In-Principle Authorisation and Early-Activity Regimes: Lessons for the EU from the UK, UAE and Global Practice

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Authorisation; EU law; Financial regulation

Abstract

The European Union's (EU) prevailing 'binary' authorisation model-prohibiting all regulated activity until a full licence is granted-imposes delays, raises costs and encourages regulatory arbitrage, despite extensive harmonisation. By contrast, leading jurisdictions like the UK, UAE, US and Singapore operate staged authorisation regimes that sequence market entry under (early) active supervision. This article advances a comprehensive case for introduction of a harmonised EU "In-Principle Authorisation" (IPA) framework, achievable (ideally) without EU Treaty change. It situates IPA within EU law, diagnoses supervisory incentive failures, distils best practices from other global "comparator" regimes, proposes (as a thought experiment) concrete legislative drafting, calibrates a potential European Supervisory Authorities (ESAs) escalation mechanism and presents an outlook for a realistic implementation roadmap with robust monitoring. Properly designed, IPA in the EU could be a pro-competitive, prudentially safe procedural reform that replaces delay as de facto risk control with active, time-bounded supervision more so than the current status quo.

1. Framing the problem—divergences and delays despite best intentions

The EU has constructed one of the most extensive financial services regulatory frameworks globally, encompassing investment services, banking, payments and crypto-assets through successive legislative initiatives. Although comprehensive and harmonised in law—in particular in the form of the Single Rulebook, the EU's financial services regulatory architecture remains rather fragmented and divergent in practice—in particular in authorisation processes and differing degrees of staffing and turnaround times across departments at national competent authorities (**NCA**s). This is the case despite the EU's ongoing efforts to establish a "Single Supervisory Culture" to support the Single Market and the Single Rulebook for financial services.

Legislative hyper-detail has been the EU default response to divergence. Yet empirical supervisory reviews by the **ESAs**, including both the European Securities and Markets Authority (**ESMA**) and the European Banking Authority (**EBA**), show divergence persists despite harmonised rules-because the remaining variance is primarily behavioural and institutional, not textual. The policy problem is therefore incentive design: remove the asymmetric downside facing supervisors, define legally safe early activity and create escalation pathways-only then will uniform outcomes follow.

Applicant firms seeking to enter EU financial markets continue to encounter long, unpredictable and fragmented authorisation processes (despite core common rules on authorisations forming part of the Single Rulebook) across Member States, which impose real economic costs by immobilising capital, discouraging innovation and incentivising regulatory arbitrage.

Across key frameworks like the Markets in Financial Instruments Regulation (**MiFIR**) (II)/Markets in Financial Instruments Directive (**MiFID**) II/III and the Capital Requirements Directive (**CRD**)/Capital Requirements Regulation (**CRR**), authorisation is treated as a binary threshold event: firms are either fully authorised and permitted to conduct all regulated activities, or they are entirely prohibited from engaging in such activity until full authorisation is granted. Silence on pre-authorisation activity is treated by national competent authorities (**NCA**s) as an absolute prohibition, creating long periods of capital and operational idleness and a significant competitive disadvantage versus international best practice.

By contrast, other major financial centres increasingly treat authorisation as a process rather than a single event, permitting carefully circumscribed activity under supervision prior to full licensing. Accordingly, this article explores a single, focused thesis: "the EU should adopt a formally codified IPA framework at Level-1, implemented via a horizontal EU Regulation that establishes common definitions, time limits, permitted activities and escalation and by targeted sectoral amendments to MiFID, CRD and the Markets in Crypto-Assets Regulation (**MiCAR**). Such EU IPA framework should sit alongside exist authorisation pathways but offer other efficient and resilient alternatives."

In taking such an approach an EU IPA model could reduce entry frictions, force earlier supervisory engagement and align incentives without diluting

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prudential or conduct standards. The arguments explored in this article proceed by establishing doctrinal permissibility, identifying institutional and political constraints and providing implementable legislative and supervisory designs with a credible coalition and timeline all without lowering standards nor requiring EU Treaty changes.

2. The binary authorisation model and its consequences

The EU's financial services framework currently treats authorisation as a strictly binary event: zero activity is permitted before approval and full activity is permitted after. This approach, where silence on pre-authorisation activity is treated as an absolute prohibition, creates several structural problems:

1. **Supervisory risk aversion**: certain NCAs delay authorisation files progressing swiftly due to high-workload and/or risk aversion. This results in asymmetric liability and judicial review exposure—certain NCAs "stop the clock" and/or "play for time" on statutory timelines to process authorisations as a result.
2. **Idle capital and operational resources**: Firms cannot test systems or deploy capital pending approval.
3. **Fragmentation despite harmonisation**: Identical legal requirements are, despite the EU's and ESA's harmonisation efforts, still applied divergently, creating inconsistent timelines.
4. **Competitive disadvantage**: Other (non-EU) jurisdictions allow controlled early activity, improving speed-to-market—which is often a very competitive factor to attract business to such jurisdictions in the first place.

In practice, this means new applicants as well as incumbent regulated firms seeking regulatory approvals and/or variations:

- cannot meaningfully begin supervised operations until final authorisation,
- face open-ended supervisory queries and iterative documentation loops and
- are subject to risk-averse delay because NCAs bear disproportionate downside risk.

The result is slower market entry, underutilised capital and competitive disadvantage relative to jurisdictions that allow structured interim activity. Critically, this uncontrolled delay does not eliminate risk; it pushes activity offshore or into unregulated spaces, thereby increasing systemic risk. From a legal perspective, the binary prohibition may raise proportionality concerns, as blocking all activity can exceed what is necessary to mitigate risk.

3. Institutional diagnosis: incentives, capacity and national control amongst NCAs

The analysis of supervisory divergence requires an explicit behavioural model. Identical rules administered by supervisors with divergent incentives predictably yield divergent outcomes. Regulatory behavioural economics explains this divergence not as a cultural pathology, but as a rational response to institutional design. Key dynamics include: (a) principal-agent conflicts, where NCAs serve both national political principals and EU-level objectives; (b) loss aversion and blame asymmetry, where supervisory failures are highly visible and career-damaging, while the benefits of enabling innovation are diffuse and uncredited; and (c) time inconsistency, where it is always rational for an individual supervisor to delay a decision to gather more information, even if this is collectively inefficient. This creates a conservative equilibrium in which delay becomes a proxy for prudence.

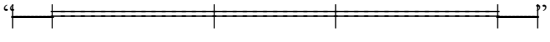
The analysis above suggests that the policy solution is not merely procedural modernisation, but institutional incentive realignment. An EU-wide IPA must therefore be designed to alter this equilibrium by reducing supervisory downside through statutory safe harbours, standardising processes to narrow discretion and creating countervailing pressures for timely decision-making.

Absent an explicit legal framework permitting controlled early activity, supervisors face a dominant strategy of delay. IPA may serve to directly address this principal–agent problem by converting delay into a rule-bounded decision, anchoring supervisory discretion to verifiable milestones, time limits and positive lists of permitted activity. In doing so, IPA realigns incentives without requiring cultural change or ex post forbearance and should therefore be understood as an institutional correction rather than a deregulatory concession.

4. IPA authorisation timeline

Under most IPA models (in particular those explored as comparators below), supervision begins earlier, risk is capped and operational readiness is demonstrated progressively rather than assumed upfront. This can be visualised as follows:

"Application → IPA Granted → Limited Activity → Milestone Review → Full Authorisation"

"  "

" 0–30d 30–90d 90–180d 180–360d"

Figure 1: Staged authorisation timeline under an IPA regime.

This IPA-driven timeline contrasts with the EU's binary model, where firms remain unable to commence regulated activity until final authorisation, regardless of readiness in discrete operational areas.

5. International comparators

5.1 Cross-jurisdiction IPA comparison

Table 1: Comparative overview of staged authorisation and IPA models.

Feature	UK	UAE (ADGM/DFSA)	US	Singapore	EU (Current)
Formal provisional licence / IPA	Yes (staged permissions)	Yes (IPA)	Conditional approvals / no-action relief	Provisional licence / sandbox	No
Permitted pre-authorisation activity	Limited / staged	Positive list	Limited / conditional	Limited sandbox	Prohibited / silent
Milestone-based progression	Yes	Yes	Conditional	Yes	No
Time-limited status	Yes	Yes	Yes	Yes	N/A
Supervisory engagement	Front-loaded	Intensive	Front-loaded	Intensive	Episodic
Legal safe harbour	Partial	Yes	Partial	Partial	No

5.2 Jurisdictional highlights

~ **United Kingdom**: The UK is uniquely instructive for the EU because it started from an EU-style rulebook, faced identical supervisory risk aversion and concluded that a binary authorisation model was economically inefficient. Its current approach reflects an explicit policy choice to front-load supervisory engagement rather than back-load market entry. Key mechanisms include: a 'mobilisation' regime for banks operating in a restricted state post-authorisation; Variation of Permission (VoP) to allow limited activities while expanding scope; and, following on from the "Leeds Reforms" a proposed 'early authorisation' framework i.e. a "Provisional Licenses Authorisation Regime"[1] to permit earlier operational testing and capital deployment. The approach works by combining clear activity caps, capital and client restrictions and intensive supervision, treating authorisation as a managed process, not a singular event.

~ **United Arab Emirates: The United Arab Emirates** (UAE) is a key comparator for the EU (inasmuch as it is for the UK) because it supervises full-scope, systemically relevant activities (banking, asset management, markets, crypto-assets), operates in globally integrated markets and attracts EU, UK and US regulated firms. Many of its common-law-style supervisory tools and rules are derived from the UK's (pre- and post-Brexit) legislative, regulatory and supervisory approach, layered onto civil-law states. Its leading free zones (the Abu Dhabi Global Market (ADGM) and the Dubai International Financial Centre (DIFC), which is regulated by the Dubai Financial Services Authority (DFSA)) offer a model where IPA is a formal, recognised legal status-not informal comfort. IPA is granted once core governance is approved, key personnel are cleared, capital is demonstrably available and the risk management framework is credible. This IPA expressly permits activities such as legal establishment, hiring and contracting, systems testing, limited operational activity (depending on the activity class) and engagement with clients without full execution or with a capped scope. The model is underpinned by clear, public rules on permitted pre-licence activities, which removes legal ambiguity and the fear of retrospective enforcement. It is coupled with front-loaded, intensive engagement from senior supervisors from an early stage, enabling faster risk identification and early course correction. Progression to final approval is milestone-based, not calendar-based, meaning firms know what is outstanding and what evidence will satisfy the regulator. The framework includes explicit consequences for breach of IPA conditions-including immediate suspension and refusal of the final licence-which allows for greater upfront flexibility paired with strict enforcement.

~ **United States**: US federal regulators (e.g., the Office of the Comptroller of the Currency (OCC), the Federal Reserve (Fed), the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC)) use 'conditional approvals' subject to milestones, alongside no-action and

[1] See inter alia here: *https://www.gov.uk/government/publications/creating-a-provisional-licences-authorisation-regime-policy-update-2025*.

interpretative letters, to grant legal comfort for firms to operate under defined conditions. This includes mechanisms like phased broker-dealer and adviser registrations. The key insight is that legal certainty can be granted without full regulatory finality, the system is underpinned by strong ex-post enforcement powers and clear accountability for any breach of conditions.

~ **Singapore**: The Monetary Authority of Singapore (MAS) uses provisional licences, regulatory sandboxes with live clients and phased capital and governance requirements. This allows early activity within a tightly defined risk envelope. The model's success relies on highly intrusive supervision and clear exit and termination powers if risks emerge.

Moreover, other examples exist, namely:

~ **Australia**: Australian regulators (the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA)) utilise restricted licences, conditional authorisations and time-limited permissions. The key insight from this model is that market entry is treated as a supervised ramp-up rather than a cliff edge.

~ **Canada**: Canadian regulators (the Office of the Superintendent of Financial Institutions (OSFI) and the Canadian Securities Administrators (CSA)) employ staged approvals that require supervisory sign-off at each phase, explicitly linking the scope of authorisation to a firm's operational maturity.

While the EU lacks a formal, horizontal concept of "early access", graduated/phased approval or a more formal IPA status, some partial analogues exist but are underused, such as MiFID "top-up" permissions, CRR phased capital requirements and the Distributed Ledger Technology (DLT) Pilot Regime. However, there is no legal clarity that limited activity before full authorisation is broadly permissible (in most cases the safer bet is to say it is not), nor are there incentives for supervisors to grant such partial permissions early.

5.3 Lessons from failure cases

A balanced assessment of the benefits of IPA as a concept must also acknowledge that staged authorisation is not a panacea and carries its own risks. Comparator jurisdictions offer important lessons from failures and course corrections. In the UK, the 'mobilisation' regime for new banks has faced criticism that it became a form of 'shadow authorisation' without a clear and decisive path to full operation or exit. In the sandbox context, both Singapore's MAS and the UK's FCA have seen ventures fail or be terminated, highlighting the need for robust exit-planning and supervisory capacity to manage failure. In the United States, regulators have periodically tightened conditions on approvals following enforcement actions where firms exceeded the limits of their no-action relief. These cases underscore that the credibility of an IPA framework depends critically on learning from failure, not just success. They reinforce the case for embedding robust rollback mechanisms, clear enforcement triggers and politically survivable suspension and wind-down powers from the outset, as proposed in this article.

While comparators (including failures) offer valuable lessons, their features must be adapted, not copied wholesale. Specifically, the EU should not import: (a) high degrees of supervisory discretion and informal 'comfort letters' that undermine legal certainty; (b) opaque waiver mechanisms that create an unlevel playing field; or (c) sandbox regimes that lack clear exit paths or become indefinite holding pens. The EU's strength lies in its commitment to codified rules and predictable procedures; any IPA framework must reinforce this, not dilute it with discretionary practices that are incompatible with the single market's legal architecture.

6. Possible policy options for the EU

EU legislative, regulatory and supervisory policymakers have a number of options on how to structure and operationalise an IPA model for deployment within the Single Rulebook. These include:

~ **Option 1**: Horizontal IPA Framework—EU Regulation creating a cross-sector IPA concept with direct insertions also referenced in MiFID, CRD and MiCAR and other sectoral legislative and regulatory rulemaking instruments.

~ **Option 2**: Sectoral Amendments—Piecemeal amendments introducing IPA in each sectoral regime.

~ **Option 3**: Status Quo—Maintain binary authorisation with enhanced guidance (likely to be ineffective).

Option 1 would likely provide the greatest harmonisation and predictability benefits to applicant firms and other stakeholders, while Options 2 and 3 may yield uneven adoption.

6.1. What the EU should avoid and what it should do to advance an IPA model

The effectiveness of IPA depends as much on avoiding ineffective substitutes as on implementing reform. In particular, the EU should not rely on non-binding guidance, supervisory statements, or informal comfort

mechanisms to achieve early-activity outcomes. Such approaches entrench fragmentation, amplify supervisory liability concerns and lack legal durability.

Similarly, regulatory sandboxes cannot substitute for authorisation reform. Sandboxes are experimental by design, discretionary in access and inherently limited in scale. IPA, by contrast, is a generalisable, legally anchored mechanism capable of supporting mainstream market entry across financial services sectors.

The comparative analysis above suggests the EU, in adopting an IPA conceptually, regardless of option (1 or 2) that is chosen, should integrate at least the following features:

1. **Formal IPA status**: Borrowing from the UAE model, an interim authorisation status should be established as a recognised legal state in EU law (e.g., under MiFID, CRD and MiCAR). This formal IPA would be granted once core prudential and governance thresholds are met, removing ambiguity around 'pre-authorisation' activity and preventing NCAs from informally blocking all activity pending full approval.

2. **Explicit positive list of permitted pre-authorisation activities**: To counter the risk aversion created by the EU's regulation by silence, EU law could specify a positive list of what firms may do during an IPA phase. As an example, UAE rulebooks permit relevant IPA firms to conduct certain activities. An EU IPA regime should similarly permit activities such as own-account trading, onboarding professional clients without execution, testing systems with real flows and limited client execution with defined caps. For the EU, an explicit list provides legal certainty for firms and supervisors about what can and cannot be done for applicant firms that have obtained an IPA. Such list would also help with choice on future applicant firms into the EU on whether to pursue an IPA route or continue along existing EU authorisation pathways.

3. **Milestone-driven authorisation completion**: Progression from IPA to a full licence should depend on achieving specific, pre-agreed operational milestones with defined evidence standards, not just the passage/elapse of time or open-ended 'further information' requests. An approach, borrowed from the UAE's model, shifts the dynamic from iterative supervisory discretion to the firm's objective readiness.

4. **Front-load supervisory resources:** Following the UAE's supervisory posture, senior supervisory teams should be allocated at the IPA grant, with a requirement for frequent engagement during the IPA phase. Earlier, more intensive supervision allows for the earlier commencement of controlled activity and reduces the risk of late-stage surprises.

5. **Time-limited statuswith automatic expiry or escalation**: An IPA should be valid for a fixed period (e.g., 6-12 months) a decision must be made: grant full authorisation, reduce scope, or escalate the decision to an ESA or cease and deny the IPA. This prevents 'permanent provisionality.' This approach shifts the supervisory posture from "prevent by delay" to "permit with conditions and enforce quickly," as targeted enforcement is more precise and credible than using delay as a blunt risk management tool.

6. **Clear client communication rules during IPA:** Any EU framework should include rules, similar to those in the UAE, requiring firms to disclose their IPA status, activity limitations and any regulatory conditions to clients and particular client types—notably retail. This preserves market integrity and prevents the risk of misrepresentation.

7. **IPA approval is conditional on a credible, scaled wind-down plan:** To integrate authorisation with recovery and resolution planning, IPA should be conditional on the applicant submitting a credible, proportionate wind-down plan from day one. Such plans need not meet full Bank Recovery and Resolution Directive (BRRD) or Investment Firm Regulation (IFR) standards at the IPA stage, but must demonstrate that the firm can cease activities in an orderly manner without consumer detriment or systemic disruption. Embedding simplified wind-down planning within IPA strengthens prudential credibility while remaining consistent with proportionality and staged regulatory engagement.This ensures that early market activity is coupled with a clear strategy for orderly exit, addressing prudential concerns without imposing the full burden of resolution planning on nascent firms.

8. **AML/CTF readiness as a 'Day One' gate:**To prevent the misuse of IPA for illicit finance, a positive assessment of the applicant's anti-money laundering and counter-terrorist financing (**AML/CTF**) framework must be a mandatory precondition for granting IPA. This should include demonstrated operational readiness for the EU's AML/CTF package, including coordination with the new Anti-Money Laundering Authority (**AMLA**) for cross-border models and, for crypto-asset service providers, full compliance with the Transfer of Funds Regulation (TFR) 'travel rule'.

6.2 Adapting lessons from the UAE IPA model to the EU context:

The UAE model works in a culture with unified supervisory accountability and a clear political mandate for speed. An EU approach would therefore need to add explicit statutory authority, as supervisors will not use UAE-style flexibility without it. The following conceptual proposals could help:

- **Supervisory liability protection**: A statutory liability shield is needed to protect supervisors from personal or institutional liability where an IPA is granted in good faith and in accordance with the EU framework. Without this protection, national conservatism and risk aversion will ensure the IPA regime is systematically underused.

~ **Mandatory ESA involvement or escalation**: Decisions on IPAs for cross-border or systemic applicants should require an opinion from ESMA or EBA, with automatic escalation if an NCA refuses an IPA against the criteria. This prevents the framework from being neutralised by national conservatism and builds de facto EU-level supervisory convergence.

These elements reconcile early activity with strong supervision, ensuring that standards are preserved while reducing entry friction.

7. Legislative gaps in EU sectoral legislation

As discussed, EU sectoral legislation has binary authorisation pathways. These gaps are not accidental. EU legislation has historically prioritised legal certainty over sequencing, assuming that full compliance must precede any market entry. That assumption is increasingly economically inefficient and untenable. This current status quo and sectoral-based proposed solutions can be visualised as follows:

Table 2: Legislative gaps inhibiting staged authorisation and IPA.

Framework	Status quo	Proposed solution
MiFID II/III	Binary authorisation; no interim status	Introduce Article 5a establishing IPA with a positive permission list
CRD/CRR	No mobilisation phase; rigid capital sequencing	Add Article 8a enabling restricted authorisation and phased conditions
MiCAR	No staged/phased authorisation for CASPs	Codify provisional licence for Crypto-Asset Service Providers (CASPs) with milestone conditions

Proposals on how to possibly close such gaps are discussed below but first merit a discussion on doctrinal foundations on how to anchor an IPA model under existing EU legislative, regulatory and supervisory rulemaking instruments and principles.

8. Doctrinal foundations relevant to an EU IPA model: proportionality, legal certainty and delegation

EU administrative law embeds proportionality and legal certainty: regulatory measures must be appropriate and necessary to the objectives pursued, predictable in their application and interference with economic activity requires justification tailored to risk. A blanket freeze on all activity pending full authorisation is, even if untested to date, susceptible to proportionality critique where conditional, capped permissions with milestone checks and time limits could achieve the same objectives at lower cost to freedoms. Legal certainty is not at odds with conditionality; time-limited permissions with clear conditions and consequences are compatible with the Court of Justice of the EU's (**CJEU**) insistence on predictability when properly circumscribed.

The legal basis for a horizontal IPA Regulation would likely be Article 114 of the Treaty on the Functioning of the European Union (**TFEU**), justified by the need to remove obstacles to the functioning of the internal market arising from divergent national authorisation practices. Such harmonisation is consistent with the principle of subsidiarity, as Member States acting alone cannot achieve a consistent EU-wide framework. The Meroni constraints on delegation of discretionary powers remain relevant; however, the CJEU has clarified the contours of lawful delegation. In the ESMA "Short-Selling case" (C-270/12), the CJEU upheld ESMA's powers where they were precisely delineated by the legislator and subject to judicial review. An IPA framework must therefore structure any ESA role (e.g., in escalation) not as an open-ended discretionary power, but as a circumscribed function to apply pre-defined criteria set in Level-1 law, ensuring it aligns with established agency-powers jurisprudence.[2]

The Meroni constraints on delegation of discretionary powers to bodies outside Member States remain relevant; however, the EU already exercises broad delegated powers via the ESAs and the Commission for regulatory technical standards, guidelines and coordination measures without infringing Meroni, provided delegation is accompanied by sufficient guiding principles and parliamentary oversight. IPA can therefore be structured as a Level-1 power that sets principles and mandatory criteria (not ad hoc discretionary delegations), with ESAs playing a structured adjudicative or escalation role rather than a free-standing discretionary function. Any expansion of ESA operational roles or the conferral of takeover powers must nonetheless respect the CJEU's doctrine on delegation, which requires clear legislative guidance and limited discretion. Any IPA design to be delivered in the EU must therefore specify trigger conditions, timelines and review procedures in Level-1 text to withstand legal challenge.

[2] Any durable authorisation reform must anticipate judicial scrutiny. IPA decisions—whether grants, refusals, or suspensions—will be subject to review under national administrative law and, ultimately, EU law principles of proportionality, legal certainty and equal treatment. By anchoring decisions to predefined milestones, time limits and transparent criteria, IPA enhances rather than weakens legal defensibility. ESA escalation mechanisms further reduce divergence risk, ensuring that cross-border applicants are not subject to arbitrary or inconsistent treatment. From a litigation perspective, IPA reduces discretionary opacity and strengthens the record on which supervisory decisions are assessed.

The normative case for IPA to be applied in the EU must also address potential challenges under competition law and State aid rules. A properly structured IPA framework, however, is defensible. First, it is a procedural reform that applies symmetrically to all qualifying applicants, not a selective measure favouring specific undertakings or otherwise conferring a financial advantage or selective economic benefit. Second, it does not involve a transfer of state resources; rather, it defines the timing and conditions under which firms can use their own capital. Third, by accelerating market entry for all challengers, it is pro-competitive, not distortive, provided that IPA eligibility criteria are objective, transparent and applied symmetrically.

The features discussed above would allow an IPA framework to withstand legal scrutiny and reinforce that IPA in the EU would operate as a procedural sequencing tool, not a subsidy but a neutral tool that merely alters the temporal ordering of authorisation and commencement of activity under existing regulatory obligations. Explicit articulation of this neutrality is nevertheless important, as it pre-empts potential challenges by incumbents and reinforces legal certainty. For this reason, the Level-1 framework should expressly state that IPA confers no exemption from substantive regulatory requirements beyond those explicitly listed as permitted activities.

Lastly and in light of judicial review and legal defensibility considerations, anchoring decisions to predefined milestones, time limits and transparent criteria, IPA enhances rather than weakens legal defensibility. ESA escalation mechanisms further reduce divergence risk, ensuring that cross-border applicants are not subject to arbitrary or inconsistent treatment. From a litigation perspective, IPA reduces discretionary opacity and strengthens the record on which supervisory decisions are assessed.

9. A possible legal architecture for IPA (Option 1) in the EU

In order to give the greatest effect to delivering Option 1, the European Commission should consider delivering the following two parallel instruments:

1. A horizontal Regulation: "EU Framework for In-Principle Authorisation and Staged Permissions"[3] (binding across sectors), setting out common definitions, permitted activity categories, supervisory obligations, time limits, ESA escalation and a supervisory liability shield; and

2. Sectoral amendments to MiFID, CRD and MiCAR to plug in sector-specific thresholds and caps.

Crucially one would want to distinguish between (i) an IPA: i.e. a horizontal, time-limited and conditional pre-authorisation instrument enabling applicants to undertake strictly low-risk activities while completing remaining operational requirements; and (ii) Staged or phased permissions (mobilisation): i.e., a sectoral, progressive authorisation framework embedded in existing Union law, which allows gradual expansion of permitted activities once defined milestones are met.

While ultimately it is for the European Commission to propose respective legislative drafts (that are legally coherent and defensible under Meroni and proportionality doctrines), the following below is merely intended as a thought-experiment based attempt at kick-starting some of the conceptual dialogue on what might be included in any future Level-1 drafting should the EU policymakers ever decide to advance an IPA (Option 1-based) approach in the EU.

9.1 what could a model horizontal Regulation look like?

The following sets out selected proposed recitals operative provisions for a proposed:

> "Regulation (EU) 20XX/… of the European Parliament and of the Council on In-Principle Authorisations and Staged Permissions in Financial Services (the "IPA and Staged Permissions Regulation)"

Selected draft Recitals

> "(1) The completion of the internal market for financial services requires a regulatory framework that ensures high standards of prudential supervision, financial stability and consumer protection, while also facilitating effective market entry and innovation in a technologically evolving financial system."
>
> "(2) Union financial services legislation generally requires entities to obtain a full authorisation before commencing regulated activities. While this requirement is essential to safeguard the public interest, experience shows that, in certain circumstances, applicants may already meet core authorisation requirements while still finalising limited operational elements that do not affect the sound and prudent conduct of specific low-risk activities. "
>
> "(3) In the absence of a harmonised Union framework, national competent authorities have developed divergent practices concerning pre-authorisation testing, mobilisation or conditional approvals, which could fragment the internal market and create unequal conditions of competition between Member States."
>
> "(4) It is therefore appropriate to establish a Union-level framework governing the conditions under which competent authorities may permit strictly limited activities prior to the grant of a full

[3] Or something more politically palatable.

authorisation, while ensuring that such permissions remain exceptional, temporary and subject to effective supervisory control. ”

“(5) This Regulation introduces the concept of In-Principle Authorisation (IPA) as a horizontal supervisory tool allowing competent authorities, on a discretionary basis, to confirm that an applicant satisfies core authorisation prerequisites and to permit a narrowly defined set of low-risk activities, subject to binding conditions and milestones. ”

“(6) An IPA should not be understood as a partial or simplified authorisation. It does not confer passporting rights, does not prejudge the final outcome of the authorisation process and does not reduce the level of compliance required for the grant of a full authorisation under sectoral Union law. ”

“(7) In parallel, certain sectoral Union acts provide for staged or phased authorisation regimes, including mobilisation frameworks, under which the scope of permitted activities expands progressively as supervisory conditions are met. Those regimes form an integral part of the authorisation process and pursue objectives distinct from those of an IPA. ”

“(8) This Regulation should therefore clearly distinguish between In-Principle Authorisations, which constitute a temporary pre-authorisation instrument and staged or phased permissions embedded in sectoral legislation, while ensuring coherence and mutual consistency between both approaches.”

“(9) In accordance with the principle of proportionality, the availability of an IPA should be limited to activities that present a low level of prudential, consumer-protection and financial-stability risk. Activities eligible under an IPA should therefore be exhaustively defined and subject to quantitative and qualitative limits. ”

“(10) To preserve supervisory effectiveness and market integrity, competent authorities should grant an IPA only where the applicant has demonstrated robust governance arrangements, adequate capital or own-funds availability, fit and proper management and effective arrangements for the prevention of money laundering and terrorist financing, commensurate with the activities permitted. ”

“(11) Any remaining operational deficiencies at the time of granting an IPA should be clearly identified, limited in scope and subject to a binding and time-bound supervisory milestone plan. ”

“(12) Given the temporary and conditional nature of an IPA, it is appropriate to subject it to a strict duration and to allow extensions only in duly justified cases of objective complexity. Extensions should be transparent, reasoned and subject to appropriate supervisory oversight at Union level. ”

“(13) To ensure a level playing field and consistent supervisory outcomes across the Union, mechanisms for supervisory coordination and escalation should be provided in respect of cross-border or potentially systemic applicants, while fully respecting the responsibilities of national competent authorities under Union law. ”

“(14) Entities operating under an IPA should be subject to enhanced transparency obligations vis-à-vis clients and counterparties. Clear disclosure of the IPA status is necessary to avoid misunderstandings regarding the scope of authorisation and to preserve confidence in the financial system. ”

“(15) Activities conducted strictly within the scope of an IPA and in compliance with its conditions should be considered authorised for the purposes of Union and national law. This is necessary to ensure legal certainty for applicants and to avoid dissuading competent authorities from making proportionate use of the IPA instrument. ”

“(16) At the same time, this Regulation should not weaken supervisory accountability. The safe harbour provided for IPA-compliant activities should apply without prejudice to enforcement action in cases of non-compliance, misrepresentation or breaches of Union law.”

“(17) In order to support innovation and technological development in financial services, including digitalisation and new business models, the IPA framework should enable controlled real-world testing of systems and processes, subject to strict safeguards and supervisory oversight. ”

“(18) By harmonising the conditions under which limited pre-authorisation activities may be conducted, this Regulation contributes to reducing unnecessary barriers to entry, fostering competition and innovation and ensuring that similar risks are treated in a similar manner across the Union.”

“(19) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, including the freedom to conduct a business and the protection of consumers.”

“(20) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States alone and can therefore, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary to achieve those objectives.”

Selected draft operative provisions and Annex I thereto

~ Article 1 - Subject matter and scope.

1. This Regulation establishes a harmonised framework governing: (a) the grant, use and supervision of In-Principle Authorisations (IPAs); and (b) the design and application of staged or phased permissions, including mobilisation regimes, in the field of financial services regulated by Union law.

2. An IPA permits an applicant entity, prior to the grant of a full authorisation under the relevant sectoral act, to carry out strictly limited and predefined activities, subject to conditions, safeguards and supervisory milestones laid down in this Regulation and in applicable sectoral legislation.

3. Staged or phased permissions constitute a sequence of legally binding supervisory stages forming part of the authorisation process under sectoral Union law, whereby the scope of permitted activities is progressively expanded upon the fulfilment of predefined conditions.

4. This Regulation is without prejudice to sector-specific authorisation regimes laid down in Union acts, which may provide for more stringent conditions, narrower scopes of permitted activity, or additional supervisory safeguards.

~ Article 2 - Definitions.

~ For the purposes of this Regulation, the following definitions apply:

1. 'In-Principle Authorisation' (IPA) means a time-limited and conditional administrative decision adopted by a competent authority, which: (a) confirms that the applicant satisfies core authorisation prerequisites; (b) identifies specific residual deficiencies of a limited and clearly circumscribed nature; and (c) permits the applicant to carry out a defined set of low-risk activities pending the completion of those requirements.

2. 'Staged or phased permission' means an authorisation framework under sectoral Union law in which: (a) successive supervisory stages are legally embedded in the authorisation decision; and (b) each stage confers an expanded scope of permitted activities upon verification of compliance with predefined conditions.

3. 'Residual operational gaps' means outstanding deficiencies limited to non-core systems, processes or procedures which do not affect the sound and prudent conduct of the activities permitted under an IPA.

4. 'Competent authority' means a national or other competent authority designated under the relevant sectoral Union act.

~ Article 3—Legal nature and effects

1. An IPA shall not constitute a full authorisation within the meaning of the relevant sectoral Union act and shall not give rise to passporting rights.

2. Activities carried out under an IPA shall be deemed authorised activities for the purposes of Union and national law, provided that they are conducted strictly within: (a) the scope defined in the IPA decision; and (b) the conditions laid down pursuant to this Regulation.

3. Staged or phased permissions shall form an integral part of the authorisation decision under the applicable sectoral act and shall not require a separate legal basis under this Regulation unless expressly provided.

~ Article 4 - Conditions for granting IPA.

~ A competent authority may grant an IPA where it is satisfied that:

(a) the applicant has established governance arrangements, capital or own-funds availability, senior management fitness and propriety and AML/CTF readiness commensurate with the scope of the activities permitted under the IPA;

(b) any residual operational gaps are limited in scope, clearly identified and do not affect key risk-management, safeguarding or client-asset protection functions;

(c) the applicant has demonstrated effective and proportionate AML/CTF arrangements sufficient for the activities permitted under the IPA;

(d) the applicant has submitted a credible and proportionate wind-down plan, specifically tailored to the orderly cessation of the activities permitted under the IPA; and

(e) the applicant has formally accepted a binding supervisory milestone plan, including reporting obligations and deadlines for the completion of outstanding requirements.

~ Article 5 - Permitted activities under an IPA

1. Activities permitted under an IPA shall be limited to low-risk activities listed in Annex I.

2. Sectoral Union acts may: (a) restrict the activities listed in Annex I; (b) impose additional quantitative or qualitative limits; or (c) exclude the application of IPA to

specific activities where justified by prudential, consumer-protection or financial-stability considerations.

~ Article 6—Duration, expiry and extension

1. An IPA shall be granted for a period not exceeding 12 months.
2. A competent authority may grant a single extension of up to 6 months where: (a) the applicant has substantially complied with the milestone plan; and (b) the remaining deficiencies are attributable to objective and duly justified complexity.
3. Any extension decision shall be reasoned, documented and notified to the relevant European Supervisory Authority.

~ Article 7—Supervisory escalation and coordination.

1. Where a competent authority refuses to grant, or unduly delays the grant of, an IPA in respect of an applicant with cross-border activities or potential systemic relevance, the applicant may request a review by the relevant European Supervisory Authority.
2. The relevant European Supervisory Authority shall issue an opinion within 30 working days.
3. The opinion shall be binding unless the competent authority demonstrates, in a reasoned decision, overriding prudential or supervisory concerns grounded in Union law.

~ Article 8 - Safe harbour and supervisory liability.

1. Activities conducted in compliance with an IPA shall not, in themselves, constitute unauthorised activity within the meaning of Union or national law.
2. Supervisory decisions granting an IPA in good faith and in accordance with this Regulation shall not give rise to personal liability of supervisory staff, provided that applicable statutory procedures have been followed.

~ Article 9 - Client and consumer protection.

1. Entities operating under an IPA shall clearly disclose their IPA status to clients in a standardised and prominent manner.
2. Sectoral legislation shall prescribe appropriate safeguards, including: (a) exposure caps; (b) segregation requirements; and (c) enhanced supervisory reporting.

Annex I - Permitted Low-Risk Activities by Sector (*merely illustrative for purposes of this article*):

~ Investment Firms (MiFIR/MiFID (II): Own-account trading within pre-defined quantitative limits; onboarding and servicing of professional clients subject to capped exposures; limited market-making with low notional exposure; internal systems testing with real data under controlled conditions.

~ Credit Institutions (CRD—Mobilisation context): Restricted deposit-taking from corporate clients up to a specified cap; intra-group funding operations; testing of payment, clearing and settlement systems.

~ Crypto-Asset Service Providers (MiCAR): Onboarding professional clients; internal settlement and custody testing for crypto-assets; execution of trades on behalf of professional clients within volume and value caps; Travel Rule compliance solutions testing.

~ Payment/E-Money Institutions (Payment Services Directive 2 (PSD2)/E-Money Directive 2 (EMD2)): Testing payment processing with a limited number of corporate users; issuing e-money within strict volume limits and for closed-loop arrangements.

Further to Annex I, it is conceivable that further annexes and standardised templates and playbooks may also be desirable to be included in any future drafting to ensure the IPA framework is immediately operational along with Level 2 measures. This may include:

- Annex II: Sector-Specific Positive Lists and Caps (extending Annex I).
- Annex III: Standardised IPA Disclosure Notice for Clients.
- Annex IV: Template Milestone and Mobilisation Plan.
- Annex V: Supervisory Reporting Dashboard Template.
- Annex VI: Proportionality Assessment Checklist for NCAs.
- Annex VII: Governance and Accountability Pack.

9.2 Sectoral amendments - MiFID, CRD, MiCAR (illustrative only)

In support of the above, sectoral clarifications as follows would be helpful to be introduced in the sectoral legislation:

~ MiFID (new Art 5a - In-Principle Authorisation for Investment Firms): Setting out that Member States shall permit NCAs to grant IPA to investment firms for activities enumerated in Annex I where core governance and capital prerequisites are

satisfied. Full authorisation and passporting shall remain conditional on final compliance with MiFID organisational and conduct requirements.

~ CRD (new Art 8a - Mobilisation for Credit Institutions): Clarifying that Member States shall provide for a mobilisation stage allowing restricted activities subject to predefined caps and shall be based on a (i) a supervisory mobilisation plan; and (ii) a binding milestone schedule. Coordination with the Single Supervisory Mechanism (SSM) on fit-and-proper assessments and with the Single Resolution Board (SRB) on Minimum Requirement for own funds and Eligible Liabilities (MREL) build-up and resolvability testing shall be required. Mobilisation is contingent on a supervisory mobilisation plan and milestone schedule.

~ MiCAR (new Art XX - Provisional CASP Licence): Confirming that competent authorities may grant a provisional authorisation permitting limited crypto-asset services for professional clients and internal operational testing, pending full compliance with MiCAR requirements.

9.3 Passporting and cross-border activity

In any such proposed EU IPA regime, passporting rights would remain tied to full authorisation. However, the IPA framework should permit limited, supervised cross-border testing on a pilot basis. This would require strict conditions, such as obtaining non-objections from host state NCAs, limiting activity to professional clients and applying enhanced disclosure requirements to make clear the firm's provisional status and the absence of full passporting rights. This prevents de facto unauthorised passporting while allowing for pre-authorisation operational validation in a multi-jurisdictional context.

9.4 Third-country firms

Crucially any future EU IPA framework must apply consistently to branches and subsidiaries of third-country firms to prevent regulatory arbitrage. IPA would not grant equivalence or substitute for it. During the IPA phase, strict adherence to reverse solicitation rules would be enforced and firms would be required to operate through a locally established entity (branch or subsidiary) to ensure proper supervisory oversight within the Union.

9.5 Group structures and outsourcing

Importantly, any EU IPA regime must reflect that for firms that are part of a larger group, intra-group service provision and outsourcing arrangements during the IPA phase must be explicitly declared and approved by the NCA. Such arrangements must comply with ESA's guidelines and supervisory principles on outsourcing and the Digital Operational Resilience Act's (**DORA**) requirements for ICT third-party risk management, ensuring that operational dependencies do not create unmitigated risks.

9.6 Transitional provisions

In addition to the concepts discussed above, a transitional framework should be established to manage applications pending at entry into force of any future EU IPA regime as well as to facilitate the conversion of sandbox and transitional participants into such future EU IPA regime. Limited grandfathering should be provided where justified and defined standards for orderly wind-down upon IPA expiry or revocation will need to be included.

Moreover, standardised client-communication templates are required to support exits or scope reductions for IPAs granted under a transitional provision or otherwise, ensuring supervised early activity remains credibly reversible without detriment to clients of an IPA firm.

10. Level-2 operationalisation and supervisory playbooks to supplement the Level-1 regime

Level-2 instruments should translate the Level-1 legal framework into standard operating procedures. Positive lists would specify permitted activities, such as own-account trading within internal limits and onboarding of professional clients with quantitative caps. A corresponding mandatory 'not-to-do' list would explicitly exclude high-risk activities during the initial IPA phase, such as retail deposit-taking, offering complex derivatives to retail clients and unmanaged client money holding. This reinforces the low-risk profile of the IPA stage.

Milestone templates would define (a) a minimum sequence-governance clearance; (b) capital proof; (c) AML/CTF systems readiness; and (d) key operational resilience gates aligned with DORA, including ICT risk management framework approval, ICT third-party risk assessment and successful digital operational resilience testing.

For firms relying on outsourcing, compliance with EBA/ESMA guidelines would be a mandatory milestone. Decision timeframes would be precise: an initial IPA decision within thirty working days of a complete dossier, with failure to decide triggering deemed approval or automatic escalation. Reporting would be standardised via a common dashboard format, enhancing transparency and enabling effective monitoring.

11. ESA role and calibrated centralisation

Separate to the ESA's current mandates and roles in direct authorisation and supervision of specific types of firms and activities, the ESAs' role in an any EU IPA regime should be primarily adjudicative and convergence-oriented.

For significant institutions under the SSM, the ESA's binding opinion contemplated in any future Level-1 text would need to be coordinated with the European Central Bank (**ECB**) in its SSM role, particularly regarding fit-and-proper assessments and prudential requirements, ensuring a coherent approach within the Banking Union.

To enhance transparency and accountability, ESA opinions and the corresponding NCA decisions (especially where diverging from the ESA's view) should be published in an anonymised form. In contested cases with cross-border implications, ESA opinions would resolve disputes within short deadlines against harmonised criteria, becoming binding unless proportionate, recorded reasons are demonstrated by the NCA. Crucially, this adjudicative function would be crafted so as to not confer broad, discretionary 'takeover' powers in a manner that would infringe the Meroni doctrine. ESAs would also issue supervisory handbooks and act as neutral arbiters in inter-NCA disputes.

12. Political economy and coalition formation

Support can be assembled among Member States that rely on efficient cross-border authorisations and financial centre competitiveness-such as the Netherlands, Ireland, Luxembourg and the Nordics. France, Spain and Italy are likely conditional supporters if national discretion and industrial policy tools are respected within a bounded EU framework. Resistance can be expected from jurisdictions with conservative supervisory cultures and heightened liability concerns, notably Germany and some Central and Eastern European (CEE) states.

A successful strategy frames IPA as prudentially superior rather than deregulatory, limits initial scope to cross-border and systemic applicants, includes a procedural supervisory liability shield and offers a qualified national safeguarding clause with a high evidentiary threshold for overriding ESA opinions in purely domestic cases. A pilot-first approach-MiFID investment firms and MiCAR CASPs-can build confidence before extending to banking mobilisation under CRD.

13. Member state support and resistance

A frequent objection is that IPA lowers standards. This is incorrect; it reorders the sequencing of requirements by front-loading supervision while allowing scale to develop later. Another concern is that IPA increases risk. However, the status quo—where uncontrolled delays push activity into offshore or unregulated spaces—arguably increases risk more significantly. Finally, there is a valid concern that NCAs will not use the framework. This is likely true unless the regime is supported by a clear legal definition, mandatory escalation mechanisms and robust liability protections for supervisors.

Risks such as misuse of positive lists, indefinite provisionality, regulatory arbitrage and supervisory reluctance can be mitigated through restriction to low-risk/professional clients, hard time caps and renewal criteria, objective milestone criteria and statutory supervisory protections, paired with clear, swift enforcement (including suspension/refusal of final licence). Operational stress testing should precede and accompany IPA deployment, covering scenarios such as IT outages during systems testing, market-abuse risks in limited trading, regulatory arbitrage via lenient hosts and reputational shocks from retail losses, with mitigants including tested failover and runbooks, real-time surveillance and reporting, transparency and joint investigations with passporting suspension options and strict exclusion of broad retail exposure during IPA coupled with mandatory client disclosures. The EU should not import UAE informality or high discretion; codification is essential.

Member States' resistance is driven less by substantive objections than by institutional incentives (NCAs and other stakeholders), particularly supervisory liability exposure and political accountability. Member States with strong incumbent financial sectors and conservative supervisory cultures (e.g., Germany) are likely to resist an EU IPA regime. This resistance can only be overcome if the framework is not optional and incorporates (1) a clear legal definition, (2) robust liability protections for supervisors and (3) mandatory escalation mechanisms. By contrast, jurisdictions with vibrant cross-border hubs (e.g., Netherlands, Ireland) see early activity as a competitiveness advantage. This can be summarised as follows:

Table 3: Possible Member State positions.

Group	Likely position	Rationale
Netherlands, Ireland, Luxembourg, Nordics	Supportive	Competitive market orientation and flexible supervision provided resources are available
France, Spain, Italy	Conditional supportive	Likely open to IPA with strong safeguards
Germany, Austria, CE Europe	Likely resistance	Conservative supervisory culture, liability concerns

A critical point of friction for Member States and any EU-push for an IPA, is the (potential) impact on retail investor protection. While an IPA regime could be limited

to professional clients, any potential exposure for retail clients would need to be addressed whether as being in scope or not. Ultimately, failure to ring-fence retail risk could create significant political opposition and undermine an IPA regime's legitimacy.

In more practical terms, a move to IPA would likely prompt significant resource implications for NCAs—even with the further on-going "Europeanisation" i.e., centralised shift of NCAs mandates to EU level authorities. Nevertheless, any proposed shift to "front-loaded" and "intensive" supervision requires a substantial increase in skilled supervisory staff and budgetary allocation. Member States may resist not just on principle, but on the practical grounds of cost, fearing that they will bear the financial burden of a more complex supervisory process without a clear mechanism for funding it, such as through increased supervisory fees for applicant firms.

14. Strategic payoff for the EU

If implemented, an IPA regime would be a leverage reform, not a procedural tweak. It would:

- Materially reduce authorisation friction and shorten timelines,
- Improve capital efficiency by allowing earlier deployment,
- Enhance the EU's attractiveness for third-country firms and inbound investment, providing a clearer and faster route to market that directly competes with the offerings in the UK, UAE and US,
- Reduce pressure for full centralisation of supervision by building trust at the national level and
- Critically, change supervisory incentives from risk avoidance via delay to active risk management via structured engagement.

Beyond these immediate benefits, an IPA regime would serve as a critical accelerator for the EU's strategic ambition of building a genuine Capital Markets Union (CMU) and Savings and Investments Union (SIU). An accompanying monitoring framework should track median time from application to IPA grant, conversion rates to full authorisation, incident rates per IPA firm, supervisory interventions during IPA and the incidence/outcomes of ESA escalations, feeding a Commission/ESA evaluation at 24 months with a sunset review clause.

By reducing fragmentation in market access and fostering a more dynamic and competitive environment for financial firms, it directly addresses core CMU/SIU objectives. This positions the reform not merely as a technical fix, but as a foundational pillar for a more integrated and efficient Single Market for capital and financial services generally.

15. Monitoring, metrics and evaluation

Credible measurement is central to legitimacy and adaptive governance. Key indicators should include median time from application to IPA grant, conversion rates from IPA to full authorisation within the time limit, incident rates per IPA firm, supervisory interventions and sanctions during the IPA phase and the incidence and outcomes of ESA escalations. NCAs should publish aggregate IPA metrics quarterly and ESAs should maintain an EU-wide dashboard. A joint Commission/ESA evaluation at twenty-four months should be mandated, with a sunset review clause for the Regulation unless renewed based on evidence.

16. Stress tests and foreseeable failure modes

Operational stress testing should precede and accompany IPA deployment. Credible scenarios include material IT outages during systems testing; market abuse risks in limited trading permissions; regulatory arbitrage via lenient host NCAs; and reputational shocks from retail losses. Mitigants should be engineered ex ante: tested failover and runbooks; enhanced surveillance and real-time trade reporting; transparency and joint investigations with the option to suspend passporting from non-compliant host states; and strict exclusion of broad retail exposure during IPA coupled with mandatory client disclosures about IPA status, limitations, complaints and redress. These scenarios should be modelled quantitatively with conservative assumptions to calibrate caps and supervision intensity.

17. Enforcement, liability and judicial review

Deterrence during IPA must rely on swift, proportionate administrative sanctions. The framework must define 'unreasonable delay' with justiciable standards, such as binding decision clocks for NCA responses (e.g., 30 working days for an IPA decision), clear 'stop-the-clock' rules for information requests and completeness checks to prevent indefinite processing loops. This creates a predictable process for applicants, reinforcing their legitimate expectations of a timely decision, a principle grounded in CJEU case law. The framework must anticipate key judicial review scenarios: an applicant challenging an NCA's refusal to grant an IPA, its imposition of unreasonable conditions, or a decision to suspend an existing one. In such cases, courts would review legality, proportionality and procedural fairness, relying on transparent reasoning and auditable milestone files

18. Consumer protection and market integrity

Any EU IPA regime must be crafted to enhance consumer and market safeguards. Product-level controls are essential: any permitted activity must align with applicable rules such as those under the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation including its Key Information Documents (KIDs), the Insurance Distribution Directive (IDD) for insurance-based investment products and MiFID II appropriateness/suitability tests. Mandatory disclosures must inform clients of IPA status and limitations. Crucially, the framework must clarify the scope of compensation scheme coverage (e.g., investor compensation scheme/depositor guarantee scheme) during the IPA phase. Strict segregation of client assets, enhanced AML/CTF readiness and clear prohibitions on high-risk retail activities are non-negotiable preconditions.

19. Economic impact: costs, benefits and incentive effects

From an economic and institutional perspective, the proposed EU IPA framework constitutes a re-sequencing of regulatory engagement rather than a relaxation of substantive prudential or conduct requirements. As a policy proposal, its potential impacts must be assessed relative to the existing binary authorisation model and to alternative, non-legislative approaches discussed in Section 5. The analysis below therefore considers, on a prospective and qualitative basis, the likely costs and benefits of IPA, its macroeconomic and financial stability implications, its effects across Member States and supervisory authorities, associated budgetary and infrastructural considerations and its alignment with wider EU strategic objectives.

The economic case turns on time-to-market effects and incentive alignment. Even conservative estimates suggest that reducing authorisation lags by several months for high-growth investment firms and CASPs can unlock significant capital deployment, innovation retention and employment within the EU. Possible costs include NCA staffing for dedicated IPA teams, development of supervisory dashboards and potential enforcement actions. However, behavioural gains-reduced supervisory bias from liability shields and objective milestones and reduced forum shopping by firms-should translate into more predictable outcomes and lower aggregate compliance deadweight losses. A rigorous impact assessment should quantify these effects and set baseline targets for the initial review.

19.1 Illustrative quantitative impact

On a structured qualitative assessment, IPA should deliver net positive effects relative to the current binary authorisation framework, particularly in sectors characterised by long pre-authorisation timelines and high fixed entry costs. As analysed above, the principal expected benefits arise from reduced time-to-market for new entrants, earlier deployment of committed capital, improved legal certainty during the authorisation phase and more continuous and structured supervisory engagement. These benefits could be offset by transitional costs, including supervisory process redesign, milestone monitoring and incremental reporting obligations during the IPA phase. However, as suggested by comparative experience, such costs are likely to be front-loaded and may be outweighed over time by reductions in aborted authorisation processes, duplicative supervisory engagement and prolonged pre-authorisation uncertainty. From a macroeconomic perspective, IPA should support capital formation and intermediation efficiency by shortening periods of regulatory inactivity, while preserving financial stability through strict limits on permitted activities, time-bounded permissions and immediate supervisory intervention powers. Because IPA is conceived as rule-based and reversible, it should not introduce pro-cyclicality and may, in practice, facilitate market entry during downturns when binary authorisation delays would otherwise suppress investment and innovation.

While a full quantitative assessment would be required if the EU were to advance an IPA regime (for Option 1 and 2), the following orders of magnitude illustrate the potential impact:

- Current authorisation delays for complex firms can reach up to 12-18 months. An IPA regime could reduce this effective 'dead time' by 6-9 months, allowing innovative firms to deploy capital and test services earlier.
- For a cohort of 50 high-growth firms, this could unlock estimated potential of between €500 million to €1 billion in capital that would otherwise be idle.
- The corresponding increase in NCA supervisory costs could possibly be estimated at 15-20% during the authorisation phase, a cost that could be offset by higher application fees.

19.2 Institutional, budgetary and strategic considerations

As noted above, the institutional impact of IPA would be expected to vary across Member States depending on supervisory capacity, market maturity and experience with staged or conditional authorisation models. While some national competent authorities may face transitional capacity constraints related to milestone assessment and ongoing monitoring, IPA is intended to be neutral or capacity-positive over the medium term, insofar as structured milestones reduce open-ended engagement and late-stage authorisation failures. The ESA escalation and convergence mechanisms proposed are designed to

mitigate divergence risks and to support less resourced authorities, ensuring that IPA does not systematically advantage larger or more experienced supervisors.

From a budgetary perspective, IPA is expected to have limited direct implications at EU level and should, in principle, be capable of implementation within existing institutional frameworks, particularly if it reduces supervisory re-work and ex post intervention. At national level, implementation would require modest transitional investment in supervisory processes, staff training and digital reporting infrastructure, including milestone tracking and IPA firm registers. As discussed above, alternative approaches—such as non-binding guidance, expanded sandboxes, or informal supervisory forbearance—have not proven capable of delivering scalable, legally certain early-activity outcomes across the Union. IPA is therefore proposed as a superior mechanism, replacing informal discretion with transparent, enforceable sequencing grounded in Level-1 legislation.

Finally, IPA should support the objectives of the CMU/SIU by lowering structural barriers to entry, facilitating cross-border scaling and enhancing market contestability. By aligning the EU authorisation framework more closely with peer jurisdictions, IPA should strengthen the Union's competitiveness as a location for regulated financial activity. Moreover, by enabling earlier domestic deployment of innovative financial services and infrastructure, IPA is intended to contribute to the EU's strategic autonomy, particularly in emerging areas such as fintech, payments and digital assets, without compromising supervisory or consumer protection standards.

19.3 What is missing from the economic impact above

While earlier supervised activity should link to gains in investment productivity and capital formation, any economic analysis will need to also be conducted with a view on territorial distribution across Member States given today's divergence and resource constraints. The assessment should also consider aggregate-risk implications-whether staged activity changes tail risks or amplifies pro-cyclicality-and likely concentration dynamics between larger financial centres and smaller NCAs. Such analysis is beyond the purview of this article let alone thought experiment. This article also does not purport to conduct comprehensive analysis consistent with:

~ The Commission's Better Regulation approach, which typically includes a concise impact-assessment module setting out: (i) a factual baseline and counterfactual; (ii) a clear problem tree; and (iii) specific, measurable objectives against which options are tested. The baseline would report observed authorisation timelines, cross-NCA variance and incentive structures that favour delay as a proxy for risk control.

~ A full discussion on options (including beyond Options 1 to 3 discussed herein) that could also include a time-limited, ESA-coordinated pilot and targeted supervisory-convergence measures. Such discussion typically appraises each policy option for effectiveness, efficiency, proportionality and coherence, with the case for a directly applicable horizontal instrument grounded in its ability to address behavioural and institutional drivers of divergence.

~ A full quantified cost-benefit and sensitivity analysis that models (i) administrative and compliance costs by firm size and business model; (ii) supervisory costs for NCAs, ESAs, the ECB-SSM and AMLA; and (iii) dynamic benefits from shorter "dead-time" to market. Such analysis typically has comprehensive methodology, confidence ranges and sensitivity tests, including the entry-elasticity of fee schedules. It also typically includes a small-to-medium sized enterprise test, which in the case hereof, would ensure that fee calibration and reporting templates do not unintentionally deter smaller applicants and that earlier supervised activity yields tangible benefits for scale-ups.

~ Full discussion on data protection standards namely that, where live-system testing or real client flows are envisaged, any legislative text should specify privacy-by-design, data-minimisation and a clear lawful basis for processing, aligned with outsourcing and ICT third-party risk controls under DORA. Milestone templates should include ICT-risk gates, third-party assessments, operational-resilience testing and simple dashboards so that live-data pilots operate within a monitored and proportionate risk envelope.

20. Conclusion

As set out above (including as deployed in comparator jurisdictions), IPA is neither a panacea nor a Trojan horse nor does it, as a standalone tool, constitute deregulation. It represents both an institutional refinement and a procedural re-ordering that allows supervision to precede scale rather than follow it.

Adopting the IPA approach may shift the EU from a model in which delay may from time to time implicitly be treated (or at least viewed) as risk control to one in which supervision actively manages risk through transparent, time-bounded sequencing. Comparative

experience demonstrates that early authorised activity, when legally defined and tightly supervised, can enhance—not weaken—financial stability.

For the EU, adopting an IPA regime would:

- shorten time-to-market;
- reduce supervisory conservatism;
- improve capital allocation; and
- make the Single Market function more like one.

Other leading financial centres have already accepted a basic truth the EU still resists: authorisation is not a moment; it is a managed transition. They show that controlled early activity is compatible with high prudential standards when supported by a formal legal status, explicit pre-authorisation permissions, milestone-based completion and front-loaded supervision.

By borrowing and adapting these IPA models to the EU context, the EU can achieve a significant strategic payoff without Treaty change. Targeted amendments to MiFID II/III, CRD/CRR and MiCAR, backed by supervisory liability shields and ESA escalation, would allow the EU to preserve high standards, accelerate market entry and, most importantly, rebalance supervisory behaviour toward active engagement rather than defensive delay.

The success of an EU IPA regime proposal depends on careful drafting, measurable safeguards and a phased rollout[4] that protects legitimate national interests while advancing the EU's competitiveness, CMU/SIU and innovation objectives. Authorisation should be reconceived as a supervised journey rather than a cliff edge. Introducing an IPA regime in the EU provides the legal and supervisory means to make that journey safe, predictable and pro-competitive. Ultimately it remains up to the European Commission "to do whatever it takes" and explore whether to design, develop and deploy a more efficient way forward that would sit alongside existing authorisation pathways but which could strengthen the EU's Single Market for financial services and its Single Rulebook, making it more competitive and capital growth orientated without compromising resilience.

[4] A politically cognisant timetable is achievable. As a first step, the Commission should consult on IPA and publish an impact assessment before proposing the horizontal Regulation and sectoral amendments, initially scoped to MiFID investment firms and MiCAR CASPs. As a subsequent step, Trilogues would run in parallel with ESA preparation of a binding supervisory handbook. Adoption would be followed by a twelve to eighteen-month transitional period. Pilot IPA operations could commence under ESA oversight and the pilot would be reviewed thereafter, with Level-2 instruments adjusted accordingly. Contingent on positive metrics, extension to CRD mobilisation could proceed thereafter.