ISDA Safe, Efficient Markets

Suggestions for simplifying existing stock of financial regulation and enhancing the EU legislative process

9 March 2026

ISDA welcomes the European Commission's[1] (EC) renewed focus on better regulation and reduction of administrative and reporting burdens.

Applying this simplification agenda to financial services regulation could eliminate unnecessary complexity, enhance the competitiveness of the EU financial sector, and support investment, while safeguarding financial stability.

We therefore applaud the December Council Conclusions[2], which call on the EC to "*Swiftly put forward ambitious simplification packages for the Union's financial services regulation, as part of a comprehensive and ambitious plan for reviewing, simplifying and, where relevant, repealing the existing financial services legislative acts*." This approach aligns with Commissioner Albuquerque's mission to "*ensure that existing rules are fit-for-purpose and focus on reducing administrative burdens and simplifying legislation*" and "*reduce reporting obligations by at least 25%*."

ISDA has identified eight high-priority, targeted recommendations to simplify Level 1 derivatives regulation. These measures would make the EU a more attractive hub for derivatives business and strengthen its role in supporting investment and competitiveness. Our proposals are deliberately limited to technical adjustments[3] that do not lower regulatory standards and offer the greatest potential to reduce burdens and costs for firms. In this paper, we focus solely on streamlining Level 1 legislation and do not include recommendations relating to Level 2 measures.

In addition, ISDA proposes two main recommendations to enhance the EU legislative process itself: amending the sequencing between Level 1 and Level 2 requirements to ensure smoother and more cost-efficient implementation and granting the EC a time-limited power to temporarily suspend specific requirements, where justified by market conditions or implementation challenges.

Taken together, these targeted reforms would support the EU's broader objectives of competitiveness and efficient capital markets, helping ensure that regulation remains effective and proportionate.

[1] Political guidelines for the next European Commission 2024-2029

[2] Conclusions on simplifying the Union's financial services regulation – Council Conclusions (12 December 2025)

[3] For example, while the EMIR 3 Active Account Requirement is unduly complex and could be streamlined, we do not put forward simplification proposals in this paper due to the political sensitivities attached to this measure.

1) Removing duplicative transaction reporting under EMIR and MiFIR

Regulatory reporting is a significant burden on firms and, consequently, offers one of the most fertile opportunities for streamlining and creating efficiencies.

Efficient reporting ensures regulators have timely and accurate information from the firms they supervise, helping them to improve the detection of market abuse and to monitor markets for build-up of systemic risk. Greater efficiency is in the interest of regulators and market participants alike, aligning the resources that firms deploy to comply with reporting requirements in a manner that optimizes the quality and value of reports to regulators.

We recommend reviewing the European Market Infrastructure Regulation (EMIR) and Markets in Financial Instruments Regulation (MiFIR) reporting regime to ensure a clear delineation of reportable instruments between the two legislations. We call for each transaction to be reported under a single regime only, supporting the removal of Exchange Traded Derivatives (ETDs) from EMIR Article 9 and the removal of Over The Counter (OTC) derivatives transaction reporting from MiFIR Article 26. As such OTC derivatives would be reported for the purpose of systemic risk and market integrity just once, pursuant to EMIR. Firms currently face duplicative reporting obligations for the same derivative instruments under MiFIR, EMIR, Securities Financing Transactions Regulation (SFTR) and Regulation on Wholesale Energy Market Integrity and Transparency (REMIT).

As part of the review, we also propose to examine the purpose of each piece of legislation – such as but not limited to, market abuse, market resilience and systemic risk – and reassess which concepts and data fields are essential for supervisors to fulfil their duties and achieve the intended legislative objectives, with the aim to limit the reportable fields to those that are necessary for regulators to perform their supervisory functions associated with each reporting regime. Over the past fifteen years, many new reporting requirements have been introduced. Some have been introduced solely to support EU authorities' internal IT systems, without any demonstrable business benefit (for example, ISINs for OTC derivatives). Other data requirements have been added to existing reporting regimes that are not essential for the statutory purposes of those regimes[4], often without consideration of the reporting burden imposed on market participants. Challenging this proliferation of requirements would help to mitigate unnecessary costs and reduce the overall reporting burden, while preserving the effectiveness of supervisory oversight.

In addition, the dual-sided reporting model under EMIR is a major cost driver. We recommend a shift to single-sided reporting, which would reduce the number of reports, simplify processes, and align with global standards. The introduction of single-sided reporting should include a clear logic for

[4] For example, in the ESMA consultation paper on RTS 22 on transaction data reporting under MiFIR Article 26, ESMA proposed to add fields for "Digital Token Identifier" and "Client Category", both of which are not necessary for the detection of market abuse and market monitoring.

identifying the submitting entity. We welcome ESMA's apparent support for this approach in their June 2025 Call for Evidence on simplification of transaction reporting[5].

Finally, we note that while these reforms would require significant time to implement, many of the changes involved could be introduced far more rapidly. For example, a reduction of the number of fields required to be reconciled and matched between counterparties would reduce burdens immediately. The value of these benefits should not be overlooked while the broader reform of reporting is pursued.

2) Eliminating duplicative Post Trade Transparency reporting

Under MiFIR and the 2020 ESMA Opinion, EEA investment firms that trade on third-country trading venues are not required to submit their transactions to an EEA approved publication arrangement (APA). We support the proposal in the Market Infrastructure and Supervision Package (MISP) to place this exemption in the MiFIR Level 1 text, but for consistency, we consider that this should also be the case for other asset classes.

In the same vein, we recommend that the above exemption proposed in MISP is extended to third country approved publication arrangements to cover transactions executed outside a trading venue between non-EEA clients and the non-EEA branches of EEA investment firms. Such an extension would eliminate the duplicative reporting obligations that currently arise under the UK and EU post trade transparency regimes. Aligning the regimes will enable investors and market participants to view the total volume of derivatives effectively traded on the UK and EU markets – both individually and as a combined European market – without double-counting. This modification will eliminate persistent overestimation and the uncertainty that currently clouds the post-trade transparency data, which will consequently provide the right set of data for the upcoming consolidated tapes. It will strengthen investors' understanding and confidence in European markets, encouraging greater participation and capital flows.

3) Reviewing the scope of the new reporting regime on clearing at third country CCPs under Article 7d of EMIR

EMIR 3.0 introduces a new requirement to report information on clearing activities at recognised third country CCPs (Article 7d) on an annual basis. While we understand that EU authorities need to be able to assess potential financial stability risks associated with clearing at third country CCPs, the scope of entities and instruments subject to the requirement appears disproportionate. The potential inclusion of non-derivative instruments, which are outside the traditional scope of EMIR, creates significant legal uncertainty and would require firms to build entirely new data sourcing and reporting systems for products not previously subject to EMIR reporting.

[5] https://www.esma.europa.eu/press-news/consultations/call-evidence-comprehensive-approach-simplification-financial-transaction

On October 21 2025, ISDA and nine other trade associations wrote[6] to the EC emphasising that requiring firms to comply with the Level 1 reporting requirement under Article 7d in the absence of the corresponding RTS and ITS would impose disproportionate operational burdens on European entities, and undermines legal certainty, while generating minimal supervisory value. ISDA welcome the recent ESMA statement[7] that clarifies that entities are not required to report data in the absence of the corresponding RTS and ITS. The forthcoming RTS are expected to define the scope of entities and instruments subject to the requirement, which is likely to confirm the extent of industry's concerns regarding the excessively broad reporting scope in Level 1.

We recommend that Article 7d reporting is subject to a simplification exercise before the reporting requirements enter into force, to reduce complexity and avoid overburdening firms with yet another reporting regime which needs to be built from scratch. We ask ESMA and the EC to conduct a targeted review of Article 7d and evaluate alternative approaches (such as enhanced data sharing arrangements) that might achieve equivalent supervisory results at reduced compliance cost.

4) Streamlining the EMIR intragroup exemption regime

The EMIR framework provides exemptions for intragroup transactions from the clearing and margin requirements that apply to OTC derivative transactions. These exemptions recognise that exempting intragroup transactions from clearing and margining requirements would enable counterparties to take advantage of the efficiency of intragroup risk management processes without increasing systemic risk.

ISDA welcomes the recent changes introduced in EMIR 3.0, which remove equivalence as a pre-condition for the availability of an intragroup transaction exemption from clearing and margining requirements where one counterparty to the transaction is established in a third country.

Repealing equivalence as a pre-condition helps avoid market fragmentation and has a positive impact on how the EU is perceived in terms of market openness and attractiveness.

ISDA considers that there is an opportunity to further simplify the processes for relying on intragroup exemptions to reduce the burden on firms and National Competent Authorities (NCAs) without an adverse impact on the regulatory outcomes intended to be achieved by the regime.

In line with the recent proposal by the UK authorities[8], we recommend further streamlining the intragroup exemption process for margin and clearing to make it simpler and faster for firms to obtain and use exemptions. We propose the following:

- *Removal of the requirement for EU counterparties to notify their NCAs before making use of a clearing exemption for transactions with another EU counterparty in the same group.* Where transactions meet the conditions set out in EMIR, firms should be permitted to make use of

[6] Trade-associations-call-on-the-EC-to-delay-application-of-third-country-CCP-reporting-under-EMIR-3.0.pdf
[7] ESMA91-1505572268-4536_Public_Statement_on_upcoming_reporting_obligations_under_EMIR_3.pdf
[8] CP25/30: Streamlining the UK EMIR Intragroup Regime | FCA

the clearing exemption between two EU counterparties in the same group without the need to first notify their NCAs.

- *Removal of the requirement for EU counterparties to obtain approval from their NCA to make use of the clearing and margining exemptions with counterparties established in third countries which are part of the same group.* Where transactions meet the conditions set out in EMIR, firms should be permitted to make use of the exemption without delay and without the need for any regulatory approval. An approval requirement creates an unnecessary burden for both counterparties and NCAs, which must dedicate resources to reviewing applications and deciding whether to object.
- If the approach set out above for transactions with counterparties established in third countries is not retained, the current application-based approach should, at a minimum, be replaced with a notification-based approach. Under such a model, firms would simply notify their NCA of their intention to use these exemptions. The notification period for margin exemption should be limited to thirty calendar days beginning on the day after the NCA receives the complete notification. If the NCA does not raise an objection within that period, the firm should be permitted to make use of the exemption.
- *Deletion of the requirement for counterparties to publicly disclose their margin exemptions.*

5) Simplifying the process for determining the amount of fees charged by the EBA for the validation of pro forma initial margin models under EMIR

Under EMIR 3.0, the European Banking Authority ('EBA') is assigned the task of creating a central validation function for *pro forma* initial margin models. These models are used by counterparties to calculate the amount of initial margin that must be exchanged for portfolios of non-centrally cleared derivatives.

EMIR 3.0 also requires the EBA to charge annual fees to any counterparty that uses an EBA-validated *pro forma* model. The fee amount must be proportionate to the counterparty's "*monthly average outstanding notional amount of noncentrally cleared OTC derivatives over the last 12 months*" for which the EBA-validated *pro forma* model is used. In practice, this means the fee level is directly linked to the amount of uncleared initial margin calculated using a *pro forma* model such as ISDA SIMM.

Requiring counterparties to report the amount of uncleared initial margin calculated using a pro forma model such as ISDA SIMM is burdensome and unnecessary. Since all EU Counterparties have an obligation to report their derivatives transactions by T+1 (either directly or via delegated reporting) to a trade repository, the EBA could independently determine month end notionals for uncleared transactions using reported Legal Entity Identifiers (LEIs), Unique Transaction Identifiers (UTIs), clearing indicators, Unique Product Identifiers (UPIs) or ISINs, the fields for initial margin posted/received and notionals[9]. Therefore, we recommend amending EMIR Article 11 (12a) so that

[9] ISDA response to the EBA discussion paper on fees for pro forma model (ISDA_EBA_IMMV_Fees_20250407-FINAL.pdf) provides more detail on how the EBA can collate relevant data from the trade repositories.

the EBA uses trade repository data to determine the average notional amount used for the SIMM fee calculation.

6) Simplifying the EU Taxonomy Disclosures Delegated Act

We welcome the EC's recognition that the Trading Book Key Performance Indicator (KPI) "*is not relevant and decision-useful for financial undertakings*"[10], and we strongly believe that this KPI will not provide useful information but will instead create additional significant reporting burdens for credit institutions and other financial undertakings without benefit.

Therefore, rather than suspension of the Trading Book KPI until 1 January 2028 (as proposed by the EC), we would like to see its permanent removal for the following reasons:

- A credit institution does not have the necessary visibility to assess a client on a transaction's intention, in relation to the Taxonomy and the underlying asset, such that a full alignment analysis is not possible.
- The size and content of a trading book is not the result of any asset allocation policy.
- A trading book is flow-driven and of a short-term nature. As a result, the measurement of the Trading Book KPI can only provide a snapshot at a given point in time and may not always provide valuable or accurate information.

In view of the above considerations, it is not clear how a financial undertaking could consider environmental factors when managing its trading book. The Trading Book KPI is not used in financial reporting or risk management and compliance with this requirement would thus require very significant implementation efforts without any obvious information value.

The EC will propose further changes to the Taxonomy reporting framework by Q4 2026. ISDA supports the removal of the Trading Book KPI in the context of the forthcoming substantive review of the Article 8 Taxonomy Delegated Act.

7) Clarifying the treatment of derivatives in the EU's Sustainable Finance framework

The current EU regulatory framework provides for an inconsistent treatment of derivatives and an unclear representation of their role in sustainability. That is especially problematic for regulations that are already in application, such as the Taxonomy Delegated Regulation amending Taxonomy Delegated Acts, the Sustainable Finance Disclosure Regulation (SFDR) 1.0 and the EU MiFID 2 Delegated Regulation integrating sustainability preferences. This inconsistency creates legal uncertainty for investors as to which products will best meet their sustainability objectives and heightens greenwashing risks given that two products with the same sustainability exposure may be classified differently purely because one uses synthetics and the other physical holdings.

On the one hand, the European Supervisory Authorities (ESAs) consider that derivatives should be taken into account when calculating SFDR Principal Adverse Impacts (PAIs) at product and entity

[10] See recital 7 of the Draft Delegated Regulation

level by being adjusted to their economic exposure through their delta as they also constitute investment decisions on sustainability factors[11]. On the other hand, the amended Taxonomy Delegated Regulation states that it is not possible to conduct an assessment of taxonomy-eligibility or taxonomy-alignment for derivatives exposures, and they should thus be excluded from the denominator of the KPIs of financial undertakings.

The majority of ISDA members are of the view that dderivatives providing exposure to corporate equity or debt play an active role in channeling capital towards economic activities, as they can influence companies' cost of capital by creating supply and demand dynamics, in a manner comparable to secondary cash markets. Accordingly, all forms of exposure to companies' capital, including those obtained through derivatives, whether long or short, should be considered when assessing a financial product's sustainable contribution in all relevant EU sustainable finance legislation that covers derivatives.

We also agree with the ESAs' proposal that the measurement of derivatives' exposures should be assessed based on their delta which reflects the economic exposure that the derivative provides to the underlying asset(s) / companies. The delta of the derivative, already referenced in a variety of EU regulations, is the equivalent cash amount that would be invested in companies' debt or equities. The EU Platform on Sustainable Finance recommended that approach in its recommendations on how derivatives should be accounted for in a consistent way across the EU's sustainable finance framework.

Moreover, we believe that the treatment of derivatives under the proposed Sustainable SFDR 2.0 should take into account the ESAs' recommendations and those of the Platform on Sustainable Finance[12].

8) Ensuring that non-SFDR products with sustainability features can be offered to investors with sustainability preferences under MiFID

The EC acknowledges that the revised MiFID regime will need to be updated to integrate SFDR 2.0's categorisation system. The revised MiFID regime must also address how to assess sustainability characteristics of products which are outside of the scope of SFDR such as structured investment products to ensure that they can be recommended to customers with sustainability preferences and be underliers of SFDR products[13]. It is critical that clients can access the full scope of products which contain ESG characteristics via the MiFID sustainability preferences assessment and that this is not restricted to the scope of SFDR. If MiFID sustainability preferences are only linked to products in scope of the SFDR, there would be a reduction in the sustainable investment universe for end-investors, which would be contrary to the objectives of the Regulation.

[11] JC 2023 55 - Final Report SFDR Delegated Regulation amending RTS

[12] Platform on Sustainable Finance, "Simplifying the EU Taxonomy to Foster Sustainable Finance", February 2025, page 31.

[13] ISDA Publishes Position Paper on SFDR Review – International Swaps and Derivatives Association

9) Enhancing the EU legislative process

On many occasions, market participants have encountered legal uncertainty and excessive (but avoidable) compliance-linked financial burdens where Level 1 financial regulatory requirements become applicable before the corresponding Level 2 requirements, in the form of RTS and ITS, are effective, or have even been adopted by the EC.

In line with the December 2025 Council Conclusions[14], we strongly support reviewing the sequencing of Level 1 and Level 2 legislation. As a general principle, Level 1 provisions should only take effect after the corresponding Level 2 measures have been published in the Official Journal. In addition, firms should be granted a reasonable implementation period to comply with Level 2 measures after their publication in the Official Journal. Aligning implementation in this way would significantly reduce compliance complexity for firms, ensure coherent and practical rulemaking, and reinforce the EC's competitiveness agenda by avoiding unnecessary regulatory uncertainty and unnecessary duplicative implementation efforts. Furthermore, implementation based exclusively on Level 1 requirements frequently results in divergent practices across firms and jurisdictions, thereby hindering the EU's objective of enhancing supervisory convergence.

Beyond the high-level sequencing of Level 1 and Level 2 legislation, regulatory agility must also apply at the operational level. Under current reporting frameworks like MiFIR and EMIR, technical validation rules are often embedded in Level 2 texts. This means that correcting a simple error or making a logical improvement to a validation rule requires a lengthy and burdensome legal amendment process. We propose that ESMA should be empowered to directly manage and update technical validation rules for reporting regimes through a more agile, non-legislative process. This would be limited to the technical implementation of the rules, not their substance, allowing for rapid correction of errors and adaptation to market developments. This would dramatically improve data quality for supervisors and reduce the significant operational friction firms face when dealing with flawed but legally binding validation logic.

In addition, the ESAs' so-called no-action letter powers provided under the respective ESA regulation do not allow the ESAs to disapply EU law. As a result, ESAs typically must resort to 'deprioritisation of enforcement' statements to NCAs instead[15]. The recent EC proposals in MISP to enhance ESMAs' no-action letters powers are a step in the right direction, in particular by broadening the circumstances that could trigger their use, but they remain insufficient with respect to providing ESMA with the flexibility it needs and the ability to effectively waive requirements for a limited period of time. The EC should be empowered to react more nimbly to market events that undermine order, efficiency, and competitiveness of the EU financial services sector - similar to the flexibility enjoyed by their peers, such as the SEC and CFTC in the US or the PRA and FCA in the UK. As such, we recommend supplementing Article 9a of the ESMA Regulation by giving the EC a power to temporarily suspend requirements by adopting Level 2 Acts. The implementation of the market risk framework

[14] https://www.esma.europa.eu/press-news/consultations/call-evidence-comprehensive-approach-simplification-financial-transaction

[15] One such example is the ESMA public statement on the deprioritisation of supervisory actions on the EMIR clearing obligation for third-country pension scheme arrangements in light of the agreement on the EMIR review

offers a clear example of how the EU has been legally constrained in its ability to respond to uncertainty surrounding the finalisation of the Basel III framework in the United States. The EC was limited to relying on a specific Delegated Act introduced under the CRR 3 legislation, which was only designed to provide limited relief to firms and took longer to enact than similar measures taken by the PRA, introducing uncertainty to market participants.

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About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 78 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on LinkedIn and YouTube.