AUTORITÉ DES MARCHÉS FINANCIERS



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# Capital Markets Union: challenges and priorities for the Autorité des Marchés Financiers

**The Autorité des marchés financiers (AMF) engages in the debate on Capital Markets Union. The AMF welcomes this ambitious plan, which gives a new impetus to investment in Europe, for the benefit of growth and jobs. The AMF calls for a pragmatic approach, aimed at diversifying sources of funding for businesses and based on the effective implementation of post-crisis reforms. It proposes solutions to promote a simple, transparent and standardised securitization and to review the Prospectus Directive.**

The Commission's plan is designed to improve access to funding for businesses and infrastructure projects, help SMEs raise funds, improve the flow of capital within Europe, diversify the financing of the economy and reduce the cost of capital. The AMF believes that a Capital Markets Union must ensure a proper allocation of capital, notably by increasing the shareholder equity of companies, while striking an appropriate balance between bank and capital markets financing.

The Commission's initiative comes at a time when the implementation of the programme of reforms decided by the G20 in the aftermath of the financial crisis is coming to completion. In Europe, the associated legislative actions have not only reshaped the institutional and prudential framework of the banking sector, but also brought about significant changes to financial markets to guard against systemic risk, improve market transparency, efficiency and integrity and rebuild investor confidence. For the AMF, finalising ongoing and planned

reforms, as well as implementation measures in relation to recently enacted European legislation, are short term priorities inherently linked to a Capital Markets Union.

A Capital Markets Union must promote the effective and consistent implementation of reforms that are already underway and those that have been announced, and endeavour to maintain the regulatory stability that is required for the development of markets and market participants.

**Capital Markets Union**
A shared ambition
>Addressing the needs of investors and businesses
A pragmatic approach
>Ensuring the consistency, convergence and simplification of rules
A clear objective
>The increase and the diversification in sources of funding

A Capital Markets Union must not lead to market standardisation or concentration but increase the convergence of rules, the competitiveness and the stability of European financial markets in the interest of investors and businesses.

The AMF calls on a Capital Markets Union to benefit investors and businesses without interfering with healthy competition between financial centres. The existence of domestic markets, whether specialised or local, as well as the recognition that capital markets complement traditional bank financing, enable genuinely diversified funding sources. It is this diversification that will allow businesses to fulfil their investment plans, benefiting growth and jobs. A Capital Markets Union must also guarantee investors, in particular retail investors, proper protection, access to diversified investment products and quality of advice, in order to steer savings towards long-term projects and the funding of businesses, while taking into account the impact of technological innovation that is disrupting traditional distribution models. It must also benefit SMEs by providing them with access to diverse and efficient local capital markets and to investors whose investment decisions are informed by more developed, high-quality financial analysis and research. A Capital Markets Union implies the convergence of rules needed to enable the harmonisation and better understanding of the functioning of markets, of financing tools and of supervision.

The European Securities and Markets Authority (ESMA) must be at the service of such Capital Markets Union. Europe’s lawmakers have given ESMA a central role and powers. ESMA must use these powers to ensure a harmonised interpretation and application of the rules in Europe and to foster a shared supervisory culture.

The AMF offers concrete and pragmatic proposals.

The diversity of Member States' cultures and fundamental legal frameworks has resulted in different regimes for securities law, taxation and insolvency law, which cannot be standardized without bringing about substantial changes. The plurality of currency zones within the Union itself is also a major constraint in terms of establishing a single capital market in Europe. Against this background, the AMF calls on a Capital Markets Union to deliver in priority concrete proposals that can be implemented in the short and medium-term.

## Reconcile investors with the markets

> A Capital Markets Union must first of all ensure market transparency and liquidity. The Markets in Financial Instruments Directive and Regulation (MiFID II) published in June 2014, which seek to make financial markets more efficient, stable and transparent, notably address the issues of high-frequency trading, of the use of regulated trading platforms, of volatility on commodity derivatives markets and of bond markets transparency. Finalising the implementing measures must be a shared priority in order to ensure transparent and liquid markets in the interest of investors.

> The establishment of a consolidated market database on financial transactions is essential for well-functioning, transparent markets. Such a database, which would be similar to what has existed for decades in the United States, would enable investors and supervisory authorities to monitor transactions and price formation on the markets. Because it would offer collective benefits, it should be a European public service rather than a private sector-run service to ensure that information is standardised and understandable and to avoid competition between providers that would be detrimental to proper investor information.

> Market making ensures that prices are continually transmitted to investors and plays an essential role in market liquidity. An issuer cannot raise funds efficiently unless investors have faith in market liquidity and know they can swiftly sell their securities. Accordingly, a Capital Markets Union must support market making that is fully at the service of markets and the real economy, market making that is effective even when the market becomes less liquid. Crucial to well-functioning markets, market making must not be disincentivised by prudential constraints such that participants abandon this activity.

> To restore investor confidence in markets, reforms underway and planned reforms aimed at mitigating systemic risk lust be completed. Finalising the reform of money market funds is a major piece in the regulation and supervision of shadow banking. This reform must now be completed and enable to prevent the risk of large-scale redemptions associated with Constant Net Asset Value funds as otherwise this model could develop within the Union, resulting in an increase of the risk of financial instability. It is also necessary to ensure the

robustness of market and post-trade infrastructures and to establish a satisfactory regime for the recovery and resolution of central counterparties to guarantee their resilience.

> In addition to the transparency, liquidity and stability of financial markets, the attractiveness of investments is crucial in increasing the investor base on markets. The prudential requirements applicable to certain institutional investors (notably insurers under Solvency II) need to be reviewed in light of the objective set by the Commission for a Capital Markets Union to improve access to financing for businesses and infrastructure projects. A European-level initiative establishing a common framework in terms of transparency and methodology requirements for environmental, social and governance labels would further help in enhancing the comparability and attractiveness of certain investments.

> For retail investors, and in addition to a European policy promoting access by all to quality advice, the AMF calls for a European financial literacy plan to encourage retail investors to strengthen the financial component of their assets and to help them diversify their financial investments and make long-term investments that match their risk profile. This educational initiative is of paramount importance, because in addition to delivering benefits in terms of market depth and hence financing of businesses, it would also help savers better prepare for their retirement.

## Innovate to better address the needs of growth

European regulation must support the various investment channels that contribute to the financing of the economy.

> Reviving sound securitisation in Europe by developing criteria for simple, transparent and standardised securitisation could help provide financing to numerous businesses (whether directly or indirectly by freeing up bank balance sheets to provide new lending capacity). The AMF calls on the establishment of a framework that guarantees the quality of the securitisation vehicle and the governance of which would be provided by an authorised entity, similar to portfolio investment management companies. A public authority should be in charge of certifying the simple, transparent and standardised criteria of securitisation transactions. It would not replace investor due diligence, insofar as it would not assess the credit risk associated with the securitised assets, but rather it would offer a level of security regarding the structure of the transaction, thereby enhancing transparency and mitigating the risks of conflicts of interest.

> Crowdfunding should be supported by a European initiative aimed at standardising rules to limit the risks of arbitrage between Member States' regulatory frameworks. The harmonisation of information requirements, where the requirements of the Prospectus

Directive do not apply, and of investor protection rules would also enable the development of cross-border crowdfunding platforms.

> The AMF also favours developing employee savings schemes at European level to help establish a stable, long-term shareholder base. Employee savings schemes are a useful tool for raising awareness about financial investments as well as for allowing employees to share in the value created by their company and for helping them fund their projects or retirement.

> Regulatory developments need to address new trends in the distribution of financial products. Settlement systems for investment funds that enable to effectively transfer the ownership of securities are not perfectly compatible across Member States. A harmonisation of settlement platforms at European level would shorten the settlement cycle, the timing of which increases costs for investors and investment funds or their management companies.

> Regulation also needs to take into account the new opportunities brought about by digital distribution means and the growing importance of social networks. This requires highlighting the value of the provision of investment advice, given that technological advances enable customers to be provided with information and investment opportunities in real time, harmonising marketing rules for online services, and cooperation in the fields of surveillance, investigations and enforcement actions dealing with online intermediaries.

> The AMF considers that preserving and developing research and independent financial analysis are key elements in the discussions on a Capital Markets Union. Research and financial analysis indeed play an essential role in providing businesses with access to sources of funding and in building investor confidence in financial markets. Ensuring their sustainability requires structuring a functional, fair and transparent financing model. One of the priorities of a Capital Markets Union must therefore be to promote a global approach to the funding of research, involving all users, without upsetting the economic balance of financial analysis, which is currently precarious in particular for SMEs and intermediate-sized enterprises. This would allow investors to fund businesses selected on the basis of objective and varied analyses, in a climate of confidence and, therefore, without disproportionate risk premiums.

> The review of the Prospectus Directive must be an opportunity to streamline the information provided by issuers when they are up-to-date with their permanent and periodic reporting obligations. Notably, a standard press release could simply be sufficient for subsequent issues of equity instruments below a given dilutive threshold. For SMEs and intermediate-sized enterprises, the proportionality regime of the Prospectus Directive, which enables to adjust applicable requirements, could also be made more relevant without raising the prospectus exemption thresholds. The AMF also proposes replacing the

prospectus summary with a new document modelled on the key information document applicable to so-called packaged investment products.

## Establish a European supervisory culture around ESMA

Henceforth, the priority is to ensure the effectiveness of the supervision of financial markets with a view to achieving a harmonised application of European rules. Europe's single rulebook is indeed only worthwhile to the extent it is applied effectively and in a harmonised way so as to maintain financial stability, investor protection and market integrity, on the basis of a level playing field.

> The central role attributed to ESMA in terms of convergence must be consolidated. For this purpose, ESMA needs to step up the use of its legal powers to promote a shared interpretation of the rules, by developing targeted and pragmatic peer reviews that quickly result in concrete convergence proposals. ESMA must also deploy all the tools at its disposal to foster the development of a shared supervisory culture, resolve differences between authorities through its mediation powers, promote cooperation in the supervision of cross-border transactions within the Union and, where necessary, use its powers in relation to breach of Union law, as well as make full use of the powers assigned to it under sectorial legislation.

> ESMA must also consolidate its pivotal role in data transmission and management channels in Europe. Reforms to the European financial regulatory framework to promote enhanced transparency have led to numerous reporting obligations imposed on regulated entities and increased data flows between national authorities and between the latter and ESMA. It is now vital to improve the quality of these data and to ensure that they can be used as effectively as possible for market surveillance purposes.

**Find below 6 highlights on the following topics:**

> Simple, transparent and standardised securisation
> Crowdfunding
> A more ambitious reform of money market funds
> Developing Investment Research
> Reforming the Prospectus
> A European supervisory culture

## En savoir plus

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