Scaling up and integrating EU capital markets

AFME's CMU vision for the next institutional cycle

July 2024

Association for Financial Markets in Europe
www.afme.eu

/ About us

The Association for Financial Markets in Europe (AFME) is the voice of Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent the leading global and European banks and other significant capital market players. AFME's members are the lead underwriters of 89% of European corporate and sovereign debt, and 75% of European listed equity capital issuances.

We advocate for deep, integrated, and sustainable capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society.

AFME works to promote a robust, connected and competitive financial system, in the EU, UK and globally.

- **Advocating for deep and liquid secondary markets.** Placing greater focus on the role of well-functioning, diverse and competitive secondary market ecosystems, to build a highly liquid, market-based funding capacity, which can support businesses in raising funds and cost-efficient transactions for investors.

- **Pursuing changes that enable the green and digital transformations Europe needs.** The scale of the transitions economies need to undertake demands large-scale mobilisations of capital. Policy makers can help to create the right conditions across Europe's capital markets so that businesses and investors can benefit from technological developments and decarbonise supply chains.

- **Supporting the completion of the Banking Union and Capital Markets Union.** These have the potential to improve financial stability, ensure alternative funding sources are available to finance economic recovery & transformation independently of the economic cycle, and aid in reducing the costs of local ring-fencing facing EU banks.

- **Ensuring, in the EU and the UK, the connectivity of financial markets to the rest of the world.** Open, competitive, resilient financial systems thrive, and improve stability through the development of integrated global markets, enabling the provision of efficient services to end-users. Regulatory fragmentation undermines the benefits that come with cooperation and coordination across jurisdictions.

Contents

Introduction

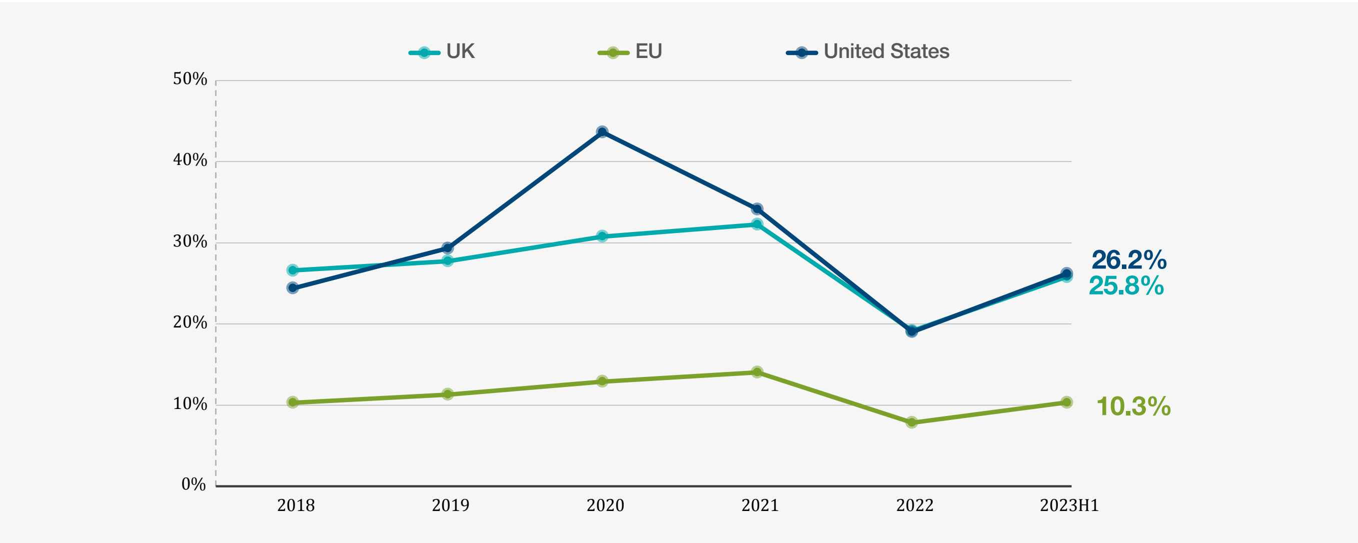
A strong, integrated European capital market is an essential element of the EU's future competitiveness on the global stage. In the absence of the deep and liquid market required to meet their financing needs, the most innovative, high-growth firms are looking elsewhere – beyond Europe – to fulfil their growth potential.

This situation not only undermines the EU's economic competitiveness. It also undercuts its ability to channel investment into the green and digital transitions, to strengthen its economic security by supporting domestic firms in key strategic sectors, and to allow citizens the opportunity to benefit from productive investment in strong European companies.

After a decade which has seen multiple initiatives put forward under two iterations of Capital Markets Union Action Plans[1], the role and state of the EU's capital markets has unfortunately not changed substantially. The share of market-based financing in the EU remains unchanged compared to 2018 and well below that in United States and the United Kingdom.

The goal for the next mandate should therefore be to **deliver on a scaled up, seamless single market for capital and banking**[2]. As EU leaders defined their strategic agenda for the next EU policy cycle[3] and a new Commission sets out its programme to achieve this, it is of utmost importance that advancing capital markets remains high on the list of priorities for the next five years.

Figure 1: **Market Finance Indicator (NFC equity and bond issuance as a % of total NFC annual financing)**[4]



Source: United Nations, IMF, World Federation of Exchanges

Recent months have revealed a growing consensus that the EU must indeed **boost its competitiveness** to support a growth trajectory embracing the opportunities of the green and digital transitions. Importantly, the European Council of April 2024 called for a new 'European competitiveness deal' highlighting the need to **advance further the capital markets union project as a necessary condition in this context**[5].

1 CMU Action Plan 2015; CMU Action Plan 2020.

2 In AFME's view, completing the banking union will help to achieve the objectives of the CMU – see initial reflections and recommendations for banking and capital markets policy, 18 December 2023

3 European Council meeting (27 June 2024) – Conclusions

4 Capital Markets Union Key Performance Indicators – Sixth Edition European Capital Markets: scaling up capital markets November 2023

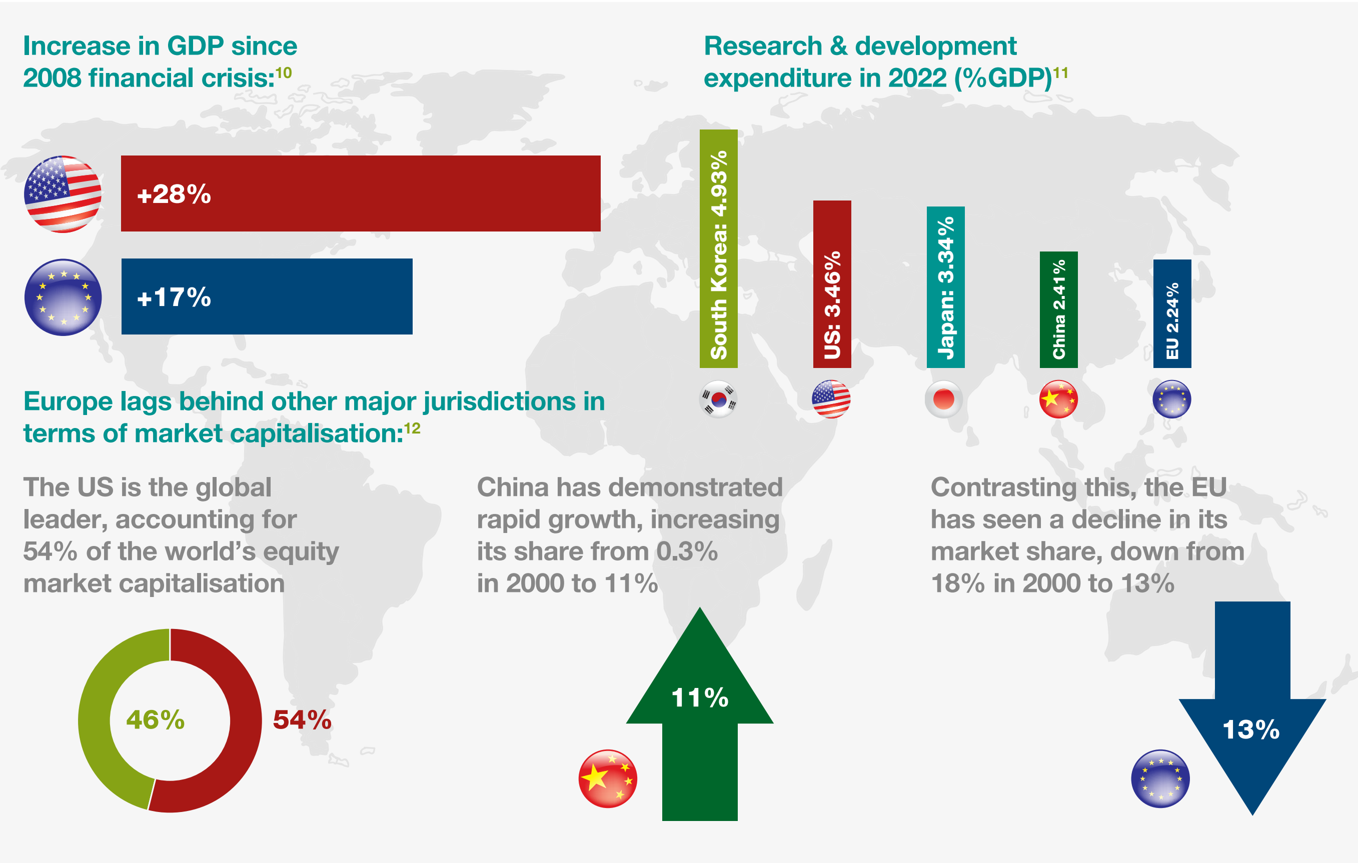
5 Special meeting of the European Council – Conclusions, 17 and 18 April 2024

Several key reports and statements have been issued in support of this agenda. In March 2024, the Eurogroup in inclusive format[6] and the ECB Governing Council[7] published their respective recommendations for future areas of work to develop the EU's capital markets. In April, the report of the CMU Taskforce of Christian Noyer suggested a targeted number of concrete proposals to unlock the potential of capital markets[8]. Most recently, ESMA published its own recommendations for building more effective and attractive capital markets[9].

AFME unequivocally supports the fresh political momentum to advance CMU. The EU cannot afford to wait another 10 years before it progresses substantially.

Several metrics show that the EU is lagging behind other major economies in terms of GDP growth, R&D expenditure and capital market development. .

Figure 2: **The EU in a global context**



6 Statement of the Eurogroup in inclusive format on the future of Capital Markets Union, 11 March 2024

7 Statement by the ECB Governing Council on advancing the Capital Markets Union, 7 March 2024

8 Developing European capital markets to finance the future, 25 April 2024.

9 ESMA Position Paper – Building more effective and attractive capital markets in the EU, 22 May 2024

10 World Bank – figures are adjusted to take into account purchasing power parity (2008-2022).

11 Eurostat R&D expenditure

12 AFME research - As of June 2024

A reinvigorated CMU is necessary to:

- **Meet financing needs that cannot be met by relying only on bank lending.** Today bank lending represents around 76% of business financing in the Euro area[13]. For example, a recent study on the German banking market estimates that German banks will not be able to provide the entirety of the funds required to decarbonise the economy in the future[14]. Moreover, market-based financing complements bank lending by enabling companies (from high growth start-ups to incumbents) to access diversified sources of equity or debt from a variety of investors with different risk appetite and investment time horizons.

- **Become a more attractive investment destination for institutional and private capital.** Channeling more EU savings towards productive investments is key to supporting companies and EU growth. It is estimated that the EU could raise EUR 470 billion of additional private investment every year if it completes the Capital Markets Union[15]. On top of that, should the EU become a more attractive place to investors, it could attract a substantial part of the 'EUR 300 billion [which] flows abroad every year, from European private investors'[16]. Taken together, this has the potential to replace every year the NextGenerationEU, the temporary programme of EUR 800 billion put in place to support the EU economy during the coronavirus pandemic.

- **Deliver benefits across all European countries.** It is important to stress that **all 27 EU Member States stand to gain from the scale that a truly integrated EU capital market can offer**: Enrico Letta's report "Much More than a Market" presented to EU leaders in April clearly highlights these benefits[17]. They include the ability to **grow EU companies within the Single Market** rather than see them develop outside the EU once they reach a certain size and to **channel the resources necessary to financing strategic priorities**, including the twin transition of our economy.

- **Improve the well-being of European citizens.** Today, a large portion of EU's household savings are invested in cash and deposits and not in capital markets instruments or long-term savings products. Europeans choosing to invest on capital markets will likely find themselves better off over the long term if they decide to allocate part of their savings through pensions or employee schemes into productive investments.

This paper represents AFME's contribution[18] to the ongoing reflections on the **way forward for CMU**, setting out what we believe to be the most **pressing policy priorities** to improve the European financing ecosystem to the benefit of corporates and citizens.

These proposals come with the **recognition** there is no single silver bullet to CMU. Scaling up and integrating 27 capital markets requires action across diverse aspects of national law and societal choices at national level, combined with EU actions, and all with sustained momentum.

13 AFME research based on ECB data

14 Even the current, solid CET1 ratio (common equity tier 1 ratio) of 15.4% for the sector is unlikely to be sufficient given the magnitude of investment needs - Press release, New AFME & Zeb report examines role of capital markets in Germany Underused and unpopular – can capital markets help Germany meet the major financial challenges of future?, 20 March 2024

15 Speech by President von der Leyen at the European Parliament Plenary on the conclusions of the special European Council meeting of 17-18 April 2024

16 Speech by President von der Leyen on the occasion of the opening ceremony of the Hannover Messe 2024

17 'Much more than a market', report by Enrico Letta, April 2024

18 This paper aims at complementing and detailing AFME's initial reflections and recommendations published. See footnote 2.

EU institutions must establish a set of EU-level priorities with an associated timeline, where concrete outcomes are defined and measured using agreed metrics. In parallel, Member States' initiatives to grow their domestic markets should be boosted, particularly in areas which fall beyond EU-competences such as pensions, financial education and tax. Member States should be provided with a platform to share their experiences in these areas to see if and how they can be adapted for other markets. The proposals of the Eurogroup in inclusive format which go in this direction are therefore welcomed.

Finally, it is important that Member States' initiatives are designed to support the growth of the EU's total market capacity. This is the key to supporting the EU's international competitiveness. Put another way, if not carried out with a pan-European perspective, uncoordinated initiatives risk maintaining or introducing further fragmentation.

To reach this ambition, both **the EU and Member States need to focus on transformative actions as time has come to deliver changes on the ground.**

In this document, AFME sets out future actions we believe should be prioritised at EU and Member States level, namely:

I. Increase market liquidity

II. Recalibrate the securitisation framework

III. Modernise the regulatory and supervisory ecosystem

> **"Both the EU and Member States need to focus on transformative actions as time has come to deliver changes on the ground"**

Summary of AFME recommendations for priority actions to progress the CMU

Increase market liquidity

Develop larger pools of capital

By bringing retail savings to the EU capital market

- Encourage Member States to develop pensions savings, for instance by promoting auto-enrolment with opt-out options combined with tax incentives.
- Move forward with an EU Long-Term Savings Product and of an improved version of the Pan-European Personal Pension product.

By increasing the fire power of pre-IPO risk capital

- Build up public/private partnerships to promote additional initiatives to finance innovative, high-growth companies.
- Explore the feasibility of a potential European venue for private companies.
- Consider whether supervisory guidance for banks is having a negative impact on banks' funding of VC funds.

Enhancing competition and efficiencies of the post-trade market infrastructure landscape

By facilitating true competition – removing barriers to new entrants and engendering true freedom of issuance

By supporting a functional harmonisation of operational processes – removing certain derogations to offer new functionalities, improving the quality of available data, addressing undue settlement restrictions and improving and expanding T2S functionalities

By further harmonising rules, transforming directives into regulations and in particular:

- Shareholder Rights Directive – introduce single definition of shareholder
- Central Securities Depositories Regulation – introduce an obligation to offer partial settlement and hold and release functionality and promote more real-time settlement.
- Settlement Finality Directive – extend its scope of application to a broader set of participants and activities.

Recalibrate the securitisation framework

By increasing risk sensitivity within the bank prudential framework

- Adjust the 'p' factor and risk weight floors in banks' prudential requirements.

By improving the treatment of securitisation under the liquidity coverage ratio

- Broaden eligibility criteria to cover not only STS but also non-STS transactions.
- Refine the definition and calibration of high-quality liquid assets to better reflect securitisation liquidity profile.

Summary of AFME recommendations for priority actions to progress the CMU

Short-term horizon

Recalibrate the securitisation framework

By adjusting the prudential treatment of securitisation for insurance companies

- Recalibrate the treatment of STS non-senior tranches, non-STS senior and non-senior tranches.

By introducing more proportionality for due diligence and reporting requirements

By simplifying the STS criteria

Modernise the regulatory and supervisory ecosystem

Short-term horizon

Upgrade ESAs' role as a means to pave the way for integrated EU supervision

By adopting a new approach to competitiveness

- Incorporate as a secondary objective the competitiveness mandate for the ESAs including the establishment of an impact assessment body to provide an independent evaluation of the technical standards to take into account the competitiveness dimension.

By streamlining the ESAs' governance structure

- Consider creating an executive committee as main decision-making body, composed of the respective ESA Chair, its executive director and a limited number of independent full-time members.

By improving the efficiency of forbearance powers

- Leverage Article 9a of the ESAs' Regulation on 'no action letters' to enhance their legal force.
- Delegate powers to the Commission whereby, on advice of the ESAs, they can react swiftly to market developments to propose regulatory change, subject to co-legislator scrutiny.

Medium-term horizon

A broader reflection on regulatory agility

By aiming at a more principles-based level 1 approach

By ensuring the development of technical standards is data driven.

I. Increase market liquidity

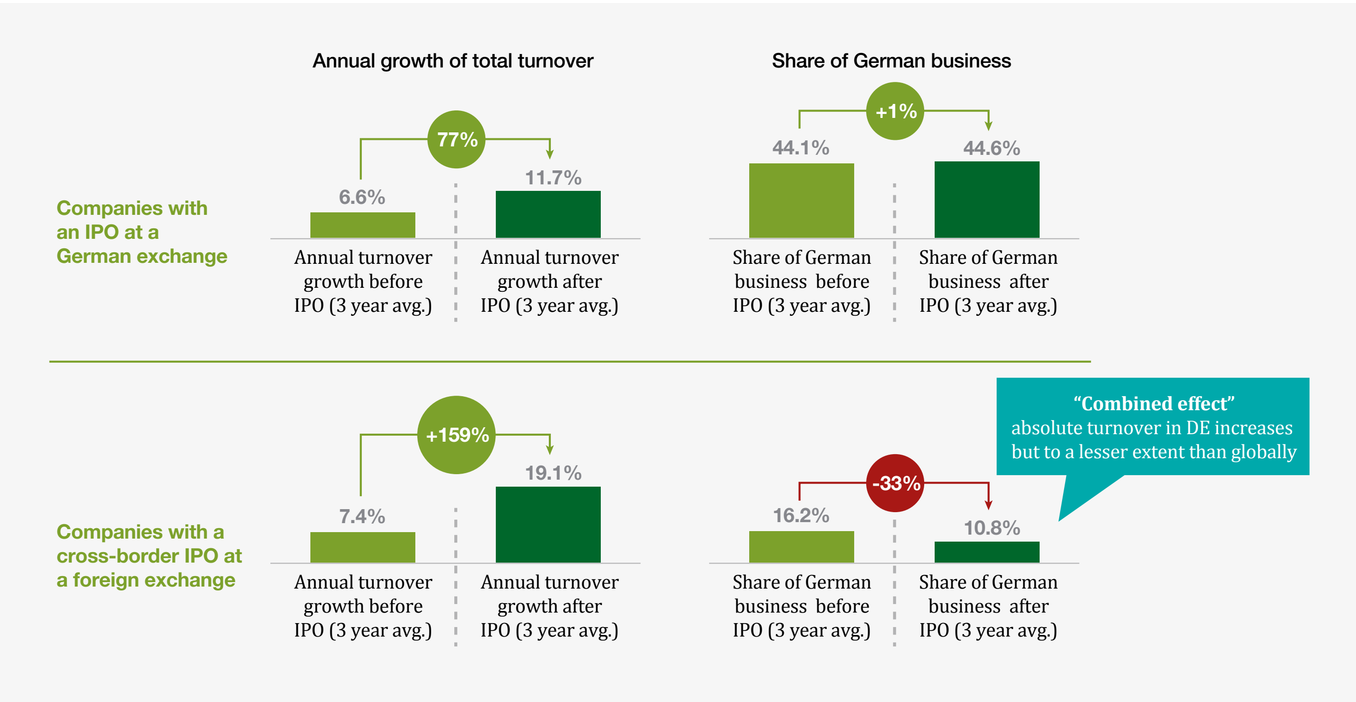
Greater **market liquidity is key to the success of the CMU**. Liquidity underpins the valuation of companies, influencing corporate's decisions to go public. Greater liquidity in a market attracts investors by allowing them to buy and sell securities more easily and at better conditions, ultimately helping them to achieve higher, more sustainable returns. For companies, greater liquidity enables them to access funding at lower costs.

Market data[19] shows that US and China are more liquid financial centres than Europe, with turnover ratios (trading volume relative to market cap) at 2.9x in the US, 2.7x in China compared to only 1.1x in Europe in 2024.

This is helping fuel a long-term trend of EU companies choosing to list outside the EU[20]. More than 100 EU companies have a primary or dual listing in the US. The largest IPO by an EU company in Q1 2024 was Finland-headquartered Amer Sports Inc, which launched its IPO on the NYSE raising $1.6bn. Moreover, when venture capitalists choose exit strategies through IPOs, they tend to look to non-EU exchanges[21] because they find deeper secondary markets and higher valuation making the IPO more profitable.

This trend is concerning not least because IPOs outside a corporate's domestic market can have an impact on the level of activity and job creation the firm generates at home. Recent research on German corporates shows that there is a tendency for companies which list abroad to grow more overall, but the share of their domestic activities falls[22].

Figure 3: **Pre- and post-IPO development of German companies**[23]



19 AFME Research latest data available (June for the US; May for China; March for Europe).

20 Spotify, BionTech, Birkenstock, Ferrari and Trivago listed in the US.

21 Strong risk capital markets, Vital for unlocking green & digital innovation, DB research paper, January 2024; Tackling the Scale-up Gap, 2021, European Commission

22 The role of capital markets in Germany, Five questions on the state of play, current opportunities, and themes for the future, prepared by ZEB for AFME, 2024

23 Cf. footnote above.

"Nasdaq has been the marketplace for innovative technology-focused companies for years, so it was our first choice."

U. Sahin, CEO Biontech

"Biotech companies are forced to list abroad due to the favourable investor environment (US) and the restrictions under corporation law Germany."

D. Hopp, Investor Curevac

"We had a discussion of the board on the matter of U.S. listing and we all agreed that we have to seriously look at it."

Patrick Pouyanne, CEO Total Energies

The implementation of the EU Listings Act should contribute to reducing unnecessary burdens on listing companies, and some Member States have taken additional measures to improve the situation[24]. While such initiatives may address some of the issues which companies face when listing, one of the fundamental reasons behind the underperformance and underdevelopment of EU capital markets remains the lack of liquidity resulting from:

- An absence of long-term pool of capital and,
- A fragmented market structure along national lines, implying the co-existence of several small pools of liquidity concentrated at national level.

Therefore, we strongly believe that the focus of policymakers in the next mandate should be addressing these structural issues.

A. Developing larger pools of long-term capital

i. Bringing retail savings to the EU capital market

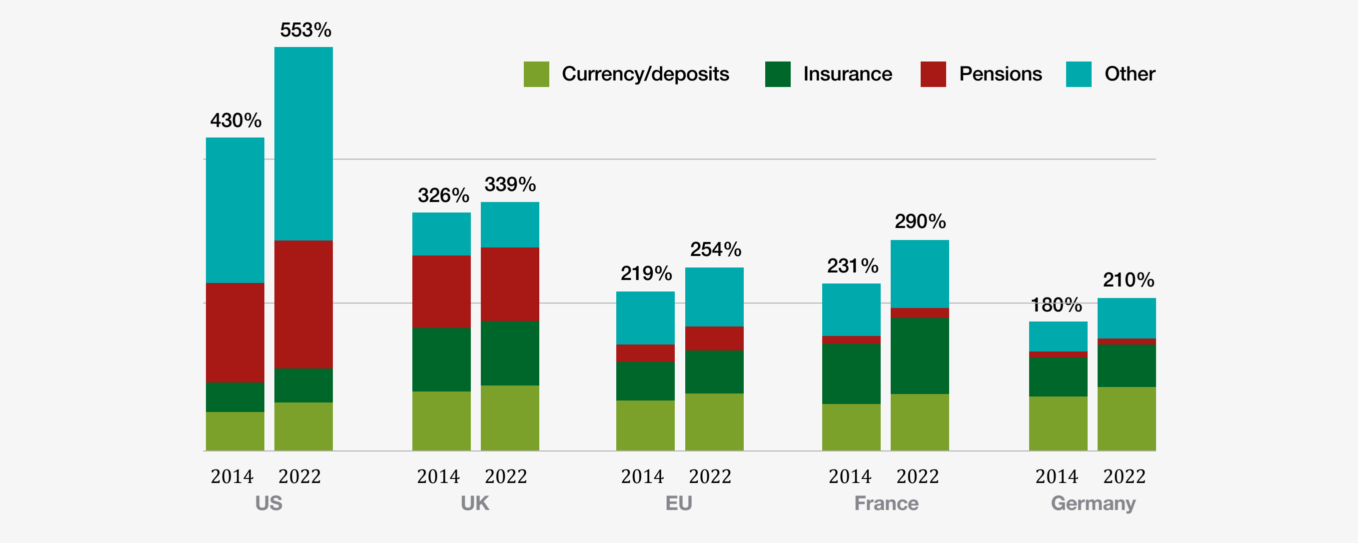
New efforts towards CMU must take account of best practice in Member States. One of the key lessons to draw from the notable dynamism of Sweden's capital markets is the role institutional investors play, particularly insurers and pension funds, in turning retail liquidity into long-term capital which can be invested in the domestic economy.

The size of US long term capital relative to GDP is more than twice as large as in the EU[25], whereas Europeans tend to have a much higher savings rate than Americans. This is mainly due to US pension funds being five times the size as in the EU, where three countries account for nearly two thirds of total EU's pension assets but only 12% of EU GDP. These figures illustrate the enormous potential of long-term capital should Member States follow a similar direction.

24 To encourage the listing of SMEs, member states could introduce tax breaks building upon the Italian "Bonus IPO" experience. Starting in 2018, Italy introduced the "Bonus IPO" measure for Italian SMEs listing on an Italian trading venue. The measure allows SMEs to benefit from a 50% tax credit on listing costs encompassing notably transaction, financial due diligence and listing fees. As a result, the total number of IPOs of SMEs in Italy exceeded, for example, those in France by 37% between 2018 and 2022 (source: Portzamparc based on Euronext Egrowth, comp. B& C)

25 New Financial Report, EU CAPITAL MARKETS: A NEW CALL TO ACTION.

Figure 4: **Size of pools of capital in % of GDP in the US, UK and in the EU**[26]



Source: ECB, ONS, OECD, Insurance Europe, EIOPA, New Financial

Bringing **retail savings to the EU capital market**, whether directly or indirectly, **must therefore be a priority**. To achieve scale, this would ideally involve a pan-European approach to savings and pensions, which will only occur under the clear leadership and commitment of heads of state and government. Importantly, increasing pension savings to complement state run systems will also provide extra support to maintain people's lifestyle and comfort in old age.

This is an area where we would suggest that as many Member States as possible move forward. **Auto-enrolment with opt-out options combined with attractive tax incentives are worth exploring at national level given the diversity of pension, labour and tax laws within the EU.** The success of the Swedish ISK account demonstrates that people may have appetite to invest in productive investments. 40% of the Swedish population have an ISK investment account, with total assets representing around 30% of Swedish GDP. The ISK combines a simple and efficient tax treatment offering a broad range of investment options to retail participants.

The Commission could also support Member States by conducting benchmarking exercises, sharing best practices and providing technical assistance. At EU level, it would be worth analysing the promising ideas put forward by Enrico Letta to create an EU Long-Term Savings Product and simplify and upgrade the Pan-European Personal Pension product.

The recent amendment to the Long-Term Equity Investment definition as part of the latest review of Solvency II's prudential framework is a positive step to spur on equity investments. However, level 2 legislation should be conceived to ensure insurers' actual ability to offer long-term products and to invest in long-term assets.

To support greater liquidity, **consideration should also be given to removing disincentives to investing in capital markets.** National financial transaction taxes that apply in some European countries inevitably impact the way investors choose to gain exposure to companies in these markets. These taxes have led to a decrease in trading volume, liquidity, and price efficiency, and an increase in volatility[27].

26 Cf. footnote above.

27 ECB Working Paper Series Financial transaction taxes, market composition, and liquidity, Jean-Edouard Colliard, Peter Hoffmann. February 2017

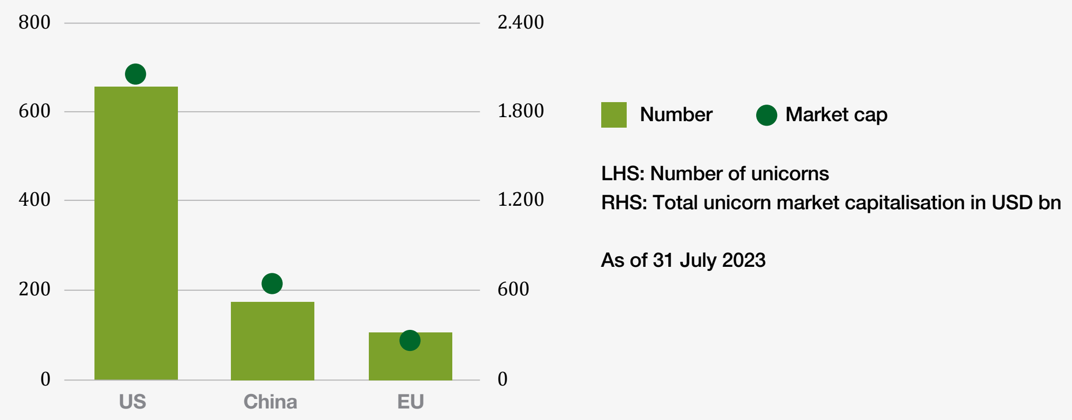
ii. Increasing the firepower of pre-IPO risk capital

EU venture capital is only 20% the size of the US VC. While risk capital in the EU as % of GDP was around 0.3% in 2022, Sweden stands out with 1.1%[28].

The large size of US VC funds is often the result of investment from large pension funds, insurance companies, large foundations or funds of funds. This creates an "oversupply of capital", which allow VCs to invest in more and/or riskier funds, which is not present in the EU.

The venture capital sector is however critical to support the success of the technologies of tomorrow which are necessary to decarbonise and digitalise our economy and which are being developed today with inherent uncertainty. Such risk capital caters for the financing needs of high-growth and disruptive startups, including in capital intensive sectors such deeptech and biotechnology[29]. Moreover, this is an example of an area where bank lending is not well suited to being the only financing solution as VC investors typically have a higher risk appetite and specific sectoral expertise.

Figure 5: **Number and market capitalisation of unicorns in US, China and EU**[30]



Sources: CB Insights, Deutsche Bank Research

The next mandate should be a renewed opportunity **to put in place the right incentives for risk capital.** With the support from the EIB Group, the Commission should promote additional initiatives to boost venture capital investments in scale-up companies. Scale-up companies could also be provided additional exit options through the development of a secondary market for VC investments, essentially a European venue for private companies[31].

We also expect the updated regulation on European Long-Term Investment Funds (ELTIF) to unlock further private equity investments as it offers more flexible investment rules that allow for co-investment and fund-of-funds strategies, as well as lower hurdles for retail investors.

In parallel, measures to enable banks to provide more financial support to entrepreneurial and fast-growing companies could also be considered. Policymakers could look at how banks can support further those companies, while maintaining the safeguards for financial stability. This may require for instance looking at the extent to which existing supervisory expectations, such as those set out in the ECB's leveraged lending guidelines, are appropriately calibrated with respect to banks' exposures to VC funds.

28 New Financial Report, EU CAPITAL MARKETS: A NEW CALL TO ACTION, page 26.

29 Olaf Scholz adds to calls for capital markets union to solve EU innovation woes, Science Business, 23 April 2024

30 Strong risk capital markets, Vital for unlocking green & digital innovation, DB research paper, January 2024

31 Similar to the Private Intermittent Securities and Capital Exchange System (PISCES, which is currently being designed in the UK).

iii. Understanding liquidity and removing trading restrictions

EU policy makers also need to develop a reliable understanding of what kind of liquidity is truly available within the EU's equity markets, and where this liquidity is. While efforts to address this situation are being made[32], they should be prioritised and accelerated. More specifically, we welcome the requirement for ESMA to assess the effectiveness of the consolidated tape for shares by no later than 30 June 2026. Consideration should be given to introducing additional features to the pre-trade tape, particularly to include five levels of depth of the order book so that market participants and investors are provided with a deeper view on available liquidity.

Moreover, without further actions, unjustified restrictions on certain types of trading may continue to prevail[33]. This can perversely result in less rather than better investor choice and will continue to render EU markets relatively unattractive to capital, both domestically and internationally.

The EU is currently a global outlier in this respect. It is the only jurisdiction in the world to impose hard limits on trading mechanisms which provide valuable choice to equity investors, aiding best execution for institutional investors and the retail investors they act on behalf of.

While some helpful adjustments have been made in the recent MiFIR review, hard limits still remain in place. Instead of these hard limits, an approach whereby EU supervisors would monitor healthy price formation, on the basis of reliable data of where trading is taking place, and intervene if deemed necessary, would be preferable.

B. Enhancing competition and efficiencies of the post-trade market infrastructure landscape

The EU's capital markets remain fragmented along national lines. As noted above, this fragmentation leads to smaller pools of liquidity, represents additional costs for investors and impedes the scaling up and integration of EU capital markets, impacting the attractiveness of the EU as a whole.

As stressed by ECB President Lagarde, 'while the European equity market is less than half the size of the US equity market, it has three times as many exchange groups. And there are roughly 20 times as many post-trade infrastructure providers.'[34]

This **situation is unique across the world.** No other jurisdiction has as many exchanges, central counterparties (CCPs) and central securities depositories (CSDs) as the EU.

Reform of the settlement market infrastructure is essential to improving the competitiveness and attractiveness of EU capital markets to both issuers and investors.

Settlement infrastructure is a fundamental element of well-functioning capital markets. It can be compared to the rails of a railway providing the means to safely "transport" assets between two end points. Over time, securities markets have increased in scale and complexity, and the pressure on these rails has increased accordingly. The volume of transactions processed by European CSDs continues to increase, the time window between trading and settlement may soon be further reduced and there is growing regulatory scrutiny on settlement fails[35].

Although current systems and processes have adapted to this changing landscape, there is scope to remove structural barriers in the post trade environment to support the broader development of EU securities markets and reduce costs for the end users – both issuers and investors.

32 RTS 1 equity transparency under the Markets in Financial Instruments Regulation (MiFIR).

33 Specifically, the share trading obligation and the volume cap mechanism.

34 Speech by Christine Lagarde, President of the ECB, at the European Banking Congress Frankfurt am Main, 17 November 2023

35 Improving the Settlement Efficiency Landscape in Europe – AFME, 31 October 2023

I. Increase market liquidity

There are currently 27 central securities depositories (CSDs)[36] authorised to provide services in the EU. For market participants wanting to access all EU securities markets, this cost and complexity manifests itself across several dimensions:

- Firstly, there is a **direct cost of connecting to multiple infrastructures**, either directly or through a settlement intermediary. This is exacerbated by a lack of harmonisation in processes and functionalities of the different CSDs.

- Secondly, **market participants' assets are split across multiple platforms**, which is highly inefficient from a liquidity management and financing perspective. It is still not possible to use a single securities account for all market activities. The probability of settlement fails also increases when counterparties hold securities in different CSDs. Target 2 Securities (T2S)[37], while providing a common settlement layer, does not really allow for pan-European issuance, where issuers and investors can access one common capital market with deep liquidity at low cost.

- Thirdly, **inefficiencies of post trade processes and operations** drive high frictional costs. There is no harmonisation of CSD operating times – which presents challenges for cross-border investments – and not all CSDs offer fully harmonised partial settlement functionalities.

- Finally, while the EU post-trade infrastructure is largely in the hands of a few CSD groups (Euroclear, Clearstream and Euronext), this relatively concentrated ownership structure does not necessarily lead to market efficiencies or effective price competition[38] for either issuance or settlement services. The various CSDs, both those belonging to these large groups, as well as others, retain heterogenous pricing approaches with a lack of transparency and comparability regarding their fee schedules. There is no real market wide competition between CSDs which would otherwise create price compression, enable user choice and generate innovation.

This fragmentation materially increases costs for issuers and investors seeking to access EU capital markets. There is a need for major change in the European post-trade environment to create the conditions for true competition and foster integration of CSDs. Short to medium-term objectives should focus on consolidating the EU post-trade single rulebook and creating highly standardised operational processes, whilst giving further consideration to a longer-term more fundamental restructuring of the post trade environment.

It is notable that US securities market is serviced by two CSDs (DTCC and Fedwire Securities). These CSDs are set up as market-owned utilities for the benefit of all participants, who have access to a low cost infrastructure service. There is a single rulebook, tariff, and operating procedure, and market innovations can typically be delivered on a shorter timeline. The current EU model, with multiple commercially-owned providers of the same core CSD services, has all the drawbacks that come with such market fragmentation, but none of the benefits – because there is no true competition between the CSDs.

> **"There is a need for major change in the European post-trade environment to create the conditions for true competition and foster integration of CSDs"**

36 ESMA CSD Register

37 T2S is a platform on which securities and cash can be transferred between investors across Europe using harmonised rules and practices. 24 CSDs from 23 European countries are connected to T2S. In addition to the Euro, only the Danish krone is available for settlement on T2S.

38 The report by former French Central Bank Governor Christian Noyer on capital markets also illustrates the existing high levels and variability of settlement costs across EU markets.

To address these issues, we believe that three main objectives should be pursued:

i. Facilitate true competition between CSDs

- By conducting a detailed qualitative assessment of the current post-trade landscape, and taking action to improve the transparency and comparability of costs for post-trade services. Barriers to new entrants should also be addressed through changes to CSDR.

- By engendering true freedom of issuance[39], an essential condition for competition between CSDs. Authorities should also remove impediments to the adoption of new technologies such as DLT which may allow core CSD functions to be performed by a broader range of regulated financial institutions, in addition to CSDs. According to a recent report[40], DLT-based settlement has the potential to act as an additional, complementary channel alongside existing infrastructure by providing more flexible settlement options and increase capital efficiencies.

ii. Support a functional harmonisation of operational processes

- By removing derogations which exempt certain CSDs from the obligation to offer partial settlement and hold and release functionality and promoting more real-time settlement.

- By improving the quality of available data (granularity, reliability, standardised) and making data related to settlement fails publicly available.

- By addressing undue settlement restrictions (such as the location of settlement being restricted by issuers or CCPs).

The expansion of Target 2 Securities would also deliver greater standardisation of operational processes. The ambition should be to have all CSDs and currencies of the EU joining T2S and consider enhancing T2S functionalities to cover additional core operational processes such as market claims and transformations. This will foster a real single market for securities settlement and contribute to achieving greater integration of Europe's financial market.

iii. Harmonise further the Regulatory Frameworks

- **The Shareholder Rights Directive (SRD):** It should become a Regulation to ensure harmonised application across countries. A common shareholder identification process and a pan-European definition of a shareholder for all European securities should be part of this ambition. Non-harmonisation causes a series of practical issues, especially for common investment funds and taxes (e.g., who has the right to vote). The lack of legal certainty reduces capital markets attractiveness and incentivises the use of non-EU law.

- **Withholding Tax Procedures:** Existing operational challenges in collecting withholding taxes and processing Double Tax Treaty refunds should be addressed. The recently adopted EU FASTER proposal is a positive first step in harmonizing withholding tax procedures and minimizing complexities and associated costs. However, there are further opportunities for simplification and harmonisation, for example through a clear and common definition of beneficial ownership.

- **Insolvency law***:* National procedures for determining the insolvency of financial sector counterparties should be harmonised to safeguard the viability of payment, clearing, and settlement systems of market participants. Likewise, rules determining the ranking of claims, and the treatment of shareholder-like positions or loan participations in the event of an insolvency, should be made consistent across jurisdictions.

- **Settlement finality directive:** We suggest extending the scope of application of the protections offered by the settlement finality directive, to convert the Directive into a Regulation, and to upgrade it to cope with technological innovation (i.e. increasing adoption of DLT, smart contracts, and asset tokenisation).

39 For instance, local regulatory requirements and key benchmark issuers (such as debt management offices) may privilege issuances through their local domestic CSD.

40 Impact of Distributed Ledger Technology in Global Capital Markets, 17 May 2023.

I. Increase market liquidity

Building on existing work in this domain[41], we invite the European Commission to create an expert group composed of relevant industry representatives and authorities to operationalise all the above proposals. Its objective would be to identify the relevant steps and establish priorities to truly increase interoperability, the competitive landscape and decrease settlement costs.

Figure 6: **Timeline for recommendations**

	Achieving functional harmonisation	Delivering common EU legal framework	Competition enablers
Short term	Improvement and harmonisation of CSD functionalities.	Review SRD to harmonise asset servicing processes. Amendments to the CSDR (e.g. partial settlement and hold and release functionality and promoting more real-time settlement) Update the settlement finality directive (e.g. extend its scope and make it digitally ready).	Detailed qualitative assessment of the current post-trade landscape, and action to improve the transparency and comparability of costs for post-trade services
Medium term	Expand T2S to all CSDs and currencies of the EU to enhance netting and pooling of securities across markets	Harmonisation of insolvency laws	Changes to CSDR (e.g. to address undue settlement restrictions, remove barriers to new entrants and unbundle core and ancillary services[42]). Measures to increase transparency and comparability of CSD costs.
Long term	Conduct a study to analysis advantages and disadvantages of evolving T2S into a fully-fledged CSD.	Further harmonisation of withholding tax procedures	Analysis of potential actions to facilitate true freedom of issuance.

41 Giovannini reports; Report of the European Post Trade Forum (EPTF)

42 This would allow for the performance of CSD core services (maintenance of securities accounts, and settlement) at functional level by different actors.

AFME recommendations: increase market liquidity

Develop larger pools of capital

By bringing retail savings to the EU capital market

- Encourage Member States to develop pensions savings, for instance by promoting auto-enrolment with opt-out options combined with tax incentives.
- Move forward with an EU Long-Term Savings Product and of an improved version of the Pan-European Personal Pension product.

By increasing the fire power of pre-IPO risk capital

- Build up public/private partnerships to promote additional initiatives to finance innovative, high-growth companies.
- Explore the feasibility of a potential European venue for private companies.
- Consider whether supervisory guidance for banks is having a negative impact on banks' funding of VC funds.

Enhancing competition and efficiencies of the post-trade market infrastructure landscape

By facilitating true competition – removing barriers to new entrants and engendering true freedom of issuance

By supporting a functional harmonisation of operational processes – removing certain derogations to offer new functionalities, improving the quality of available data, addressing undue settlement restrictions and improving and expanding T2S functionalities

By further harmonising rules, transforming directives into regulations and in particular:

- Shareholder Rights Directive – introduce single definition of shareholder
- Central Securities Depositories Regulation – introduce an obligation to offer partial settlement and hold and release functionality and promote more real-time settlement.
- Settlement Finality Directive – extend its scope of application to a broader set of participants and activities.

II. Recalibrate the securitisation framework

Following the financial crisis of 2007-2008, securitisation has carried a stigma in Europe which has led to regulators and legislators ultimately adopting an overly conservative approach through successive tightening of the regulatory framework applicable to the product.

Almost 20 years later, it is positive that policymakers have come to recognise the valuable role securitisation can play in financing growth and making Europe more competitive. This support is evidenced in the recent work of the Eurogroup in its inclusive format, has been endorsed by EU leaders and echoed by the ECB Governing Council as well as the reports of Enrico Letta and Christian Noyer.

All these initiatives stress the **benefits of securitisation as a bridge between bank and capital markets-based funding** and as a **tool offering unique investment opportunities for investors** while contributing to additional bank financing capacity.

A. Securitisation, a critical tool to serve the financing needs of EU corporates

A dynamic securitisation market can indeed make a decisive contribution to support EU growth and is essential to progress the CMU.

For banks, it enables them to obtain liquidity and to transfer credit risk to third parties allowing them to claim capital relief when certain strict criteria are met. This capital can then be mobilised to grant new loans to companies and households. Therefore, securitisation augments banks' financing capacity. This is key given that bank lending will, for the foreseeable future, remain the main financing channel in Europe to meet the EU's ambition to develop a green and digital economy.

For investors, it offers unique investment opportunities in terms of exposure type tailored to their appetites on the risk/reward spectrum. Investors can gain exposure to sectors of the economy that can otherwise be challenging to finance directly, such as SME and consumer lending as well as infrastructure finance and can be highly selective as to the level of risk they want to be exposed to.

The present, reinforced, European securitisation framework has certainly helped to rebuild trust and set the foundations of a more sound and resilient market. At the same time, whereas EU securitisation has continuously performed well in terms of very low default rates, it has become underdeveloped in Europe compared to other jurisdictions. This undermines European competitiveness and banks' ability to expand their financing capabilities and their capacity to meet the massive investment needs of the future.

Figure 7: **One year default average, US – EU issuances since 1973**

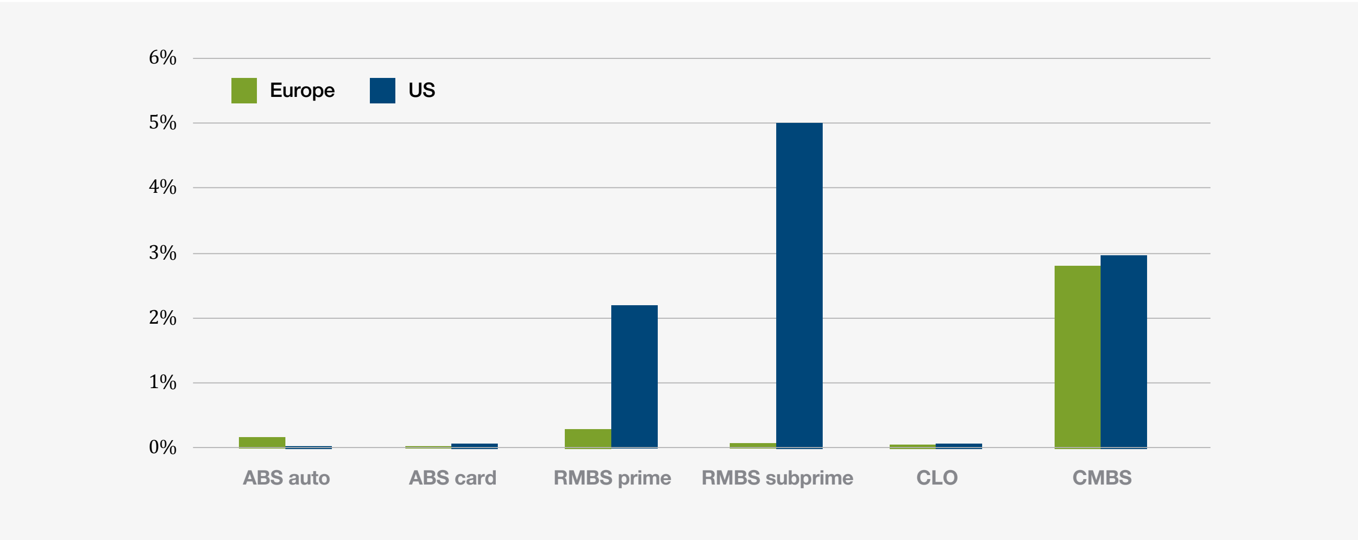
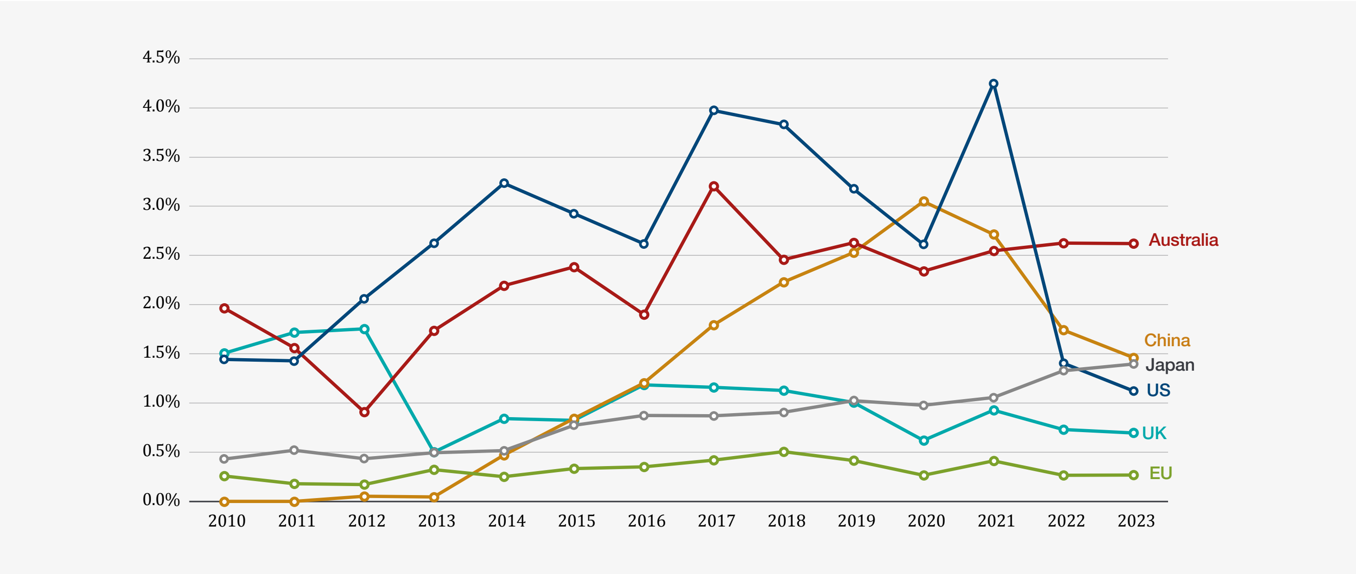


Figure 8: **Publicly placed securitisation as % of GDP**[43]



In order to give force to the European Council's call for relaunching the European securitisation market, it will be necessary for the Commission and co-legislators to consider and agree on an **immediate set of measures**, without prejudice to a potential comprehensive review to be considered in the longer term. The package of five policy priorities outlined below[44] are designed to address the request made by the Eurogroup to the European Commission to 'comprehensively assess all the supply and demand factors holding back the development of the securitisation market in the EU'.

B. Increasing risk sensitivity within the bank prudential framework

Banks use securitisation to transfer risk and release regulatory capital through so-called significant risk transfer (SRT) securitisations. In doing so, banks transfer the risk of their underlying loans portfolio from their balance sheets to investors and gain capacity to provide additional financing.

Over the past decade, use of SRT has conservatively transferred over EUR600bn[45] notional of risk from EU banks' balance sheets and released over EUR20bn of regulatory capital. Following the current trend of issuance, by 2030, SRT has the potential to free up an additional amount of more than EUR60bn of bank capital[46].

Whilst this has been an important capital contribution tool for banks to date**, the potential is significantly greater.** The percentage of portfolios referenced via SRT makes up less than 5% of EU banks' eligible balance sheets.[47] Moreover, 90% of SRT issuance has been originated by banks using IRB models. IRB lending however constitutes only 60% of total bank lending.

With appropriate changes to prudential calibration for standardised and IRB banks, it is not inconceivable that by 2030, both types of lenders could be releasing over 6bn and 3bn of capital per year respectively[48], to be redeployed in more than EUR200bln of additional lending per annum. More specifically, adjustments to the 'p' factor and risk weight floors in banks' prudential requirements will result in a more risk-sensitive approach unlocking the supply side of the securitisation market.

43 AFME Response to the FSB invitation for feedback on the effects of the G20 reforms on securitisation 22 September 2023

44 This package of measures is further detailed in the AFME's dedicated position paper on securitisation. You can find it here.

45 Occasional Paper Series No 23,The European significant risk transfer securitisation market, by Fernando Gonzalez & Cristina Morar Triandafil

46 Assumption: steady state growth of 5%YoY from 2025, Average RWA density @60%, 80% release

47 Occasional Paper Series No 23,The European significant risk transfer securitisation market, by Fernando Gonzalez & Cristina Morar Triandafil.

48 Assumption: steady state growth of 5%YoY from 2025, Average RWA density @60%, 80% release

C. Reviving the demand from the insurance and banking sectors

To relaunch the securitisation market, it is also **necessary to address the demand side**. Investors in traditional securitisation (or true sale) cover a wide range of market participants such as insurers and banks.

Securitisation issuance per annum in non-European G20 member states that have active securitisation markets ranges from 1.5% to 4% of Gross Domestic Product (GDP). EU issuance sits around levels less than 0.5%.

The main reasons behind the collapse of traditional securitisation have been the current calibrations of prudential frameworks for insurers and banks[49] set at levels that discouraged previously important market segments due to penalizing regulatory charges and the emergence of alternative funding channels to meet the financing gap left, in particular covered bonds.

Bank and insurance investors that previously constituted up to 40 to 60% of the investment grade public asset backed securities (ABS) investor base will not return until prudential capital frameworks are proportionate:

- For insurers, it means taking advantage of the mandate under the Solvency II delegated act to adjust the capital calibration of the risk-weights associated with their securitisation investments.
- For banks, it requires an adjustment to the treatment of securitisation within the Liquidity Coverage Ratio (LCR). The LCR ratio measures a bank's short term liquidity risk profile and ensures that the bank can meet its liquidity needs for a 30-day hypothetical financial stress scenario. One of the key findings of a recent survey conducted by AFME on the relationship between LCR and securitisation[50] concluded that the reduced appetite for securitisation for LCR purposes is predominantly due to regulatory constraints, such as haircut levels, eligibility criteria and limited eligible asset availability.

D. Applying greater proportionality to due diligence, reporting and STS requirements

i. Due diligence obligations

The EU securitisation regulation (SECR) imposes due-diligence requirements on investors and reporting obligations upon on originators. Disclosing the necessary information for originators to assess the different parameters of the transaction and conducting a due diligence for investors is part of the routine of a securitisation transaction. However, the requirements as set out in the current SECR appear disproportionate and ill-suited to certain transaction, specifically private securitisations.

AFME has identified in a recent publication[51] due-diligence obligations that create confusion, impose duplicative obligations across multiple parties, inhibit investment in practice and generally impose disproportionate obligations upon investors. In doing so, they have unnecessarily inhibited investment in the product. We therefore believe that a more proportionate approach should be adopted which provides the necessary legal clarity and certainty to investors, while taking their actual needs and own expertise into account.

ii. Reporting requirements

The SECR imposes extensive reporting requirements on originators. ESMA recently published a consultation on disclosure requirements under Article 7 of the SECR. The AFME response highlights key issues and proposes solutions to address them.[52]

49 Solvency II and Capital Requirements Regulation respectively

50 AFME LCR Survey in relation to Securitisation, 4 June 2024.

51 Article 5 Issues Report: Due-diligence requirements for institutional investors under Article 5 SECR | AFME

52 AFME response to the ESMA consultation of December 2023 on the review of SECR Article 7 templates

II. Recalibrate the securitisation framework

Today, while market participants comply with Article 7, in practice they rely on other, tailored reporting adapted to the specificities of the transactions. Moreover, the Commission's analysis in its report on the SECR in 2022[53] concerning the interaction between reporting obligations and with Article 5(1)(e)[54] means that EU institutional investors must obtain the full set of information set out in Article 7. Concretely, this prevents them from investing in most third-country securitisations, impacting investors' capacity from benefiting from global diversification.[55]

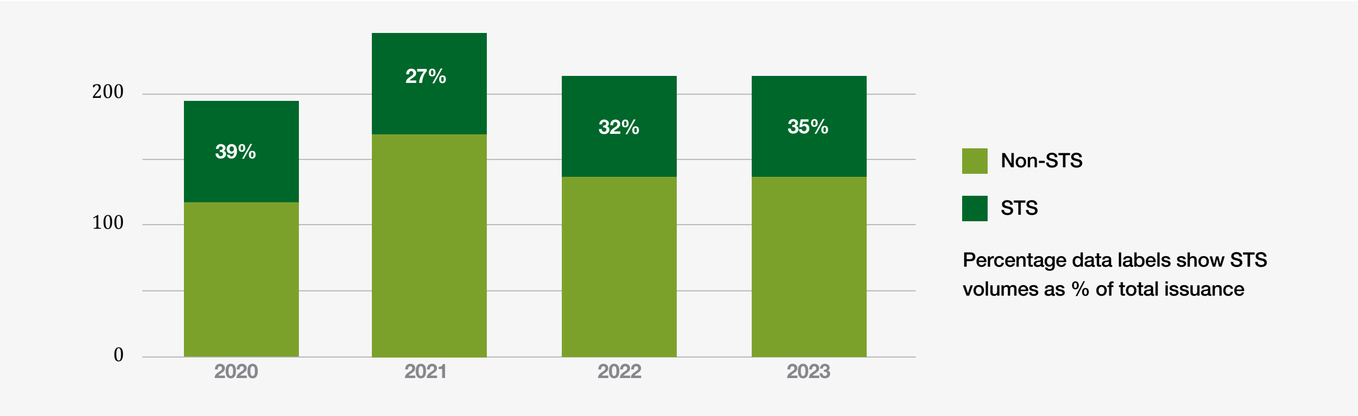
It is therefore needed to reconsider the extent of disclosure requirements based on the needs of market participants by:

- Removing the burdensome regulatory reporting on private securitisations and introducing a dedicated template addressing supervisors' needs, thus also removing compliance challenges faced by the EU investors when seeking to invest in third country securitisations. This would be in line with the Commission's recommendation in its SECR report to 'draw up a dedicated template for private securitisation transactions that is tailored particularly to supervisors' need'[56].
- Introducing targeted changes to such disclosure templates – for example, by replacing unnecessary loan-by-loan reporting for certain highly granular and revolving asset classes, such as credit card receivables and by making certain other targeted improvements that take into account previous industry feedback to ESMA on the field-by-field review of the reporting templates.

iii. STS requirements

In the post financial crisis context, co-legislators decided to introduce a 'premium' securitisation category known as simple, transparent and standardised or STS transactions. For investors, this label should give more comfort knowing that the securitisation has been rigorously examined to meet the STS criteria. However, data show that the STS has not been embraced by the market and it represents on average only around 33% of total of securitisation volume.

Figure 9: **STS and non-STS securitisation issuance (EUR bn)**



53 Report from the Commission to the European parliament and the Council on the functioning of the Securitisation Regulation, 10 October 2022

54 Article 5(1)(e) of Securitisation Regulation: the originator, sponsor or SSPE has, where applicable, made available the information required by Article 7 in accordance with the frequency and modalities provided for in that Article – Securitisation Regulation

55 In this context, third-country securitisations refer to the situation when one of the parties to the transaction is not located in the EU.

56 Report from the Commission to the European parliament and the Council on the functioning of the Securitisation Regulation, 10 October 2022, p.12.

In our view, this is the result of the complexity of the label that should be seen holistically in combination with disclosure obligations of Article 7 of the SECR which apply to all securitisations. STS criteria act as add-on to existing extensive obligations under Article 7 for originators and Article 5 for investors.

This complexity creates a need for additional compliance systems, which contribute to make the label unattractive. We therefore believe that STS criteria should be simplified and reduced so that sell-side entities could follow a more efficient process when checking for asset eligibility and buy-side entities could more efficiently comply with the criteria

AFME recommendations: recalibrate the securitisation framework

By increasing risk sensitivity within the bank prudential framework

- Adjust the ‘p’ factor and risk weight floors in banks’ prudential requirements.

By improving the treatment of securitisation under the liquidity coverage ratio

- Broaden eligibility criteria to cover not only STS but also non-STS transactions.
- Refine the definition and calibration of high-quality liquid assets to better reflect securitisation liquidity profile.

By adjusting the prudential treatment of securitisation for insurance companies

- Recalibrate the treatment of STS non-senior tranches, non-STS senior and non-senior tranches.

By introducing more proportionality for due diligence and reporting requirements

By simplifying the STS criteria

III. Modernise the regulatory and supervisory ecosystem

A more globally competitive European capital market also needs a more agile regulatory and supervisory architecture. From our perspective, several structural issues impact the efficient functioning of the European Supervisory Authorities. If these are addressed, they could usefully pave the way to more integrated supervision of EU capital markets.

A. Upgrading ESAs' governance and powers - necessary reforms to pave the way for integrated EU supervision

AFME's perspective is that – on balance – single supervision for EU trading and post trading infrastructures and possibly conduct supervision would be a **positive development** as it would inevitably contribute to reducing cross-border frictions and be an enabling factor to apply the single capital market rulebook in a consistent manner. Elevating supervisory powers to the EU level should lead to clear and tangible efficiency benefits for supervised entities together with more effective market supervision overall. EU level supervision will only bring value to better functioning capital markets if the ESAs' frameworks – including incorporating a secondary competitiveness objective in their mandate – are adapted as outlined below.

A first stage towards a form of EU supervision would be to consolidate relevant, high-quality **supervisory and market data at EU level**. This has the potential to deliver efficiency gains to supervisors and market participants, provided there is no duplication of reporting. Consolidation of supervisory reporting and market data would offer supervisors an EU wide view of the market and emerging risks, enabling them to apply the regulatory framework more effectively. We believe that that there are merits in exploring further the proposals along these lines from the Eurogroup[57] and Dutch market authority[58].

i. A new approach to competitiveness

The role of the ESAs should remain primarily to 'protect the public interest by contributing to the short-, medium- and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses.'[59]

However, as in other major jurisdictions, the EU should consider incorporating the objective of competitiveness in the mandate of the ESAs as a secondary objective to its regulatory function. This new objective would serve as an effective measure to ensure the ESAs take into account the international competitiveness of the economy of the EU and its growth when developing level 2 legislation and guidelines. In practical terms, a first step to operationalise this competitiveness dimension would be for the ESAs to consistently carry out impact assessments which would include an analysis of whether and how their draft regulatory products and guidelines impact the international competitiveness of the EU and its economic growth. This analysis could then be subject to review by an independent body which would opine on the approach taken.

ii. Streamlining the ESAs' governance structure

Today, the Board of the Supervisors (BoS) of the ESAs approves all regulatory or implementing technical standards, guidelines and other decisions. The current configuration of the BoS, where the 27 national competent authorities sit and vote, does not necessarily provide the safeguards necessary to ensure that the overall EU interest prevails. This is an issue at a time when scaling up and integrating the EU's capital markets are at the core of current policy considerations.

It therefore appears necessary to rethink the ESAs' governance arrangements to bring to life a truly single market for capital across the EU. More specifically, decision making responsibility should be allocated to a newly created executive committee, operating as follow:

- The executive committee would be responsible for approving ESAs' regulatory products, including regulatory and implementing technical standards and guidelines.

57 Cf. footnote 6 - Statement of the Eurogroup in inclusive format on the future of Capital Markets Union, 11 March 2024.

58 AFM Position Paper on data centralisation, 25 March 2024

59 REGULATION (EU) No 1095/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC

- The executive committee would be composed of the respective ESA Chair, its executive director and a limited number of independent full-time members.
- It would take decision via non-objection procedure, that is to say, if the BoS does not object within a defined period of time, the decision would be deemed adopted.
- To oppose a decision of the executive committee, the voting arrangements of the BoS should be based on those existing when the Council takes its decisions by qualified majority. For the EBA, specific arrangements should take into account the role of the ECB/SSM.

iii. Improving the effectiveness of forbearance powers

Since 1 January 2020, the ESAs have had the power to issue what are commonly described as no-action letters. However, these powers do not compare to those in other jurisdictions where regulatory authorities have much greater agility[60]. It is therefore urgent to establish a level playing field. The ESAs and EU supervisors should be allowed to refrain from enforcing a rule should it be objectively justified.

The lack of such flexibility leads to uncertainty costs for firms and undermines trust in the regulatory system[61]. Efficient capital markets need predictability to be able to serve their clients in the best way possible and compete effectively on global markets. With a wide range of regulatory reviews having been completed over recent years and now requiring implementation, which entails a producing a significant suite of level 2 and level 3 products by the ESAs, the ability to introduce temporary no action relief is also likely to be helpful in enabling smooth regulatory implementation.

Different options may be considered to introduce more effective forbearance tools in the field of EU financial services law. The proposals below are not mutually exclusive.

First, the current forbearance powers of ESAs[62] may be enhanced by reforming the existing no-action letter mechanism with the view to (i) broadening the cases where a no-action letter can be issued, and (ii) ensuring that such no-action letters acquire a more binding effect compared to the non-legally binding status that they currently have. It should be possible for one or more NCAs to request that such forbearance be exercised.

Second, the Commission could be granted new powers, under certain conditions, to suspend certain EU requirements of EU financial services law. While limited to a specific area of financial market infrastructure regulation, the Derivatives Trading Obligation suspension mechanism that exists under the MIFIR Refit[63], in the hands of the Commission, could serve as a useful precedent in this regard. A more comprehensive mechanism for the suspension of EU regulatory requirements could be generalised through a new level 1 legislative act (a Regulation) establishing a framework for the use of a forbearance tool. This framework Regulation would empower the Commission to adopt delegated acts, allowing it to suspend certain requirements (for instance in response to market developments, or to address competitiveness issues) upon recommendation of one of the ESAs. The suspension should be for a limited period, pending adoption of new legislation to fix the issue and subject to a relatively short non-objection period (e.g. 2-3 weeks) by the co-legislators, renewable once.

60 Articles 9a of ESMA and EIOPA Regulations; Article 9c of EBA Regulation. Unlike the then proposal of the Parliament for ‘a temporary commitment by the Authority and all relevant competent authorities not to enforce financial institution’s non-compliance with specific provisions of Union law’, the current articles limit ESAs to issuing opinions to the Commission for consideration including to amend EU legislation.

61 For example, the ESAs published a no action letter on 23 December 2023 relating to the exemption from bilateral margining for equity options while the exemption was due to expire on 4 January 2024.

62 The ‘Meroni’ doctrine (and here) and the 2014 judgment ‘UK v Parliament and Council’ set the boundaries as to what extent and under which conditions EU institutions may delegate power to regulatory agencies.

63 Article 32a of REGULATION (EU) No 600/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012

B. A broader reflection on regulatory agility

The EU should initiate a reflection on its regulatory approach for financial services, in particular the interaction between levels 1 and 2. The current length and complexity of the EU legislative process is often a source of inefficiency. The objective should be to ease regulatory burdens through better designed rules and reviews of legislative texts based on clearly identified needs, unlike the current semi-automaticity at present (e.g. where legislative reviews tend to be mandated every three years).

In particular, the EU needs to enhance its rule-making agility in wholesale capital markets. This can be a powerful way to increase the attractiveness and competitiveness of EU capital markets. To achieve this, greater discipline needs to be exercised, so that co-legislators set out the general principles in legislation but refrain from hardcoding details. Instead, they should frame appropriate delegations whereby regulatory authorities are given responsibility to determine the substance of rules.

In full respect of the EU Treaties, the ESAs (ESMA in this case) should be charged with calibrating detailed rules based on robust data and be held accountable to the co-legislators for their decisions on that basis. This would allow the rule-making framework to adjust more rapidly to changing market conditions in a manner more comparable to rule-making for markets in other jurisdictions.

In this system, level 2 regulators would be able to intervene to make adjustments as market conditions (and the equivalent data) change and markets would not be dependent on opportunities to revise level 1 texts to ensure that the regulatory framework is appropriately calibrated. This has the potential to be a decisive factor to improve the competitiveness of EU markets.

The Parliament and the Council would retain the ability to object to delegated acts and lawmakers as well as all stakeholders would be better positioned to critically assess the underpinning reasoning of the level 2 measures proposed. Indeed, such approach can only be conceived if further delegation goes with a robust evidence-based policy supported by high data quality and standards as noted above.

This approach, however, **goes hand in hand with the reforms described above related to the objective of competitiveness and ESAs' governance and powers. They form the necessary foundations to move towards a more agile regulatory paradigm.** This will also likely imply giving greater resources to those authorities.

"The EU needs to enhance its rule-making agility in wholesale capital markets. This can be a powerful way to increase the attractiveness and competitiveness of EU capital markets."

AFME recommendations: modernise the regulatory and supervisory ecosystem

Upgrade ESAs' role as a means to pave the way for integrated EU supervision

By adopting a new approach to competitiveness

- Incorporate as a secondary objective the competitiveness mandate for the ESAs including the establishment of an impact assessment body to provide an independent evaluation of the technical standards to take into account the competitiveness dimension.

By streamlining the ESAs' governance structure

- Consider creating an executive committee as main decision-making body, composed of the respective ESA Chair, its executive director and a limited number of independent full-time members.

By improving the efficiency of forbearance powers

- Leverage Article 9a of the ESAs' Regulation on 'no action letters' to enhance their legal force.

- Delegate powers to the Commission whereby, on advice of the ESAs, they can react swiftly to market developments to propose regulatory change, subject to co-legislator scrutiny.

A broader reflection on regulatory agility

By aiming at a more principles-based level 1 approach

By ensuring the development of technical standards is data driven.

Notes

Notes

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July 2024

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