

## EUROPE 2014-2019

TARGETING  
CONVERGENCE  
AND GROWTH

# EDITORIAL

What major issues will be addressed during the 2014-2019 term of the European Parliament? Although the recent period has seen intense standard-setting, bringing deep-seated changes to Europe's legislative environment and market practices, the challenges facing European lawmakers over the next five years will be equally decisive.



Priorities include ensuring consistent implementation and pursuing efforts to harmonise regulatory frameworks within the European Union (EU), developing measures to foster sustainable growth and sharpen EU competitiveness, and taking action to finance the real economy. By ensuring that the recent reforms are effectively and uniformly implemented, we can give the EU fresh impetus as we get finance working for the economy.

To tackle these challenges, we have devised a strategy with two key objectives and eighteen measures that we believe will enable the EU to establish a consistent regulatory framework, make its presence felt on the global financial marketplace and rekindle the desire of citizens and companies alike to invest and do business. This brochure sets out the AMF's views on the challenges ahead and the avenues we can explore to build a deeper, more competitive European Single Market.

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# ENSURE RULE CONVERGENCE AND IMPLEMENTATION

The end is in sight for the vast programme of reforms launched by the G20 more than five years ago. Europe's legislative framework has been reshaped. Many pieces of legislation have been adopted, with implementing measures still being finalised in some cases. This is particularly true for the legislation on markets in financial instruments (MiFID II). Care must be taken to make certain that the shared rules now in place are properly implemented. Only effective and harmonised application will ensure that the new body of rules plays its role in preserving financial stability, protecting investors and upholding market integrity while maintaining a level playing field.

## ●●● ENSURE EFFECTIVE AND HARMONISED IMPLEMENTATION OF EUROPEAN RULES

Effective and harmonised implementation of reforms, convergence of interpretations and the emergence of a shared supervisory culture are crucial to building an internal market and ensuring fair competition within Europe. To this end, Europe's lawmakers have assigned a central role to the European Securities and Markets Authority (ESMA). ESMA must play its part to the best of its ability and make full use of the powers entrusted to it.

### **Integrate ESMA more effectively in the European legislative process**

Consulting ESMA as part of the lawmaking process helps build consistency between the principles set out in the legislation and the implementing measures. When rulemaking, the European Parliament and the Council must clearly identify those aspects where political or technical decisions are required, to avoid having to make decisions in non-legislative provisions because they were not made at political level. Europe's lawmakers must also limit and strictly regulate exceptions and national options. Otherwise, they could fall short of their objectives, particularly in terms of convergence.

### **Use legal tools to promote convergence**

Effective, convergent application of standards and legislation can also be achieved through shared agreement on scope. ESMA has been given extensive powers, including the power to take emergency measures, issue recommendations when Union law is breached, prepare guidelines, opinions and Q&As, organise peer reviews and provide mediation. ESMA must use all of its powers, as only a European agency that upholds respect for the law in the common interest can assure the effectiveness of Community legislation.

### **Meet the challenge of Europe-wide surveillance**

The challenges linked to surveillance systems, and particularly IT tools, are vitally important. National competent authorities and ESMA must equip themselves with common surveillance tools and develop joint systems, notably for processing and sharing data. The quality of market data reported to the authorities must be improved and common practices developed for using these data. Cooperation in supervising cross-border transactions within the Union must be stepped up to solve problems such as online marketing of high-risk financial products (forex, CFDs).

National competent authorities also need to foster a shared supervisory culture. For example, it is essential to promote convergence in regulators' supervisory practices to give better assurance as to the consistency of accounting and financial information, particularly during initial public offerings.

## ●●● PROMOTE CROSS-CUTTING, CONSISTENT, STABLE EUROPEAN RULES

The urgency with which legislation had to be passed to respond effectively to the crisis has led in some cases to multiple layers of measures, with implementation potentially raising problems in terms of combining measures or by putting different legal systems into competition with each other. Inconsistencies and gaps may become apparent when the reforms are implemented, impacting the overall effectiveness of European legislation.

### **Launch an exercise to assess the rules already adopted and promote consistency**

After five years of intense standard-setting, it is time to make sure that the efforts so far are consistent overall by conducting a technical assessment to address any problems in implementing laws and regulations that present

compatibility issues. For example certain definitions covering different market practices need to be compared and rendered compatible. Thus, the definitions provided for securitisation, reuse of financial collateral and market making could usefully be clarified to build greater consistency and transparency, enhance investor protection and limit risky practices.

### **Take a cross-cutting approach to rulemaking**

When preparing legislation, it is important to take a cross-cutting approach that makes it possible to compare the rules applicable to different sectors, such as banking, financial markets & services and insurance, and make them compatible with each other. To give an example, this type of effort should be made for marketing rules applicable to comparable financial products sold to retail customers, which are currently subject to sector regulation (insurance/ financial markets).



### **Promote stability and quality in standard-setting**

Realistic timelines should be established for setting technical standards and revising adopted legislation. Preparing proportionate and appropriate responses to often highly complex questions, including consultation with financial services stakeholders, takes time. In addition, measures must be given time to take effect before assessing their impact with a view to a potential revision.

## **●●● PROMOTE THE EUROPEAN UNION'S PLACE IN A MULTIPOLAR WORLD**

At a time when the globalisation and interconnectedness of markets require reforms to be implemented and supervised consistently at global level, the Union must continue to affirm its place on the international stage. It is important to defend the competitiveness of Europe's financial businesses and ensure that international convergence does not take place at the expense of Europe's interests.

### **Promote mutual recognition of regulatory frameworks**

European participants must be allowed to grow their business internationally on a level playing field. This means lobbying for an approach based on mutual recognition of regulatory frameworks. In this respect, it is essential to swiftly resolve the question of the cross-border application of rules, notably through finalisation of OTC derivatives reforms. The efforts of the Financial Stability Board (FSB) and the International Organization of Securities Commissions (IOSCO) in their drive to achieve a sufficient level of detail in their principles should be supported and a careful monitoring of the implementation of these principles should be encouraged.

### **Uphold Europe's interests**

Europe's interests must be upheld in negotiations with other countries and organisations. The EU must continue to push for the creation and application of high-calibre international accounting standards. The EU needs to strengthen its influence in international accounting standard-setting, notably through an overhaul of the organisation and tasks of the European Financial Reporting Advisory Group (EFRAG).

### **Support the development of international standards**

To improve the effectiveness of market surveillance and facilitate information-sharing by authorities, efforts such as the Legal Entity Identifier initiative must be supported.

# GET FINANCE WORKING FOR EUROPEAN GROWTH

Finance needs to serve sustainable growth and be a factor in Europe's competitiveness. Many initiatives have already been taken to steer savings more effectively towards long-term investment and funding for growing companies and entrepreneurs. These efforts must be kept up, because banks, which have a dominant position in European financing today, will see the share of funding that they provide to the economy shrink in relative terms, notably because of changes to prudential regulations made in the post-crisis period. In this setting, the new European legislature must endeavour to maintain the security of transactions and market and post-trade infrastructures, find new solutions to help companies obtain market financing, and support investors in financing the real economy while ensuring they have a clearer understanding of the associated risks and benefits.

## ●●● MAINTAIN MARKET EFFICIENCY AND INTEGRITY

Confidence in orderly markets is a prerequisite for growth. The European Market Infrastructure Regulation (EMIR) on derivative products traded over the counter (OTC) and the new Markets in Financial Instruments Directive (MiFID II) represent major advances in this regard. These important reforms are designed to make transactions more sure, reduce market fragmentation, regulate high-frequency trading (HFT) and further enhance investor protection mechanisms. Implementing this legislation will be a vital challenge in the coming years for European financial centres and must be accompanied by measures to promote recognition and cooperation with other global financial centres, consistent with G20 commitments. Special attention must be given to supervising central counterparties (CCPs), which now play a pivotal role in guaranteeing transactions, and to harmonising market abuse enforcement in Europe.

### Implement market reforms

It had become apparent that to restore confidence and renew the appeal of Europe's financial markets as a whole, the regulatory framework needed to be updated and strengthened to enhance transparency and provide investors with a high level of protection. MiFID II's implementing measures must therefore be precise and effectively calibrated to create an environment that is both safe and flexible.

Exemptions must be strictly regulated and definitions sufficiently clear, including the definition of currency derivatives and commodity derivatives. In addition, market trading procedures, including the tick size regime for example, and HFT must be adequately regulated to contribute to market resilience. Regulation of commodity derivatives markets could also be further enhanced by setting up sector regulators for underlying markets, taking the energy market as a model.

### Effectively monitor and supervise CCPs

The new rules under EMIR are designed to make markets more stable, transparent and efficient. The reform requires standardised derivatives contracts to be cleared by a CCP. It thus gives clearing houses a key role but also a weighty responsibility, because more systemic risk will be concentrated with them. To preserve the stability and resilience of CCPs, Europe's supervisory system for these infrastructures must be strong and consistent, notably through the coordinated involvement of all affected supervisors and central banks.

### **Assess the effectiveness of the enforcement system**

Orderly financial markets rely in part on an effective, clear and uniform enforcement system. The legislation punishing market abuse has been completely revised. The effectiveness of the new arrangements must be assessed, particularly to ensure that they do not encourage regulatory arbitrage between Member States because of the option of setting up a system of administrative penalties.

## **●●● GET MARKETS TO WORK FOR THE REAL ECONOMY**

Savings must be steered towards investments that support long-term economic growth and European companies and, by extension, jobs. With this in mind, a Capital Markets Union could be created through further integration, including, in stages, the establishment of a European securitisation market, a regulated corporate debt market and convergence in private placement practices.

### **Create a large European market for high-calibre securitisation**

Securitisation can provide an extremely useful complement to corporate finance and bank refinancing. Work must be done to promote labelling, enhanced transparency and appropriate prudential treatment for high-quality securitisation. Steps should also be taken to encourage the emergence of a European securitisation market, particularly for the debt of small and medium-sized enterprises (SMEs).

### **Help SMEs and mid-tier firms access non-bank financing**

The SME Growth Market label is an innovative development under MiFID II that needs to be promoted. For this, implementing measures must be adjusted so that these specialised markets

can meet their objective and offer new sources of financing for SMEs within a specific investor protection framework. Development of the corporate debt market should also be encouraged by promoting regulated and transparent trading venues (most trading is currently done OTC) and convergence in private placement practices within Europe.

Crowdfunding, which is an alternative financing source, particularly for entrepreneurial projects, remains fragmented. Taking care not to disregard existing national regulations, a coordinated, pan-European approach should be taken to encourage growth in crowdfunding.

### **Make shadow banking more secure**

While shadow banking may contribute positively to market functioning and financing, it also presents a number of risks, which include creating opportunities for regulatory arbitrage. For this reason, the development of shadow banking needs to be adequately regulated and supervised. Completing the reform of money market funds, which represents one aspect of this process, should remove the risk of large-scale redemptions (runs).

## ●●● REBUILDING ISSUER AND INVESTOR CONFIDENCE IN CAPITAL MARKETS

To rebuild confidence, European countries have launched a far-reaching programme of structural reforms. But the faith of issuers and investors in financial markets must be further strengthened to sharpen their appetite for and understanding of risk and foster their willingness to place savings in long-term growth projects.

### Promote greater shareholder engagement

Corporate governance needs to be strengthened and efforts made to align the interests of issuers with those of investors. As part of this, care must be taken during the review of the Shareholder Rights Directive to ensure the proportionality of the transparency obligations placed on institutional investors and asset managers and to promote convergence in the rules governing transactions between companies and related parties. The creation of a high-quality European reference framework for governance and social and environmental responsibility, which could act as a driver for corporate performance and better balanced growth, would be a major advance. Moreover, efforts must be continued to encourage convergence in environmental, social and governance (ESG) reporting standards and improved oversight of ESG certification organisations and rating agencies.

### Promote better financial literacy among savers and simplify information to make it understandable and useful

If they are taught about the risk and reward properties of different types of investments, notably in equities, retail investors can be attracted to products that generate long-term growth and encouraged to channel a portion of their savings to these financial instruments. Specific guides, programmes and spaces offer one way to improve economic and financial literacy.



Currently, investors get very comprehensive information. At times, however, the information provided is disproportionate or inappropriate in terms of the goal, which is to make sure that savers are properly informed. The prospectus regime needs to be simplified so that it is better suited to its purpose, namely to inform investors, and more attuned to the needs of issuers, especially SMEs. Similarly, the implementing measures of the regulation on the key information documents for packaged retail and insurance-based investment products must meet the regulation's goals on providing simplified, clear information.

### Steer savings towards companies and long-term investment

SMEs can be made more appealing to investors by encouraging the development of investment advisory, research and financial analysis activities. The opportunities represented by medium-sized and mid-tier firms need to be more effectively presented to investors.



# GLOSSARY

## ●●● CONTRACT FOR DIFFERENCE (CFD)

Contract between two parties whereby the investor acquires the right to receive or obligation to pay the difference between the current value of an underlying asset (a currency pair, a share, a market, index, etc.) and its value at contract time.

## ●●● OVER THE COUNTER (OTC) DERIVATIVE

Contract related to the value or future situation of an underlying interest (e.g. an exchange rate) and traded directly between the buyer and seller rather than on an exchange.

## ●●● LEGAL ENTITY IDENTIFIER (LEI)

International standard developed by the Financial Stability Board (FSB) which uniquely identifies parties to financial transactions.

## ●●● CROWDFUNDING

Method of raising money directly from a large number of people (hence “crowd”), rather than through traditional market participants, in order to finance an artistic, humanitarian, entrepreneurial or similar project..

## ●●● SHADOW BANKING

As defined by the FSB, any form of credit intermediation involving entities and/or activities outside the conventional banking system.

## The AMF's commitment

The Autorité des Marchés Financiers (AMF) is committed to promoting regulated markets that work to finance the economy. The AMF is closely involved in European and international work on financial regulation. Boasting an extensive array of powers, ranging from regulation and authorisation to surveillance, inspection, investigation and enforcement, the AMF brings its expertise, experience and commitment to bear, helping to establish high-calibre European and international standards and rules through its participation in bodies such as the Financial Stability Board (FSB), the International Organization of Securities Commissions (IOSCO) and the European Securities and Markets Authority (ESMA). The AMF is a member of about fifty ESMA working groups, sits on all of IOSCO's standing committees, and chairs or co-chairs many international taskforces.

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