benefits in the absence of increased other actions incentivising intra-EU cross-border investments.**

The CSDR "passporting" process is the "mirror" of the EU corporate laws fragmentation. To simplify further the passporting process, we recommend a targeted review of "ESMA's key provisions" (re. CSDR art. 49), focusing specifically on those relevant to the provision of notary and central maintenance services.

Challenges in cross-border issuance are not limited to obtaining passports, where further improvements can be made. They encompass even higher complexities in servicing the cross-border securities after it is obtained. For example, in tax processes, these include



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defining and managing the role of the withholding agent handling Financial Transaction Tax (FTT) obligations and dealing with local tax-specific requirements and variations.

## 6. Supervisory convergence: assessing existing tools and creating a single rulebook

**We support the idea of convergent supervision, underpinned by a single rulebook and uniform interpretation across jurisdictions. We also see a value in recognising CSD groups, as this would help unlock greater synergies at the group level, particularly in areas such as outsourcing.**

However, we believe the existing instruments designed to promote supervisory and regulatory convergence are not being fully leveraged. These should be thoroughly reassessed before considering the introduction of new or mixed supervisory models, which risk adding unjustified complexity, increasing regulatory overlaps, and duplicating obligations. In that context, we ask the authorities to advance with the simplification and burden reduction in post-trade.

It is also important to underline that it is not the role of financial market infrastructures to influence the choice of their supervisory authority. We note that for large, internationally active CSDs, engagement with multiple regulators is already a structural reality. In this context, expecting oversight to be governed under a single supervisory body seems not realistic. Moreover, key issues such as asset protection and financial stability are inherently local and require strong national oversight to ensure high standards are maintained.

Ultimately, we do not believe that changes to the supervisory framework alone will be decisive in advancing the objectives of the SIU. While coordination and supervisory efficiency are important, meaningful progress will depend on tackling broader regulatory fragmentation and uneven implementation or interpretation of EU regulations.

**To conclude,** advancing the SIU requires pragmatic and coordinated efforts to address fragmentation, ensure fair competition, and enhance regulatory coherence.

A shared understanding of market structure, post-trade dynamics, and the competitive landscape — with concern of a higher level of asset pooling and liquidity as a central element — is essential. In this context, we value this Call for Evidence and the accompanying Targeted Consultation.

European CSDs remain strongly committed to supporting these objectives by delivering secure, efficient, and innovative post-trade services. To unlock the full potential of the SIU, policymakers should prioritise the removal of unnecessary regulatory obstacles to promote competition, promote supervisory convergence, and resolve the structural challenges that constrain cross-border activity.

CSDs are ready to play a key role in building a more integrated, robust, and competitive EU capital market.



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