

## **Towards a Competitive EU Inc. – How the JURI Amendments Can Strengthen the New European Legal Form**

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## Introduction

Deutsches Aktieninstitut comments on amendments proposed by the Committee on Legal Affairs regarding EU Inc. (2026/0074(COD)). EU Inc. offers the opportunity to overcome the core issue of fragmentation within the EU and to bring the markets together in the spirit of a genuine Savings and Investments Union. Three elements are essential for this: uniform capital market eligibility for EU Inc., no recourse to national law, and a legal form that is open to all companies.

We therefore take note of the relevant amendments, for example regarding access to the regulated market, templates for articles of association as well as proposed templates for investor agreements, and for employee stock option plans. Furthermore, we welcome, amongst other things, the clarification that the SE may act as a parent company of an EU Inc.

Still, a fully harmonised regulatory framework for EU Inc. is necessary to unlock its full potential and foster the development of the European capital markets. This is in the first place true for company law, where there should be no recourse to national law to ensure a uniform EU Inc. across the EU.

In the interest of establishing a genuine Savings and Investment Union, we recommend extending the 28th regime to additional areas of law. In this way, the 28th regime would offer a modular, scalable EU legal framework – starting with company law and later extendable to tax law, insolvency, labour and securities law. Despite all the justified criticism of Chapter X of the Regulation on insolvency proceedings for innovative start-ups, a coherent and uniform insolvency procedure for all EU Inc. companies remains particularly important. Differences in creditor hierarchies, restructuring procedures and reasons for filing for insolvency complicate cross-border financing, increase transaction costs and hinder the development of markets for non-performing loans.

## 1 Ensuring capital market eligibility for the EU Inc.

Access to the regulated capital market is central to raising equity and financing the European economy and is therefore an integral part of the EU Inc. The requirement to change legal form or to obtain authorisation from the country of registration to access regulated markets is, for this reason, counterproductive. It could lead to further fragmentation and forum shopping.

Companies must be able to complete their entire life cycle – from incorporation to a potential initial public offering (IPO) – under the legal form of the EU Inc. It must therefore provide an adaptable European legal form, suitable for start-ups as well as for established companies.

We therefore comment on the amendments relating to the access of EU Inc. to capital markets as follows:

- We welcome amendments 1383 and 1385. They make it clear that EU Inc. companies shall have access to regulated markets without a change of legal form, regardless of their country of incorporation, provided they meet the applicable EU and national capital market requirements. This creates a uniform capital markets framework for EU Inc. Smaller, non-capital-market-oriented EU Inc. companies are not subject to additional requirements, whilst corporate governance structures and regulatory requirements adapt flexibly to the development and size of the EU Inc. company.
- We take a critical view of amendments such as 1374 or 1376 that would completely delete Article 60 on access to public markets, oblige Member States to prevent EU Inc. from accessing regulated markets, or require a change of legal form to a company under national law. These amendments would undermine the attractiveness and competitiveness of EU Inc.

## 2 Standardised templates for company formation, financing and employee share ownership

Model articles of association facilitate the incorporation of EU Inc. companies by providing standard provisions tailored to different company sizes and promote a consistent structure for EU Inc. companies across the EU. We therefore suggest providing templates for articles of association for different company sizes and stages of development, as well as templates for shareholders' and financing agreements. Such templates can help start-ups to attract investors more easily on the basis of balanced and market-standard agreements.

- We welcome amendments 768 and 772, as they align the templates for articles of association more closely with the different sizes, stages of development and practical needs of companies.
- We view amendments 772, 777 and 779, which provide templates for financing and shareholders' agreements as well as employee share option schemes, in a positive light. The latter make employee share ownership schemes accessible to smaller companies as well.

## 3 An EU Inc. that is autonomous, with no recourse to national law

To avoid fragmentation, Deutsches Aktieninstitut advocates for an autonomous, competitive EU Inc. with no recourse to national law. The priority given in the Commission's draft to the Regulation and the articles of association over national default law must be further strengthened.

- Amendments 704 and 705 go in the right direction because they limit the broad recourse to national law in the Commission's proposal for Article 4. Nevertheless, these amendments fall behind what is needed to create a fully autonomous company law regime.

## 4 Extension to employee share ownership plans

We support the concept of employee share ownership schemes, under which employers grant their employees shares at a discount to the market price. They are a suitable instrument for retaining talent within a company and enabling employees to participate in their long-term growth. We therefore suggest extending deferred taxation, proposed by the Commission for employee stock option plans only, to employee share ownership schemes.

- We welcome amendment 1489, which extends the provisions for a stock option plans to employee share ownership plans. However, we recommend clarifying that deferred taxation also applies in this case. Equal treatment of stock option and share ownership plans regarding the timing of taxation should be explicitly ensured, without creating a complex parallel regime.
- We support the objective of amendments such as 1466 to prevent stock option plans from being used to circumvent minimum-wages or social security contributions. However, these amendments must not prevent employee stock option plans from forming an additional variable component of total remuneration. Stock option plans are an important complement to a fixed salary based on a cash payment, particularly in growth companies. The Regulation must therefore clarify that stock option plans are permissible as an additional or variable component of total remuneration.
- We welcome amendments 1475 and 1476, as they move away from a rigid, uniform minimum vesting period of 24 months and give companies greater flexibility in designing their programs. This takes account of differing funding cycles, particularly for growth companies, and strengthens stock option plans as a flexible tool for retaining talent.

## 5 No restriction on the scope of application

All company groups of every size must be able to use the EU Inc. It is therefore appropriate that the European Commission has not restricted the scope of application of the EU Inc. to start-ups or tied it to a legally difficult-to-define criterion of ‘innovation’.

- We support amendment 691. It clarifies that the EU Inc. is open to all natural or legal persons, regardless of the size, sector, previous legal form or age of the company.
- We welcome amendment 1025, which explicitly identifies the European Company (SE) as a possible parent company of an EU Inc. This ensures that European groups, too, can establish an EU Inc. easily and with legal certainty across Europe. This facilitates operational expansion, strategic alliances and mergers within the single market and reduces transaction costs through the use of a uniform company form.
- We view amendment 1211 favourably. It allows the administrative body of an EU Inc. subsidiary to consider the groups interests provided that this does not prejudice creditors, employees or mandatory co-determination rights. This facilitates effective group governance and group compliance.
- We take a critical view of amendments such as 577, 580, 581, 597 or 607 that would restrict the scope of the EU Inc., for example to (innovative) start-ups or by excluding certain economic activities, as set out in the proposed Annex Ia. Limiting the scope would reinforce fragmentation and create legal uncertainty. The proposed eligibility criteria would also entail ongoing review obligations thereby impairing the attractiveness and usability of EU Inc.

## 6 Right of withdrawal for shareholders

We also welcome amendments 1257 and 1259 to Article 52 of the EU Inc. Regulation. Where a shareholder withdraws because of oppressive conduct, these amendments ensure that the resulting financial consequences are borne primarily by the company or the shareholders responsible for that conduct. This strengthens the protection of minority shareholders. At the same time, it increases the attractiveness of investments in EU Inc. companies.

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