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“EMIR 3.0: Enhancing EU Clearing Framework for Financial Stability and Global Competitiveness”

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Thank you, FIA, for inviting me to give this speech and organizing today’s event. And thank you Walt for setting the scene with your fascinating memory from the 9th of May in Washington.

Fifteen years ago, the financial crisis brought the derivatives market to the spotlight - highlighting the important role that these financial instruments play in the economy. I also hope you would agree with me that the expansion of central clearing, following the lessons learned from the 2008 crisis, and the regulatory framework we have established has made the financial system more stable and resilient. But regulating frameworks age and they need to be updated to be fit for purpose.

We are nearly six years after the end of the negotiations on EMIR 2, and we see that the withdrawal of the UK, the global pandemic, and the war and energy crisis have impacted the EU clearing ecosystem. The review we are discussing today provides an opportunity to reassess post-trade market infrastructures and ensure they form a solid foundation for a healthy CMU.

This is what EMIR 3.0 is about. We aim at ensuring that the EU clearing framework is adequate for the reality of today’s and tomorrow’s financial markets. We want it safe, robust and competitive. And we all know how much Europe needs deep pools of liquidity and a well-functioning Capital Markets Union (CMU) that will help channel capital where it is most needed.

We need private capital to complement public funding as we pivot to a different world, financing the green and digital transitions and leaving behind the high-inflation, low-growth economic environment. Significant and efficient private sector financing is fundamental for the EU to stay globally competitive, strengthen the international role of the euro, and increase the EU's presence on the global stage. This is why we need to look at the EMIR review as part of a broader reflection on the future of EU financial services based on openness and resilient efficiency. These reflections are even more timely today, as the post-Brexit world is starting to consolidate.

With this broader context in mind, I believe that the key objectives of this review, and the co-legislators goals when discussing how to modify the current framework, should be:

- to increase the size of the EU clearing market (i.e. demand side)
- To have in place an attractive, competitive regulatory framework (i.e. supply side),
- To have in place adequate European supervisory arrangements (i.e. supervision).

The Commission's proposal includes measures that move us in this direction. On the supply side, the Commission has taken into account the feedback from its consultation with stakeholders and proposed measures to enable EU CCPs to expand their offerings more rapidly. Simplification and reduced burden are there. And it is important because we all have heard stories about EU CCPs facing damaging delays in obtaining approval for new products and risk models. This hinders their global competitiveness, as the clearing market heavily favors early movers. We should find ways to enable EU CCPs to innovate and expand their offerings swiftly.

Your feedback on the supply side of the proposal has been overwhelmingly positive, hence less discussed. As you do not say much on it, it seems less important which I hope is not the case. So it would be good to hear from you today whether there is a need to enrich the Commission's proposal on the supply side.

We should not forget that the most effective and most sustainable (in the long-term) way to increase clearing in the EU is to provide the conditions for clearing members and clients to make them want to clear in the EU. Then, the Commission has also proposed measures to increase the demand for clearing services in Europe that might bring a reduction of the dependencies on third-country CCPs. And to cope with it is not a walk in the park.

The main provision in this direction is the introduction of an Active Account Requirement for EU market participants subject to the clearing obligation. The Commission argues that this requirement, due to the expected clearing activity relocations, will reduce financial stability risks. I am sure Jennifer will provoke the discussion on that.

Discussions on this topic features prominently in the panel later, but I understand that the main concerns of clearing members and clients related to the Active Account revolve around the impact that this requirement will have on their international competitiveness. And that impact will depend on the scope of the requirement. The Commission proposed that ESMA should identify the exact percentage of volumes that should be cleared with an EU CCPs. But this is creating uncertainty for market participants, not knowing what that percentage will be until the RTS is implemented.

I hear that Member States are divided on this issue, and that amongst the options being considered in the Council there are a “qualitative” scope for the requirement or a phased approach, whereby a quantitative threshold will be introduced at a later stage. I would not speculate on what the outcome will be in the Council, but I think that the current divisions reflect the complexity of the topic and the difficulty of assessing the exact impact that this requirement will have on market participants.

The issue here is that data to inform the decision on the calibration of the active account requirement is lacking, and the feedback I have had so far seems to indicate that the costs and benefits and the impact of such a requirement are difficult to estimate. From my perspective, I am still assessing the different options ahead of the publication of the draft report, after which the negotiation process with the other political groups will start.

Clearing is a global business and clearing members often have a global presence

So we should also look at what other jurisdictions are doing to understand their attractiveness for clients. There is not much experience with AA to look at. Let me also say that in general we should avoid a logic of divergence and location-based policies, which can put in a disadvantage EU players vis-a-vis their international competitors. We are reforming the system to make it future-proof, and it is not a surprise that at this stage co-legislators consider the political goals alongside the market arguments.

The active account requirement should be modulated to balance EU actors' international competitiveness with the goal of achieving financial stability and increasing clearing volumes in the EU. I would therefore invite all stakeholders, even those opposing the AA requirement, to seek ways to calibrate it properly.

And - moving onto my last point - I would also invite all stakeholders, all of you, to abandon agnostic position related to supervision. It is not a political preference issue. If we talk about increasing clearing volumes in the EU and creating a more attractive clearing framework with competitive CCPs, we must link these discussions to fundamental adjustments in the current supervisory framework. The double supervisory system we have in place today was the compromise that we found at the time of EMIR 2.2. We ought to ask ourselves whether that set up is fit for the tasks ahead.

If the goal of EMIR 3.0 is to bring more clearing onshore with a view to increase financial stability, national level supervision for EU-based CCPs will not improve the resilience of our ecosystem. Relooking at our supervisory framework with a more European mind-set is a necessity if we want to become a more attractive place to do business, increase the resilience of our market infrastructures, and ensure financial stability.

The Commission's proposal suggests increased supervisory cooperation and coordinated responses in emergencies. But it falls short of fully moving towards European supervision of EU CCPs, partly contradicting the main objective of the review - bringing more clearing in Europe for financial stability reasons. It would be more consistent to build upon the expertise acquired by ESMA's CCP Supervisory

Committee, abandoning unclear allocation of supervisory responsibilities and facilitating decision-making in periods of stress.

The issues of bringing more clearing to Europe and supervision are interconnected. Let me also say that the clearing ecosystem involves various elements with different footprints. The energy crisis demonstrated that National Competent Authorities lack the tools and capacity to have a comprehensive market view. And I am not sure I understand the logic of making the European supervisor accountable in cases of crisis, while leaving the oversight of the situations that may lead to crisis in the hands of national institutions.

Member States were not ready and willing to have this discussions in 2018, and neither they are today. But I trust the European Parliament will bring the issue to the table decisively. And I would expect from market participants to voice their views on this topic. The EU's commitment to its capital markets and the competitiveness of its clearing sector cannot be credible with multiple layers of supervisory processes.

To conclude, we must look at the EMIR review with ambition. In a recent letter, the Parliament, the Commission and the Council emphasised the shared institutional commitment for advancing toward a truly single CMU as swiftly as possible. I fully share this commitment. We should work with a sense of urgency about the task that we face. We should seek solutions that will ensure that the EU clearing ecosystem can grow and remain resilient, and that the international competitiveness of EU market players is strengthened. And we should do this within this legislative mandate.

Thank you.