Feedback statement of
Bundesverband Alternative Investments (BAI e.V.)
to the European Commission ("EC") call for evidence on the Savings and Investments Union (SIU)

I. Preliminary note

The German Alternative Investments Association (Bundesverband Alternative Investments e.V,. **BAI**) welcomes the opportunity to respond to this call for evidence on the SIU. As an industry association we represent more than 300 national and international members active in the institutional alternative investments sector (i.a. infrastructure, private equity, private debt, liquid alternatives), representing the entire value chain (asset manager, funds, banks, service providers, etc.). Likewise institutional investors (insurance companies, pension funds, occupational pension schemes, etc.) are represented in our investor board so that our activities have a dedicated focus on the asset owner side and their investment topics and needs as well. Regarding this short-termed call for evidence we can submit right now only few comments and ideas.

II. Feedback on the SIU initiative

First of all, we have to affirm that so far the CMU hasn't been the great success the EU was waiting and hoping for. It was and is more than urgent to "revitalize" the CMU as clearly stated as well in the report "Developing European capital markets to finance the future" by the expert group chaired by Christian Noyer. (https://www.ebf.eu/wp-content/uploads/2024/05/EN-Report-Developing-European-capital-markets.pdf). We support the measures proposed in this report, which – to our understanding - are also – at least partially - the basis for the new SIU initiative and therefore – at least partially – match with the measures listed in this call for evidence, which are:

- Mobilising savings more effectively, notably by supporting retail participation in capital market through simple and low-cost saving and investment products and including through appropriate fiscal or other incentives, thereby pooling large amounts of investment capital and enabling more wealth creation.

- Making more investments available for EU companies, including for young and innovative companies, notably by incentivising European private and institutional investors to channel funding to productive and innovative firms.

- Fostering greater market integration and efficiency in capital markets so as to support the creation of market depth and scale, by identifying and removing barriers to cross-border activity whether they be supervisory, taxation, authorisation or other barriers.

- Enhancing supervisory arrangements to ensure that the single rulebook is effectively applied and that oversight of capital markets is of high quality across the EU.

Mobilising savings more effectively:

Regarding measure one to mobilise (retail) savings more effectively we fully agree that specific investment products with EU-wide harmonised fiscal/tax or other incentives are a good starting point to create investment vehicles that can make use of economies of scale for financing the European economy and narrow the gap to non-EU competitors.

First of all, national marketing and distribution barriers have to be abolished. Regarding retail funds for example there are still not enough funds which are really marketed and distributed in the entire EU. Most (UCITS) funds are only marketed/distributed in few member states. One reason for this is of course that there are hardly true pan-European distribution platforms. Potential intermediaries like banks for example do only have branches etc. in few member states, but not within the entire EU. Thus, in the era of digitization the Commission should ensure that we have the best regulatory and tax framework for such platforms so that every citizen in the EU has simple and direct access to such platforms and financial products offered on them.

Secondly, to boost (retail) savings, we need a harmonised regulatory and taxation (!) framework for retirement savings products. The PEPP has not become yet a success story for various reasons. We need a rigid simplification and real fiscal/tax incentives for (retail) investors and they should be harmonised within the entire EU so that the administration and taxation of these products is a simple as possible, for investors, intermediaries and providers/financial institutions. There should be tax allowances or the like for long term investments for retirement savings products.

Thirdly, we need a dedicated EU-wide harmonised regime for so-called semi-professional investors (to be implemented into MiFID), i.e. sophisticated private investors. This could as well mobilise more money for investment and financing purposes and scale up for example European fund products. So far AIFs for example can only be marketed to (sophisticated or wealthy) private investors subject to national regimes which is absolutely inefficient. There is no (EU-wide) passporting, cross-border distribution, etc. For these types of private investors it is very onerous to qualify as professional investor under MiFID and many might even want to be qualified as professional investors in this meaning so a new category might be very helpful.

Fourthly, sustainable finance regulation including specific marketing requirements was a real showstopper to mobilise savings as the different legislative acts were too complex and especially not sufficiently aligned. The same applies to marketing/exploration requirements so the market for sustainable products could not develop as desired and necessary.

Making more investments available for EU companies:

Regarding measure two to make more investments/financing available for EU companies we would like to emphasize that in particular regulation of banks (CRR), insurance companies (Solvency II) and pension funds (IORP) is right now regrettably rather prohibiting regulation than enabling regulation. Too burdensome and complex regulation for these investors (including discriminating capital requirements, not just compared to – allegedly risk free (?) - governmental bonds!) has led to the situation that they are only to a very limited extent inclined to invest in listed or unlisted equities, venture capital, infrastructure, private debt, etc. Earlier measures under Solvency II for example like the qualifying infrastructure module, the LTE module, etc. were positive initiatives, however, they were too burdensome or not practicable. The same applies for the last CRR review, which significantly limits not only infrastructure financing by banks. Thus, the Commission has to immediately revisit said legislative acts.

<u>Fostering greater market integration and efficiency in capital markets:</u>

Regarding measure three to foster greater market integration and efficiency in capital markets we agree that to a large extent cross-border activities are restricted by supervisory, taxation, authorisation and other barriers. In particular we would like to affirm that there is too much regulatory and supervisory competition and to little unification, i.e. true harmonisation. Complicated national tax regimes for financial products and their investors lead to the result that administration is very complex and might be one (additional) reason to market financial products only in one or few jurisdictions instead of the entire EU. Of course, lack of marketing/distribution channels in other jurisdictions is another relevant reason why financial products are only sold in one or few jurisdictions. And finally fragmented authorisation and supervision is another barrier for true market integration and efficiency in capital markets.

Another example for a barrier for greater market integration is the pre-marketing regime under AIFMD which caused significant bureaucracy without generating an added value for investors or regulators. This regime was not necessary as there were no supervisory or market shortcomings. The concept is simply not balanced and thus should be abolished/replaced.

<u>Enhancing supervisory arrangements:</u>

Regarding measure four to enhance supervisory arrangements to ensure that the single rulebook is effectively applied we have to affirm that an integrated supervision for capital market activities is indeed prerequisite in order to build a true single market and better ensure financial stability. So far Member States seem not to be willing to make this step towards a true single market and supervisory convergence.

Regarding the fund industry for example the Commission could introduce further European fund formats as the ELTIF (by regulation) with a simplified and – even – more standardised authorisation and supervisory framework that would allow financial institutions and their funds to opt in being directly authorised and supervised by ESMA. However, we would like to emphasise that AIFMs and AIFs for example are not just subject to AIFMD, but also subject to national corporate law. Thus NCAs have specific expertise on these national laws and it might be counterproductive to shift competences entirely to ESMA. From our point of view the interaction between and the cooperation between ESMA and NCAs has to be redefined.

Finally, supervisory cooperation has to be enhanced and at the same time regulatory reporting has to be significantly reduced. There is – not just in the area of sustainable finance – too much and meaningless reporting and to some extent event parallel reporting; one example is the extensive reporting by AIFMs/AIFs under AIFMD on the one hand and on the other hand under REGULATION (EU) 2024/1988 OF THE EUROPEAN CENTRAL BANK of 27 June 2024 concerning statistics on investment funds and repealing Decision (EU) 2015/32. The Commission should evaluate how reporting can streamlined and how various authorities have access to relevant information so that AIFMs/AIFs have to report only once and only relevant/necessary information.

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Bundesverband Alternative Investments e.V. (BAI) is the cross-asset and cross-product lobby association for the alternative investment industry in Germany. BAI perceives itself as a catalyser between professional German investors from all sectors and suppliers of Alternative Investment products (private equity, infrastructure, private debt, liquid alternatives, etc.), and lobbies that German institutional and professional investors are able to diversify their investment with regard to Alternatives better and more easily. BAI is promoting a broad diversification which includes Alternative Investments as indispensable, in particular in terms of safeguarding long-term retirement pensions and the provision of money for example for the construction, maintenance, and development of public infrastructure and renewable energies.

BAI-members are recruited from all areas of the Alternative Investments' industry, e.g. asset managers, alternative investment funds, banks as well as service providers. At present, BAI counts more than 300 national and international member companies and is growing continuously.