

**Question for written answer E-000092/2024
to the Commission**

Rule 138

Antoni Comín i Oliveres (NI), Carles Puigdemont i Casamajó (NI)

Subject: Possible reform of Directive 2011/16 to end Member States' protectionism regarding collective investment schemes

In Europe, the largest share the investment fund industry consists of funds under the undertakings for collective investment in transferable securities (UCITS) regime¹. However, UCITSs still tend to need the permission of national competent authorities (NCAs) to operate in all Member States.

The current system for sharing information among tax authorities under Council Directive 2011/16/EU on administrative cooperation in the field of taxation² lacks the necessary tools for timely evaluation of the accuracy of the UCITS-related information that has been submitted.

According to the International Monetary Fund (IMF), the supervisory convergence and enforcement powers of the European Securities and Markets Authority (ESMA) are limited: it cannot mandate that NCAs observe its Level 3 guidelines or that they implement its recommendations from peer reviews: 'Although ESMA's powers to fine the entities it supervises directly are stronger than those of some NCAs, they are tightly defined, resulting in fines well below those comparably applied by, say, the US SEC'³.

Does the Commission consider there to be a need for greater harmonisation of the treatment of UCITS by shifting powers from the NCAs to the ESMA in order to prevent Member States from protecting their own UCITS vis-à-vis those from other Member States?

Submitted: 11.1.2024

¹ <https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2019/09/06/A-Capital-Market-Union-For-Europe-46856#:~:text=Proceeding%20methodically%2C%20the%20note%20identifies,focused%20on%20the%20three%20barriers.>

² <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32011L0016>.

³ <https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2019/09/06/A-Capital-Market-Union-For-Europe-46856#:~:text=Proceeding%20methodically%2C%20the%20note%20identifies,focused%20on%20the%20three%20barriers.>