FESE non-paper on MISP supervisory transition

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The Federation of European Securities Exchanges (FESE) considers that the transition to any revised supervisory model should be operationally workable, clearly defined and limited in time. It should provide a credible pathway towards the intended end state, while avoiding prolonged dual supervision, institutional overlap, additional complexity or unnecessary costs for market participants.

A limited transition period with a phased approach and clear safeguards

The transition period should enable ESMA to build the necessary expertise, resources and processes to assume its responsibilities effectively. However, this period should be proportionate and as short as possible, since an excessively long transition period risks creating a de facto permanent hybrid model, with increased costs and complexity for market participants.

FESE therefore encourages defining clear transition timelines and with a clear maximum time limit, ideally not exceeding twelve months from the MISP Regulation's entry into force. This would provide sufficient time for ESMA to build necessary supervisory capacity. During the transition, ESMA shall assume direct supervisory responsibility, however, should initially rely on the support of the NCAs in the execution of its supervisory responsibilities. Such cooperation arrangements between ESMA and the NCAs should be concluded for a limited and defined period of time and should be conceived as transitional mechanisms to support the progressive development of the Authority's supervisory capacities.

Clear allocation of responsibilities to avoid dual supervision and costs

The respective roles of ESMA and NCAs during the transition should be clearly defined in the Level 1 framework and for each stage of the transition. Responsibilities should be clearly attributed to a single authority wherever possible, particularly where supervisory functions are closely interlinked. Any ambiguity in the allocation of supervisory tasks risks creating gaps in oversight, inconsistent outcomes, and additional burdens or parallel requirements for supervised entities due to de facto dual supervision. This would undermine the objective of creating a more efficient and coherent supervisory architecture. Transitional structures should remain transparent, proportionate time/limited and directly linked to the supervisory tasks performed.

Cooperation between ESMA and NCAs may be necessary during the transition, but it should be structured, transparent and directly linked to the objective of enabling ESMA to progressively build supervisory capacity. It should not create overlapping mandates or institutional arrangements that entrench dual supervision. Importantly, other than ESMA and the existing NCA, no further additional authorities should be involved in the transitioning of the supervised entity to ESMA level. Furthermore, the cooperation between ESMA and the respective NCAs should be designed uniformly across member states in order to ensure a level playing field for supervised entities.

FESE also believes that, for entities brought within ESMA direct supervision under MISP, the end state should be clear: ESMA should be the sole supervisor. Decision-making powers and supervisory responsibilities should not be shared between ESMA and NCAs once the transition is completed. A reform of the current supervisory framework only makes sense if it leads to a more effective and efficient system, rather than increasing the number of authorities involved, slowing down supervisory decisions or adding costs for supervised entities.

Conclusion

FESE calls for a transition framework that provides a clear and credible pathway towards a more efficient supervisory architecture.

The transition should be limited in time, and ensure a clear allocation of responsibility to ESMA, while NCAs provide support in the execution. It should not result in prolonged institutional overlap or additional operational complexity for market participants. Once the transition is completed, ESMA should act as the direct and sole supervisor for those entities designated for ESMA direct supervision.