

EFA position paper on the 28th Regime

Introduction

The European Commission's proposal for a 28th Regime is a welcome step in supporting the development of European startups and scaleups. A simplified and uniform legal and administrative framework will help these companies focus on growth by alleviating the administrative burden.

The proposal responds to longstanding calls to reduce corporate law fragmentation across the Single Market. The European Fintech Association (EFA) shares the Commission's aim to allow companies to register within 48 hours, operate seamlessly cross-border and access the same capital regime EU-wide, reducing the regulatory fragmentation which currently hinders scale-up. EFA welcomes the Commission's decision to use a Regulation rather than a Directive, which signals genuine harmonisation rather than mere coordination.

The EFA strongly supports this initiative.

Our members include some of Europe's most prominent and innovative financial services startups, and these companies are expanding rapidly. **In order to succeed and support the emergence of new European champions, this framework must provide clarity and efficiency for entrepreneurs and investors, while maintaining a level playing field in relation to established companies.**

It is equally important that the 28th Regime is matched by further simplification efforts. These include the Digital Omnibus and European Business Wallet proposals, amongst others. In addition, this simplification work should continue, with a specific focus on the EU's financial services rulebook.

Regulatory complexity and diverging national legal frameworks continue to constrain companies as they seek to grow cross-border. The EU Inc. framework is a meaningful step toward addressing this hurdle to European competitiveness. To deliver on its potential, the 28th Regime must facilitate cross-border operations in practice while providing certainty for investors. EFA stresses that the framework must be sufficiently comprehensive that founders and investors can operate with confidence under the EU Inc. alone, without

having to rely on national fallback rules. Every gap left to national law risks undermining investor certainty. Every gap left to national law in EU Inc. is a gap in investor certainty.

Key recommendations

Digital first

The EFA welcomes the elements at the core of the digital-first approach, as well as the Commission's proposal to introduce a harmonised EU employee stock option scheme (EU-ESO) with deferred taxation, which EFA strongly supports as a tool to attract and retain talent. EFA considers the deferred taxation model, under which equity compensation is taxed only at the point of disposal, a significant step forward that must be protected throughout the legislative process. In particular, EFA advocates for this rule to be explicitly binding on all Member States with no exceptions, supported by binding Commission guidance on what constitutes a disposal event, to be published before the Regulation takes effect.

EFA also welcomes the proposal that goes beyond merely digitalising documents, extending to the automation of the entire business process, and encourages co-legislators to ensure this ambition is maintained throughout the legislative process. In this spirit, we advocate for raising the formation ambition beyond the proposed 48-hour deadline toward instantaneous API-driven execution where identity is verified and standard templates are used, with a public API specification published from the outset.

On the EU central interface, EFA would support a move from the current model, which connects 27 national registers, towards a single independent EU-level registry with a binding delivery date, ensuring genuine harmonisation.

European company form

A single, pan-European company form will help deepen the Single Market and boost cross-border development. EFA appreciates the proposal to introduce the EU Inc. as a harmonised legal form available in all Member States. In addition, EFA welcomes that the proposal imposes minimal eligibility criteria in line with the European Parliament's [recommendations](#), making the form accessible to all companies, not only startups and innovative companies. The minimum capital requirement is proposed at EUR 0, which is supported by EFA in order to ensure accessibility. The proposal's capital structure

provisions, including zero minimum capital, non-par value shares, explicit authorisation of SAFEs (Simple Agreement for Future Equity) and KISS (Keep It Simple Security) notes, and flexible share classes including liquidation preferences and multiple voting rights, give EU Inc. the structural competitiveness that global investors expect. EFA strongly urges co-legislators to preserve them in the final text.

However, companies should not be discriminated against based on whether they are “innovative” or not. As such, EFA flags that the simplified insolvency proceedings are limited to innovative startups, which risks introducing a distinction that co-legislators should carefully scrutinise.

The framework proposes to directly specify key governance elements, such as board member selection procedures, standardised company statutes, and consistent shareholder rights, which EFA supports. However, unified arbitration mechanisms are not included in the proposal. EFA encourages co-legislators to introduce such dispute resolution mechanisms, as national variations in this area continue to create significant friction for cross-border companies.

EFA regrets that standardised EU-wide employment contract templates and a harmonised system for social security portability fall outside the scope of the proposal, as regulatory fragmentation in these areas remains a practical barrier for scaling companies across borders. For example, a company under the 28th Regime should be able to move employees from a Paris office to a Berlin office seamlessly, without renegotiating social security or work permits, ensuring immediate bureaucratic and contributory continuity.

Encourage investment

In order to remain competitive, the EU should take steps to attract investment, in particular venture capital. EFA appreciates that the proposal introduces a flexible financing framework which directly addresses key barriers identified by investors. Primary concerns amongst investors relate to what happens in the case of failure. EFA therefore welcomes the proposal’s introduction of simplified winding-up proceedings for insolvent innovative startups, as well as the creditor protection framework based on balance sheet and solvency tests. EFA encourages co-legislators to maintain these provisions in the final text, as a predictable and investor-friendly framework is essential to attracting the venture capital that European scaleups need to compete globally.

EFA looks forward to engaging with policymakers throughout the legislative process to ensure the final text delivers a framework that is truly fit for purpose for Europe's most innovative and fast-growing companies.

About us:

*The European FinTech Association (EFA) is a not-for-profit organization representing leading FinTech companies of all sizes from across the EU. It brings together a diverse group of 40+ FinTech providers ranging from payments, to lending, banking, robo-advice, investment as well as software-as-a-service for the finance sector, with a clear focus on enabling a single market for digital financial services. For more information, visit www.eufintechs.com or follow **@EFAssociation** on Twitter.*