Regulating for growth in an era of rising economic nationalism: capital market fragmentation, private capital and the public interest

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While taking full responsibility for errors and omissions that remain, I am grateful for the invaluable feedback on draft versions of this paper from: Curtis Milhaupt, Georg Ringe and other participants at the Comparative Capital Markets Workshop, Stanford Law School, 6 December 2024; Sarah Paterson, Alperen Gözlügöl, and other participants at the Regulating for Growth and Competitiveness Workshop at the London School of Economics, 15 May 2025; Chris Thomale and other participants at the Legal Arbitrage in Corporate Finance conference, University of Vienna 16-17 June 2025; Roberta Romano and participants at the European Tribute to Roberta Romano, Universidad Pontificia Comillas, Madrid 26-27 June 2025; John Lane and members of the University of Cambridge LLM/MCL Corporate Finance classes 24-25 & 25-26; Jeff Gordon and other participants at the Weil, Gotschal & Manges Roundtable, Yale Law School 14 November 2025; James Roe.

Abstract

In an era of rising economic nationalism, capital markets have become strategic sovereign assets. The UK and the EU are increasingly deploying regulatory policy to strengthen capital market competitiveness, support companies to scale up, and reduce dependency on foreign capital. Efforts to create more growth-oriented financing environments may also unintentionally reinforce the tendency for economically significant companies to stay privately owned and to rely on private capital. Thus, while geoeconomics are driving market fragmentation, this is happening alongside structural changes within capital markets that are blurring the traditional lines between public and private markets. Focusing on recent changes to UK and EU capital markets regulation, this paper explores the major challenge for capital market regulation posed by the interaction of these developments. The paper highlights the UK PISCES framework for private market stock exchanges and the EU Inc. corporate form proposal as regulatory experiments that simultaneously seek to support private market corporate finance and point to a growing urgency to think about how protection of the public interest is secured when economically significant corporate activity migrates to private markets.

Keywords: Capital market competitiveness, economic growth, regulatory competition, public and private markets, PISCES, Savings and Investments Union

JEL Classifications: G38, K22, M13, P12

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ABSTRACT

In an era of rising economic nationalism, capital markets have become strategic sovereign assets. The UK and the EU are increasingly deploying regulatory policy to strengthen capital market competitiveness, support companies to scale up, and reduce dependency on foreign capital. Efforts to create more growth-oriented financing environments may also unintentionally reinforce the tendency for economically significant companies to stay privately owned and to rely on private capital. Thus, while geoeconomics are driving market fragmentation, this is happening alongside structural changes within capital markets that are blurring the traditional lines between public and private markets.

Focusing on recent changes to UK and EU capital markets regulation, this paper explores the major challenge for capital market regulation posed by the interaction of these developments. The paper highlights the UK PISCES framework for private market stock exchanges and the EU Inc. corporate form proposal as regulatory experiments that simultaneously seek to support private market corporate finance and point to a growing urgency to think about how protection of the public interest is secured when economically significant corporate activity migrates to private markets.

Note: this is a substantially revised and updated version of a preliminary draft paper that appeared here with the title: 'Regulating for Growth in an Era of Rising Economic

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Nationalism: UK and EU Perspectives'. The final version will appear in an edited collection forming a European tribute to Professor Roberta Romano.

Keywords: economic nationalism; sovereignty; capital market competitiveness; economic growth; regulatory competition; public and private markets; digitalisation; market infrastructure; PISCES; Savings and Investments Union; EU Inc.; legal infrastructure; public interest

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Part I: introduction

In recent years, the UK and the EU have become increasingly attentive to the relationship between capital markets and economic growth.[1] This renewed focus on growth reflects a convergence of geopolitical and structural concerns including persistent low productivity, global competition for capital, risks and opportunities in technological advances, and a growing sense of vulnerability associated with financial, security and strategic dependencies on foreign powers. Against the backdrop of an emerging new global economic order in which globalisation and frictionless international capital flows are giving way to patriotic capitalism and fragmentation of capital pools, policymakers have increasingly turned to regulation as an instrument for shaping economic outcomes. [2] This is this paper's 'regulating for growth' agenda.

At one level, the idea that regulation can influence market outcomes is uncontroversial. Nevertheless, today's very explicit ambition to deploy regulation proactively to enhance growth and capital market competitiveness *and* sovereign autonomy and resilience represents a strategic shift.

The UK and the EU differ significantly in their institutional structures and market ecosystems. In the UK, regulating for growth is closely tied to maintaining the financial services sector as a central pillar of the economy.[3] In the EU, the agenda is embedded within

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[1] Nigel Wilson, 'The Capital Markets of Tomorrow' (*Capital Markets Industry Taskforce*, 2024) 4-6 <https://capitalmarketsindustrytaskforce.com/wp-content/uploads/2024/09/Capital-Markets-Of-Tomorrow-report.pdf>; HM Treasury, 'New Approach to Ensure Regulators and Regulation Support Growth' (Policy Paper, 31 March 2025); UK Government, *Invest 2035: the UK's Modern Industrial Strategy* (CP 1337, June 2025) 74 ('We will not deliver our ambitions unless we tackle the risks of regulation stifling growth'); UK Government, *Financial Services Growth and Competitiveness Strategy* (July 2025) (Ministerial Foreword: 'the UK must now regulate not just for risk, but for growth'); Mario Draghi, *The Future of European Competitiveness* (European Commission September 2024); Enrico Letta, 'Much More Than a Market - Speed, Security, Solidarity: Empowering the Single Market to Deliver a Sustainable Future and Prosperity for all EU Citizens' (*European Council*, April 2024) <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>; European Commission, 'A Competitiveness Compass for the EU' COM (2025) 30; European Commission, 'Savings and Investments Union: A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU' COM (2025) 124; European Commission, 'The EU Startup and Scaleup Strategy' COM (2025) 270; European Commission, 'The Single Market: Our European Home Market in an Uncertain World. A Strategy for Making the Single Market Simple, Seamless and Strong' COM (2025) 500, 1 (Single Market as 'the first driver of our competitiveness').
[2] Shekhar Aiyar, Andrea F Presbitero and Michele Ruta, *Geoeconomic Fragmentation: The Economic Risks from a Fractured World Economy* (CEPR Press 2023).
[3] UK Government, *Financial Services* (n 1).

the longer-term market integration project, now known as the Savings and Investments Union (SIU).[4]

Nevertheless, the UK and the EU also share concerns that are shaped by geoeconomics. They both have an urgent need to stimulate economic growth and recognise the critical role of the capital markets as an enabler of this policy goal.[5] Capital markets generally offer greater capital allocation efficiency than other financing sources. This strength underlines the importance of thriving capital markets for governments that, in their search for growth, rely on efficient capital allocation and pricing mechanisms to channel scarce capital flows to the most deserving projects. [6]

The UK and EU have also both prioritised regulatory reforms to support the scaling of companies. When regulatory attention focuses on this area, questions about ways in which the structure of corporate finance is changing also arise. There is a trend for economically significant companies to stay privately owned and to rely on private capital and to the extent that regulatory efforts to foster a more enabling scale-up environment achieve their goal, they risk incidentally reinforcing this trend.

The intended contribution of this paper is to explore why and how the interaction of geoeconomics and the changing structure of corporate finance represents a major challenge for capital market regulation. In exploring this challenge, this paper highlights two key regulatory experiments. The UK example is its new regulatory framework for private market stock exchanges (PISCES), which is a market infrastructure experiment.[7] The EU example, which relates to legal infrastructure, is its proposal to create a new legal form supported by a 28th company law regime (EU Inc.).[8] A key connecting factor between these experiments is that they both aim at improving private market corporate finance. It is this connection that makes these initiatives compelling examples for this paper's core contribution.

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[4] European Commission, COM (2025) 124 (n 1).
[5] Wilson (n 1) 4-6; Draghi (n 1); Letta (n 1).
[6] Ali Sanati and Ioannis Spyridopoulos, 'Comparing Capital Allocation Efficiency in Public and Private Equity Markets' (2026) https://dx.doi.org/10.2139/ssrn.4403578.
[7] The Financial Services and Markets Act 2023 (Private Intermittent Securities and Capital Exchange System Sandbox) Regulations 2025, SI 2025/583 (PISCES Regulations 2025).
[8] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council on the 28th Regime Corporate Legal Framework – 'EU Inc.' COM (2026) 321, proposed EU Inc Regulation, rec 43. Drawing on Schmidt and Teichmann, this article uses the term 'Proposed EUIncR' to refer to the Commission draft legislative text: Jessica Schmidt and Christoph Teichmann The EU Inc. – Half European, Fully Digital, and Genuinely Innovative' (2026) ECGI Law Working Paper No 922/2026 < https://dx.doi.org/10.2139/ssrn.6720961>.

The paper proceeds as follows. After this introduction, Part II develops the concepts of public interest considerations in an era of economic nationalism, regulating for growth and regulatory competition. Equipped with this understanding of the forces that have made vulnerabilities around companies' progression through the life cycle a priority concern for the UK and the EU, Part III zooms in on relevant regulatory reforms. These involve a mix of imitation and experimentation. Part IV draws out broader societal implications arising from this approach to regulatory design. The key finding relates to the problem of misalignment between markets that are undergoing profound change and regulation that is still built mostly around traditional categories and assumptions.

Part II: key concepts

1. *Fragmentation and economic nationalism: the political economy perspective*

Policy choices relating to the financial markets are always inherently political but in the current environment, these linkages are more visible. The deployment of the infrastructure rails of the financial system as an instrument of economic warfare against Russia has heightened nations' awareness of vulnerability to foreign economic coercion.[9] The Trump Administration's economic and security policies have prompted even staunch allies such as the UK and EU to consider 'de-risking' from the United States in sensitive domains.[10] As Eswar Prasad has noted, the propensity for links between politics and economic policy to reinforce each other negatively is becoming increasingly apparent.[11] Prasad's argument that 'the feedback loop between economics, domestic politics and geopolitics is spiralling out of control and becoming destructive on every front' is both deeply concerning and highly compelling as an assessment of the current state of the world. [12]

This is why economic nationalism forms the backdrop to the reforms discussed in this paper. [13] In this changing context, capital markets have become strategic assets tied to national resilience, sovereignty and security, as well as long-term competitiveness. This

[9] Edward Fishman, 'How to Fight an Economic War: A Field Manual for a Ruptured World' (May/June 2026) Foreign Affairs here; Edward Fishman, *Chokepoints: How Economic Warfare Is Changing the World* (Elliott & Thompson 2026).
[10] Fishman, 'How to Fight' (n 9).
[11] Eswar Prasad, *The Doom Loop: Why the World Economic Order Is Spiraling into Disorder* (C Hurst & Co Publishers 2026).
[12] Prasad (n 9) 6
[13] Larry Fink, 'It's Time for the Second Draft of Globalisation' *Financial Times* (3 June 2025).

context has strengthened the resolve on both sides of the Channel to use regulatory policy proactively to create the best structural conditions for companies and investors to start, grow, invest, and stay within their respective markets.

The European Commission has declared that it is 'time to choose Europe'.[14] The UK government has ambitions for the UK to be the best place for businesses to start and scale 'with homegrown champions to create a national renewal that benefits the whole country'.[15] The patriotic capitalism rhetoric does not mean that the UK and the EU want to close themselves off from internationally mobile companies and investment flows: attracting foreign direct investment remains of importance for the UK's economic growth agenda;[16] the UK wants to retain its position as a global financial centre;[17] the competitiveness of EU capital markets on a global scale remains an important issue;[18] the EU wants its companies to be able to compete more effectively for capital at a global level;[19] as precepts about the importance of international portfolio diversification remain sound, there are opportunities for UK and EU markets to become more attractive investment locations for global investors considering a strategic retreat from US assets.[20] Nevertheless, the dangers of over-dependency have assumed greater salience, and both the UK and the EU see a need for a course correction. The chimera of open markets governed by harmonised global standards has given way to the cold realities of more nationalistic tendencies.

2. *Serving the public interest*

An understanding of capital markets as strategic assets underscores the public interest importance of regulatory reform efforts in this area. Notwithstanding the geopolitical

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[14] European Commission, COM (2025) 500 (n 1) 2.
[15] UK Government, CP 1337 (n 1) 115.
[16] UK Government, 'Raft of Tech Companies Investing in Britain as Government Vows to Unleash Growth' (Press Release, 10 June 2025) <https://www.gov.uk/government/news/raft-of-tech-companies-investing-in-britain-as-government-vows-to-unleash-growth> (announcing investments from U.S., EU and South American firms in UK-based tech businesses); City of London, 'The UK: A Top Destination for Financial and Professional Services Investment Trends in 2024' (May 2025) <https://www.theglobalcity.uk/PositiveWebsite/media/Research-reports/The-UK-a-top-destination-for-financial-and-professional-services-investment-May2025.pdf>.
[17] UK Government, CP 1337 (n 1) 135-6.
[18] ESMA, *Building More Effective and Attractive Capital Markets in the EU: Position Paper* (ESMA 2024) 15.
[19] Proposed EUIncR, rec 43.
[20] Allianz, 'From Unipolar to Uneven: Fragmentation Tests US Market Primary and Reshapes the Global Investment Landscape' (*Allianz Research*, 13 February 2026) https://www.allianz-trade.com/content/dam/onemarketing/aztrade/allianz-trade_com/en_gl/erd/publications/2026_02_13_Regional-Fragmentation_.pdf.

pressures and the role that stronger capital markets could play in addressing them, it is imperative that policymakers remain alert to the dangers of placing too much weight on satisfying market actors' preferences. While market participants themselves value trust, informational quality and certainty, the interests of private actors and the broader interests of society do not always coincide. A regulatory framework that is designed too much around the preferences of companies and capital providers may insufficiently account for wider public concerns about the allocation of economic opportunity and risk.

The policy challenge of navigating a fragmenting world is exacerbated by the fact that the capital markets are themselves undergoing structural transformation driven by AI, digitalisation and the rise of private capital. Companies are waiting longer and growing larger before (if) they do a public IPO.[21] This preference to stay private for longer reflects changing business models and the superior suitability of private market funding for businesses with intangible-heavy assets that take time to reach profitability.[22] If or when companies do eventually go public, the continued rise of index funds as universal owners and the spread of founder-control dual class share structures are reshaping corporate governance and shareholder stewardship dynamics.

The supply of investment capital in private markets has been boosted by global institutional investors that have significantly increased their exposure to this segment.[23] New fund products targeting retail investors (sometimes enabled by relaxation of regulatory restrictions[24]) have reinforced the shift towards private assets. The mainstreaming of private assets increases the materiality of risks relating to deteriorating private finance quality, liquidity mismatches and valuation concerns. Meanwhile tokenisation and digitisation offer

[21] Craig Doidge, George Andrew Karolyi, Kris Shen and René Stulz, 'Are There Too Few Publicly Listed Firms in the US? (2025) 60 Financial Review 317; Craig G Doidge, GA Karolyi and Rene M Stulz, 'The US Listing Gap' 123 Journal of Financial Economics 464; Craig Doidge and others, 'Eclipse of the Public Corporation or Eclipse of the Public Markets?' (2018) 30 Journal of Applied Corporate Finance 8; PGIM, 'The New Dynamics of Private Markets' (Fall/Winter 2022) <https://dx.doi.org/10.2139/ssrn.4248287>.
[22] PGIM (n 21).
[23] PGIM (n 21).
[24] Regulation (EU) 2023/606 of the European Parliament and of the Council of 15 March 2023 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules [2023] OJ L80/1; FCA, 'Broadening Retail Access to the Long-Term Asset Fund' (PS23/7 2023).

the promise of a step-change in private market trading, clearing and settlement processes, which currently lag behind those in public markets.[25]

Inevitably, there will be new winners and losers but regulation has an important role to play in moderating the extremes of distributive consequences of structural economic change. To discharge this responsibility, regulatory designers need to provide guardrails that enable markets that are economically efficient but also socially sustainable and capable of supporting long-term collective goals rather than just short-term gains for individual groups. This also need to look beyond short-term interventions. Properly serving the public interest will increasingly require reconsideration of the underlying architecture of corporate governance and capital market regulation, and the development of frameworks that are more suited to a digitalised and privately oriented financial environment. This interpretation of what serving the public interest requires in a changing world is the framing for doctrinal analysis of relevant reforms in Part III and the examination of their broader societal implications in Part IV.

3. *Regulating for growth: unleashing deregulation?*

Accepting that well-designed regulation can positively affect the development of capital markets and overall economic growth, the trick is to do it well, and this is hard. [26] It is important not to assume that regulating for growth is inherently an agenda for socially harmful deregulation: race to the top/bottom framing is too blunt. The world is not stable and regulation needs to adapt in response to changing conditions. Heightened awareness of the threats to national and regional economies in disrupted times and the need for the capital markets to play a greater role in responding to those threats cannot be simply ignored. It would not serve the public interest to hold firm to rules from a bygone era that were not designed with today's technological advances in mind, and that do not support innovations with the potential to contribute in a socially positive way to economic growth. By removing arbitrage opportunities that lurk within complicated rules, simplification could increase rather than reduce effectiveness. The socialisation of risk, by which is meant adjusting investor protection standards so that investors take more risk themselves, does not put market

[25] Thomas Olsen, John Fildes and Karl Gridl, 'For Digital Assets, Private Markets Offer the Greatest Opportunities' (*Bain & Company Briefing*, December 2020) <https://www.bain.com/insights/for-digital-assets-private-markets-offer-the-greatest-opportunities/>.
[26] Ross Levine, 'Law, Finance, and Economic Growth' (1999) 8 Journal of Financial Intermediation 8, 24.

practices beyond the law but reshapes how the law applies by shifting the balance between investor-led private enforcement and State-led public enforcement.[27]

The problem is that the balance between removing unnecessary frictions and maintaining core safeguards is inherently fragile. Short-term political and market pressures have a history of causing excessive pendulum swings in financial regulation and it would be unwise to imagine that this cycle has stopped. Regulatory proportionality and simplification, which are the new watchwords, generally imply a reduction of red tape and there is always a danger that this could be taken too far.[28] From a regulatory capture perspective, exhortations for a rebalancing whereby consumers are encouraged to take more investment risk themselves[29] could unintentionally provide powerful industry segments with persuasive narratives that aim to push deregulation beyond socially optimal levels. Incremental reforms that respond to industry's most pressing concerns may make good sense on a standalone basis but cumulatively have concerning implications for society at large. These warnings assume greater significance at a time when it is imperative for those charged with protecting the public interest to pay close attention to fundamental changes in the structure of capital markets and thus to look beyond the immediate impact of individual reforms.

4. *Regulatory competition*

Understanding how policymakers respond to these pressures requires a framework for analysing how jurisdictions learn from, imitate, and compete with one another. In this regard, regulatory competition provides a useful theoretical lens. Some aspects of the debates around regulatory competition are especially salient in this context.

First, regulatory competition theory builds on the idea that legal systems learn from each other and adapt accordingly but turns it from a description of how rules evolve into a regulatory design strategy.[30] Applying a regulatory competition lens, the UK and EU's

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[27] Katharina Pistor, 'A Legal Theory of Finance' (2013) 41 Journal of Comparative Economics 315.
[28] European Commission, COM (2025) 30 (n 1) 17-18. Though in the context of the EU, it is also important to note that regulatory simplification can, and often does, mean prioritizing the use of EU wide regulations in place of EU directives: Letta (n 1) 10. European Commission COM (2025) 500 (n 1) 4-6 (listing overly complex EU rules as the first of the 'terrible ten' barriers that require dismantling, including the removal of barriers at national level and the establishment of harmonised standards, rules and procedures).
[29] e.g. Francois Villeroy de Galhau, 'Venturing into Open Waters to Unlock Europe's Innovative Potential' (Speech by Governor of the Banque de France at Euronext, 18th March 2025) https://www.banque-france.fr/en/governors-interventions/venturing-open-waters-unlock-europes-innovative-potential.
[30] The original logic was developed in relation to choices around local public finance: Charles M Tiebout, 'A Pure Theory of Local Expenditure' (1956) 64 Journal of Political Economy 416. This seminal paper spawned a

regulating for growth agendas appear first as efforts to use regulation as a bulwark against significant outflows of companies to the U.S. and to make corporate finance in Europe less dependent on U.S. funding and more self-sufficient. This is a defensive form of regulatory competition. However, while defence may be the overarching orientation, on a closer look there are also elements of regulatory innovation and experimentation as exemplified by the PISCES framework and the EU Inc. proposal. Moreover, absolute self-sufficiency is not the goal since that would cut off European companies from international capital and global networks. Cultivating stronger domestic capital markets alongside maintaining openness to international markets involves intelligently managing a recurring tension between autonomy and openness.

Secondly, realism about the practical impact of regulatory competition is required. It would stretch credulity to foreground U.S. capital markets regulation as *the* key reason why the U.S. is the preferred IPO destination for ambitious growth companies around the world. Regulation is just one of many factors, including deeper pools of capital, higher valuations, and concentration of specialist analysts, that typically militate strongly in favour of a U.S. listing.[31] Regulatory policymakers are not blind to this reality. Nikhil Rathi, CEO of the UK Financial Conduct Authority (FCA) acknowledges that even at its most successful, regulatory intervention can only be a partial contribution: 'Regulation – at least alone – cannot create companies of scale in sectors of the future. Nor can it help investors better understand how these companies work and their value. Nor can it conjure a culture in which success is lauded just as readily as failure is criticised'.[32] The limitations of regulatory reforms as a competitive tool are also stressed in the academic literature.[33]

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vast body of literature across many areas of law and policy including in relation to corporate law and capital markets regulation including Roberta Romano, *The Genius of American Corporate Law* (AEI Press 1993); Roberta Romano, 'Empowering Investors: A Market Approach to Securities Regulation' in KJ Hopt and et al (eds), *Comparative Corporate Governance* (Clarendon Press 1998); Roberta Romano, 'The Need for Competition in International Securities Regulation' 2001 Theoretical Inquiries in Law 387; Stephen J Choi and Andrew T Guzman, 'Portable Reciprocity: Rethinking the International Reach of Securities Regulation' (1997) 71 Southern California Law Review 903. For a recent reflection: Curtis J Milhaupt, Corporate Governance in an Era of Geoeconomics (2025) 25 Journal of Corporate Law Studies 281.

[31] Brian R Cheffins and Bobby V Reddy, 'Will Listing Rule Reform Deliver Strong Public Markets for the UK?' (2023) 86 Modern Law Review 176; Alperen A Gözlügöl, 'The Decline of Stock Markets in the UK: Is Regulation to Blame and Deregulation a Fix?' (2025) 25 Journal of Corporate Law Studies 1.

[32] Nikhil Rathi, 'Reforming Our Capital Markets Ecosystem' (Speech at Global Investment Management Summit, 29 March 2023) <https://www.fca.org.uk/news/speeches/reforming-our-capital-markets-ecosystem#:~:text=Real%20change%20requires%20both%20financial,pulling%20in%20the%20same%20direction>.

[33] Cheffins and Reddy (n 31); Gözlügöl (n 31); Matteo Gargantini, 'The Legal Integration of European Capital Markets: Beyond Regulatory Harmonisation' (2025) University of Genoa Centre for Law and Finance Research Working Paper No 4/2025 <https://dx.doi.org/10.2139/ssrn.5963297>; Filippo Annunziata, 'Retail Investment

Thirdly, regulatory competition must be considered alongside regulatory transplantation. The regulatory transplantation literature's key finding is that rules do not operate in isolation from their institutional context, meaning that broadly the same rule can function in quite different ways across different jurisdictions.[34] This point is reinforced by conceptions of the modern state as a system of 'regulatory capitalism' in which responsibility for maintaining checks and balances is distributed between public and private actors, including civil society, business associations, professions and other market participants. Institutional variations help explain why formally similar rules can produce uneven levels of scrutiny, compliance and enforcement in practice.[35]

Finally, it is also relevant to note that a key criticism of regulatory competition as a theoretical approach is that laws that are crafted to meet the preferences of market actors are likely to underserve the public good.[36] This concern is typically related to the potentially deregulatory effects of specific measures but in the context of a widening gap between markets that are becoming increasingly private and regulation that is primarily designed for public markets, the issues are more fundamental. Addressing a structural mismatch between markets and regulation requires a broader perspective than market participants' preferences can typically provide.

Accordingly, while the rest of this paper draws on insights from regulatory competition in the analysis of UK and EU reforms, it is also mindful of the limitations of this theoretical approach.

Part III: regulatory efforts to support growth companies

1. *Introduction*

Strategy. How to Boost Retail Investors' Participation in Financial Markets' (2023) Bocconi Legal Studies Research Paper No. 4503351 <https://ssrn.com/abstract=4503351>.

[34] Katharina Pistor and Daniel Berkowitz, 'Of Legal Transplants, Legal Irritants, and Economic Development', in Peter K Cornelius and Bruce Kogut (eds), *Corporate Governance and Capital Flows in a Global Economy* (Oxford University Press 2003).

[35] John Braithwaite, *Regulatory Capitalism: How It Works, Ideas for Making It Better* (Edward Elgar 2008).

[36] Pistor, 'A Legal Theory' (n 27) 324 ('The greater the tolerance for competing regulatory regimes, the greater the probability that competition will increasingly take the form of regulatory arbitrage, i.e. the gaming of the very system that makes and shapes finance'); Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton University Press 2019); Johanna Stark *Law for Sale: A Philosophical Critique of Regulatory Competition* (OUP 2019); John C Coffee, 'Law and Regulatory Competition: Can They Co-Exist?' (2002) 80 Texas Law Review 1729; Marc T Moore, 'Private Ordering and Public Policy: The Paradoxical Foundations of Corporate Contractarianism' (2014) 34 Oxford Journal of Legal Studies 693, 727-8.

A transition from big picture to close-up analysis of specific regulatory initiatives can help to reveal policy tensions, practical trade-offs, institutional constraints, and the limited capacity of regulation to deliver desired outcomes. Therefore, against the backdrop of Part II, this Part zooms in selectively on recent UK and EU regulatory efforts to improve firms' access to capital at all stages of the corporate lifecycle. The persistent difficulty of closing funding gaps for growth companies and providing exits for investors in privately owned companies, coupled with the evolving interface between public and private sources of corporate finance and the rise of alternative investment channels, has elevated this policy area to one of strategic importance for the UK and the EU. [37]

One flagship regulatory initiative on infrastructure in each of the UK and the EU anchors the discussion. For the UK, this is PISCES, a market infrastructure initiative. For the EU this is EU Inc., a legal infrastructure proposal. Both examples demonstrate a policy focus on private market corporate finance and thus bring the need to consider the implications of making it easier for companies to stay private for longer to the foreground.

This Part provides doctrinally focused analysis while Part IV reflects more broadly on the societal implications of the reforms in question.

2. *UK capital market reforms*

The UK completed a high-profile review of its listing regime in 2024.[38] More recently, the London Stock Exchange (LSE) has instigated a review of its AIM market, which is the UK's most prominent public trading venue for growth companies.[39] Alongside this, the UK has conducted a wide-ranging review of its capital market regulatory regime for public offers of securities and admission of securities to trading on both listed and growth markets. The legislature has streamlined prospectus requirements and reviewed prospectus exemptions, including the introduction of a new prospectus exemption, the Public Offers Platform regime,

[37] European Commission, COM (2025) 270 (n 1) 1 (noting that the EU is aiming to be a 'startup powerhouse' and that 'our competitiveness and ultimately prosperity depend on it'); UK Government, *Financial Services* (n 1) 40 ('The government will prioritise policy changes that support businesses to start, scale, list, and stay in the UK, with capital markets playing a vital role').

[38] FCA, 'Primary Markets Effectiveness Review: Feedback to CP23/31 and Final UK Listing Rules' (PS 24/6 2024).

[39] LSE, 'Shaping the Future of AIM' (April 2025) <https://docs.londonstockexchange.com/sites/default/files/documents/discussion-paper-shaping-the-future-of-aim.pdf>.

which is intended to support more early-stage companies that seek access from crowdfunding-type platforms.[40]

In addition to reforms relating to traditional public markets, the UK has also begun to develop its regulatory response to digital assets, including bringing cryptoassets within the regulatory perimeter[41] and enabling experimentation in tokenised financial market infrastructure via a digital securities sandbox regime.[42] These initiatives are closely linked to the UK's broader ambitions to position itself as a global hub for financial innovation and next-generation financial market infrastructure.[43]

The reforms relating to listing and prospectuses have already attracted considerable attention in the literature.[44] Full assessment of their impact on the ground may require more time. At the end of 2025, London had its strongest year for IPOs since 2021 but activity totalled just 11 IPOs raising £1.9bn. By contrast, Hong Kong in 2025 reclaimed the number one spot globally, with 119 new listings, including four of the world's top 10 IPOs, and proceeds of US$37.4bn.[45]

The listing and disclosure reforms are conventional, in the sense that they work within a regulatory framework that is designed primarily around major public markets that cater for larger, well-established companies and is then adapted proportionately to earlier corporate life-stage and funding needs. This progressive lightening can be thought of as a 'public minus' approach. The Private Intermittent Securities and Capital Exchange System (PISCES) regulatory framework, which is an example of financial market infrastructure modernisation, is different.

The PISCES regulatory framework is an enabler of a new type of stock exchange for privately owned companies, designed to facilitate trading in shares in a controlled environment on an intermittent basis.[46] The general idea that underpins the PISCES

[40] Public Offers and Admissions to Trading Regulations 2024, SI 2024/105.
[41] Financial Services and Markets Act, s 417 and Pt 5A (as inserted by Financial Services and Markets Act 2023); Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026, SI 2026/102.
[42] Financial Services and Markets Act 2023 (Digital Securities Sandbox) Regulations 2023, SI 2023/1398 made under Financial Services and Markets Act 2023, ss 13-17 and sched 4.
[43] HM Treasury, 'Wholesale Financial Markets Digital Strategy' (15 July 2025) <https://www.gov.uk/government/publications/wholesale-financial-markets-digital-strategy/wholesale-financial-markets-digital-strategy>.
[44] Cheffins and Reddy (n 31); Gözlügöl (n 31).
[45] William Langley, 'Hong Kong Listings Boom Sparks Legal Hiring Spree' *Financial Times* (15 May 2026).
[46] PISCES Regulations 2025; FCA, 'Private Intermittent Securities and Capital Exchange System: Sandbox Arrangements Final Rules', PS25/6 (June 2025).

framework is to provide greater transparency and efficiency than private markets offer, without applying public market disclosure standards. [47] But rather than starting with stringent public market standards and making them lighter, the PISCES twist is to take private market practices and risk tolerances as the starting point. The FCA has labelled this approach ‘private plus’ rather than ‘public minus’. [48] The LSE has been a strong backer of the initiative and in 2026 launched its own PISCES-enabled Private Securities Market, opening up its public market infrastructure to privately owned companies.[49]

The PISCES framework is a regulatory sandbox initiative.[50] Sandboxes can be thought of as poster children for regulatory experimentation.[51] What distinguishes PISCES from existing private secondary market arrangements such as the Nasdaq Private Market or Deutsche Börse’s Forge Global is its dedicated regulatory framework that puts companies in the driving seat regarding the timing and structure of trading events. The emphasis on dedicated regulation as the basis for its innovativeness raises the stakes for regulatory design: while sandbox structures allow for updating based on practical experience, poor initial choices could undermine PISCES’s credibility.

The PISCES initiative works with companies’ preference to stay private. Limited secondary market liquidity is a key structural weakness of private markets. Alleviating the exit pressure risk is where PISCES, whose underlying aim, explains HM Treasury, is to use ‘public market infrastructure to support private markets’, comes in.[52]

PISCES-enabled private markets are open to any privately owned UK or oversea company provided it does not have shares admitted to trading on a public market anywhere in the world.[53] There are no minimum or maximum market capitalisation requirements. Investor eligibility is limited to institutional investors, employees of participating companies and

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[47] HM Treasury, Private Intermittent Securities and Capital Exchange System (PISCES): Government Response (November 2024) para 3.6.
[48] FCA, ‘Private Intermittent Securities and Capital Exchange System: Sandbox Arrangements’ (CP24/29, 2024) foreword.
[49] LSE ‘Private Securities Market’ <https://www.londonstockexchange.com/raise-finance/equity/private-markets/private-securities-market?tab=benefits-for-companies>. The first user of the LSE’s PSM was a tradable private equity investment company that offered access to a £1.3 bn portfolio of tech assets held by Oxford Science Enterprises (25 March 2026). However, another provider JP Jenkins whose PISCES-enabled platform welcomed the first ever user of the system, QPLAY, a software company (18 March 2026).
[50] PISCES Regulations 2025.
[51] Roberta Romano, ‘Regulating in the Dark and a Postscript Assessment of the Iron Law of Financial Regulation’ 43 Hofstra Law Review 25, 38 and 50-55 (though not referencing the sandbox concept as such).
[52] HM Treasury, Government Response (n 47) executive summary. More broadly, the UK Government aims to make the UK a world leader for managing private market assets: UK Government, *Financial Services* (n 1) 17.
[53] PISCES Regulations 2025, reg 5(2).

certain consultants and service providers, and high net-worth and sophisticated investors.[54] General retail investors are excluded.

PISCES operators provide intermittent trading windows, and companies control when their shares can be traded.[55] Trading events could be very infrequent or could stop entirely. In practice, public growth markets are plagued by low liquidity, making the promise of continuous trading more apparent than real. PISCES thus offers an opportunity to test whether concentrating trading into specific windows is better for liquidity than spread-out continuous trading.

In public markets, market forces ultimately drive price formation and accurate market-driven price discovery is widely regarded as *the* key function of a well-functioning stock exchange.[56] PISCES departs from this model: operators allow companies to set price parameters rather than leaving pricing to market forces.[57] On public markets, securities must also be freely exchangeable, whereas PISCES allows companies to restrict who can buy their shares to protect legitimate commercial interests.[58] The FCA has emphasised that the rules are intended to 'allow companies significant discretion over who can invest in them, and … that companies are best placed to identify the kinds of restrictions that best fit their legitimate commercial interests'.[59]

Disclosure and transparency requirements on PISCES are strikingly different from those in public markets, which is a product of the private plus regulatory mindset and a greater receptiveness to risk in regulatory design trade-offs. There is a bespoke issuer disclosure framework, which applies only during trading windows and only to potential investors (the private perimeter), not the public at large. It is modelled on the 'buyer beware' concept of private markets rather than the equality of information principle that public markets seek to achieve.[60] Trading transparency data is disseminated but only within the private perimeter.[61] Public scrutiny mechanisms that help ensure the credibility of information have been foregone in the decision to limit 'publicness' in this way.

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[54] PISCES Regulations 2025, reg 5(3)-(4) and reg 6.
[55] FCA, PS25/6 (n 46) para 1.1.
[56] Merritt B Fox, Lawrence R Glosten and Gabriel V Rauterberg, *The New Stock Market: Law, Economics and Policy* (Columbia University Press 2019).
[57] FCA, PS25/6 (n 46) para 3.2-3.4.
[58] FCA, PS25/6 (n 46) paras 3.5-3.10.
[59] FCA, PS25/6 (n 46) para 3.10.
[60] HM Treasury, Government Response (n 47) para 3.6.
[61] FCA, PS25/6, (n 46) paras 3.14-3.19.

The core information companies must disclose when instigating a trading event is significantly less than a prospectus requires.[62] At a high level, this is unsurprising, as prospectus-level disclosures would defeat the object of the exercise. However, the detail reveals questionable choices. There is no mandatory catch-all requirement to disclose all material information; whether to adopt such a 'sweeper model' is at the option of PISCES operators.[63] Nor is there any continuous disclosure obligation akin to that imposed by the Market Abuse Regulation (MAR).[64] Indeed, the MAR's civil sanctions regime for insider dealing and other abusive conduct is generally inapplicable to PISCES. The criminal insider dealing regime does not apply because PISCES markets are not trading venues under the relevant legislation.[65] However, the criminal market manipulation regime, covering misleading statements and impressions, does apply.[66]

The FCA has acknowledged the likelihood of information asymmetries among investors, explicitly noting that trading on inside information would not be prohibited.[67] It cited proportionality and market feedback suggesting participants were prepared to accept fewer protections for reduced burdens.[68] This 'risk-on' regulatory optimism is bracing but worrisome. While the case for banning insider dealing is not universally accepted and enforcement can be erratic, the arguments for a ban are powerful and have shaped capital market regulation profoundly over many decades.[69]

Operators of PISCES markets are required to act as frontline supervisors of their platforms.[70] In the absence of a civil MAR regime enforceable by the FCA, operators bear primary responsibility for monitoring and acting against manipulative practices[71]. However, their obligations do not extend to approving company disclosures. More generally, while operators' oversight role is presented as the key assurance mechanism for market fairness, the FCA has also emphasised that their responsibilities are meant to be proportionate and risk-based, so as not to displace the 'buyer beware' [72]character of PISCES markets. Whether these

[62] FCA, PS25/6 (n 46) paras 2.8-2.40.
[63] FCA, PS25/6 (n 46) para 2.7.
[64] Regulation (EU) No 596/2014 of the European Parliament and of the Council on Market Abuse is now assimilated UK law: The Market Abuse (Amendment) (EU Exit) Regulations 2019, SI 2019/310.
[65] Criminal Justice Act 1993. This legislation could have been amended to include PISCES markets.
[66] Financial Services Act 2012, ss 89-90.
[67] FCA, CP24/29 (n 48) para 5.21.
[68] FCA, CP24/29 (n 48) para 5.22
[69] Min-woo Kang, 'Inside Insider Trading Regulation: A Comparative Analysis of the EU and US Regimes' (2023) 18 Capital Markets Law Journal 101.
[70] FCA, PS25/6 (n 46) chs 2-4.
[71] FCA, PS25/6 (n 46) ch 5.
[72] FCA, CP24/29 (n 48) paras 2.13-2.14, paras 3.67-3.69.

mixed messages will foster sustainable trust and confidence at significant scale remains to be seen.[73]

The PISCES framework has its own bespoke civil claim for misleading disclosures.[74] This claim resembles the dedicated civil liability regime for secondary market disclosures insofar as it is issuer-only and generally applies a recklessness/dishonesty standard, but mirrors the prospectus liability regime in applying a negligence standard for core information. This bifurcated approach is intended to partly offset the absence of an insider dealing ban and the inapplicability of the civil MAR regime. Yet it is debatable how effectively this nuance will assuage investor protection concerns, particularly given the limited 'core' information to which the negligence standard applies.

Overall, PISCES is an odd creature. The concept of a stock exchange is not set in stone, but one on which corporate controllers can set pricing parameters, limit buyer eligibility, and legally trade on inside information is some distance from what we have come to expect of a stock exchange. In the conventional world of public exchanges, disclosure and transparency requirements play a critical role in price discovery and investor protection. As Bernard Black's classic paper puts it: 'investors pay enormous amounts of money to strangers for completely intangible rights, whose value depends entirely on the quality of the information that the investors receive and on the seller's honesty … controlling information asymmetry is critical for developing strong public stock markets … controlling self-dealing is also critical'.[75] The credibility of information in public markets is underpinned by reputational intermediaries, investment analysts, the financial press, extensive mandatory disclosures, market transparency requirements, anti-insider trading laws, and dedicated enforcement mechanisms. Many of these safeguards will not be available on PISCES-enabled platforms. This presents a material risk that PISCES platforms will not gain sufficient trust to be viable on a long-term sustainable basis.[76]

At the same time, if the PISCES framework is sufficiently aligned with market actors' preferences for platforms to achieve meaningful scale, this will concretise less transparent

[73] A sceptical FT Alphaville article labels PISCES as a 'bottom feeder' that 'we imagine will appeal mostly to criminals, lower-league football club owners and, ultimately, lawyers: FT Alphaville, 'Anything Goes on Pisces, London's Bottom-feeding Private Stock Market' *Financial Times* (10 June 2025).
[74] PISCES Regulations 2025, reg 13 and sched 2
[75] Bernard S Black, 'The Legal and Institutional Preconditions for Strong Securities Markets' (2001) 48 UCLA Law Review 781, 782-785.
[76] FT Alphaville (n 73).

standards within capital market regulation, which may generate new concerns. Part IV returns to the potential upsides and downsides of PISCES for society at large.

3. *EU capital market reforms*

The EU's economic size and global importance are not reflected in the size and performance of its capital markets.[77] Market fragmentation and the rise of economic nationalism have given new urgency to the EU's decades-long effort to reduce European companies' high dependency on bank lending and to catalyse capital markets to play 'a more prominent role in the financing of innovative firms and the productivity of the European economy'[78]

Under the SIU plan the EU is pursuing a range of initiatives to connect savings and investment needs.[79] Since the SIU agenda is too broad to be captured in a single paper, this section focuses on the EU Inc. proposal but as with the treatment of PISCES earlier, context for the EU flagship initiative is provided by giving a brief overview of other key reforms relating to capital market access and market infrastructure.

Parallel to the UK's listing and prospectus reforms, the EU has reformed its listing regime and prospectus requirements, working within the conventional approach of focusing on IPOs and relying on the 'public minus' approach to designing rules for SME access to public capital markets.[80] The EU Listing Act 2024 introduced a raft of reforms including a new-style EU growth issuance prospectus to replace the EU growth prospectus.[81] As in the UK, it will take time to assess the market impact of these changes but based on experience

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[77] Alexia-Styliani Arampatzi, Rebecca Christie, Johanne Evrard, Laura Parisi, Clément Rouveyrol, and Fons van Overbeek, 'Capital Markets Union: A Deep Dive – Five Measures to Foster a Single Market for Capital' (2025) ECB Occasional Paper Series No 2025/369 <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op369~246a103ed8.en.pdf>.

[78] Arampatzi et al (n 77) 10.

[79] For an overview: European Commission, 'Savings and Investments Union: Connecting Savings and Productive Investments' 2 March 2026, https://finance.ec.europa.eu/regulation-and-supervision/savings-and-investments-union_en. For detail: European Commission, COM (2025) 124 (n 1).

[80] 'The Listing Act 2024' is an umbrella term for: Regulation (EU) 2024/2809 of the European Parliament and of the Council of 23 October 2024 amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises [2024] OJ L 14.11.2024; Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 October 2024 on multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility [2024] OJ L 14.11.2024; Directive (EU) 2024/2811 of the European Parliament and of the Council of 23 October 2024 amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC [2024] OJ L 14.11.2024.

[81] Jessica J Schmidt, 'EU Listing Act - Bull or Bear?' (January 28, 2025) < https://dx.doi.org/10.2139/ssrn.5115531>.

with the old-style EU growth prospectus, expectations for the impact of the new-style prospectus on IPO activity are best kept low. ESMA described the earlier version as only 'relatively successful'[82] and the European Commission acknowledged that EU public markets for SMEs still struggled to attract new issuers despite its introduction.[83]

Using a triple difference analysis, Chrstoph Kaserer and Victoria Treßel did not find robust evidence of an increase in IPO activity resulting from the previous growth prospectus.[84] Despite noting this limited efficacy, they remained positive that prospectus simplification was a step in the right direction that could be further pursued without jeopardising investor protection.[85] Others have gone further arguing that: 'Despite numerous initiatives over the last decade to improve access to capital for companies, these efforts did not bring about the desired increase – empirical data proves the opposite and underlines the significant socio-economic damage created with an overly pronounced regulatory focus on secondary markets trading and explicit trading fees to the detriment of primary markets' ecosystems'.[86] Whilst simplification and burden reduction have merit, Jessica Schmidt's preference for the European legislator to have shown 'more courage' in this area is quite understandable.[87]

Modernising of market trading and post-trade infrastructure is another important SIU strand but in this respect EU and UK priorities diverge somewhat. The EU shares the UK's aspiration to have financial market infrastructure that is 'fit for new technologies'.[88] Embracing innovation is considered 'crucial for the competitiveness and attractiveness of EU

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[82] ESMA. 'Final Report on SME GMs – MiFID II' (ESMA 70-156-4103, 2021).
[83] European Commission, 'SME Listing on Public Markets' <https://finance.ec.europa.eu/financial-markets/financial-markets-policy/securities-markets/sme-listing-public-markets_en>.
[84] On previous efforts: Christoph Kaserer and Victoria Treßel, 'The EU Prospectus Regulation and its Impact on SME Listings' (2024) 93 Journal of International Financial Markets, Institutions and Money 101983.
[85] Kaserer and Treßel (n 84).
[86] Deutsche Bôrse Group, 'Towards an EU Savings and Investments Union: Transforming the Capital Markets Union into a Success Story' (February 2025) 12 <https://www.deutsche-boerse.com/resource/blob/4195814/e39d6ad3b341289635b45e3fc5c5fbe4/data/Towards%20an%20EU%20Savings%20and%20Investments%20Union.pdf>
[87] Schmidt (n 81) 22.
[88] European Commission, 'Communication on Further Development of Capital Market Integration and Supervision within the Union' COM (2025) 940, 1. The Market Integration and Supervision package comprises: Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1095/2010, No 648/2012, No 600/2014, No 909/2014, 2015/2365, 2019/1156, 2021/23, 2022/858, 2023/1114, No 1060/2009, 2016/1011, 2017/2402, 2023/2631 and 2024/3005 as regards the further development of capital market integration and supervision within the Union COM (2025) 943; Proposal for a Directive of the European Parliament and of the Council amending Directives 2009/65/EC, 2011/61/EU and 2014/65/EU as regards the further development of capital market integration and supervision within the Union COM (2025) 942; Proposal for a Regulation of the European Parliament and of the Council on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/EC on financial collateral arrangements COM (2025) 941.

capital markets, and their ability to deliver the financing that the EU needs'.[89] The EU's position on this issue is partially driven by concerns about whether the EU is moving sufficiently fast to adapt its regulation to support the embrace of digital technologies. There are fears of falling behind, leading to a loss of competitiveness and greater dependencies on non EU-providers due to a lack of homegrown digital solutions.[90] However, the EU also manifests a strong aspiration to be at the forefront of global influence over designing the rules for digital finance.[91]

The possible adoption of a framework for PISCES-like multilateral intermittent trading platforms appears to be some way down the priority list.[92] This is understandable. The EU's first-order concern with respect to market infrastructure is excessive fragmentation, with, for example, trading already split across around 300 trading venues.[93] It would be perverse to prioritise the creation of a new type of secondary market stock exchange when the existing landscape is charged with being 'hyper-fragmented' and a key reason for less efficient financial intermediation in Europe.[94]

EU capital markets regulatory policy has historically encouraged competition between financial market infrastructures, with interoperability and open access arrangements operating as safeguards against damaging fragmentation.[95] EU competition policy has historically

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[89] European Commission, Impact Assessment Report SWD (2025) 943, 36-38.
[90] European Commission, SWD(2025) 943, 38.
[91] On the U.S.-EU competition in this space: Dan Awrey and Pauline Pailler, 'An Ocean Apart: The Regulation of Financial Technology in the United States and European Union' (2026) 88 Law and Contemporary Problems 53; Howell E Jackson and Katja Langenbucher, 'The Regulation of Technological Innovation in Financial Services: A Comparative Approach with Respect to Digital Assets and Artificial Intelligence' (2026) 88 Law and Contemporary Problems 77.
[92] The European Commission issued a targeted consultation on the topic in April 2026 but stressed that the consultation did not prejudge any outcome and that it was not a final policy position: European Commission, 'Targeted Consultation on Private Equity Exits' (2 March 2026) <https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-private-equity-exits-2026_en>.
[93] Lorenzo Danieli, Raoul Fruzza and Caroline Le Moign, 'Fragmentation in European Equity Markets since 2019' (2025) ESMA Working Paper (ESMA50-524821-3352, 2025) reporting 158 trading venues and 47 systematic internalisers as at the end of 2022. The figure of 300 comes from a European Commission factsheet: <https://finance.ec.europa.eu/regulation-and-supervision/savings-and-investments-union/factsheet-breaking-down-barriers-integrate-financial-markets_en>.
[94] Deutsche Börse (n 86) 12-13. Also Christine Lagarde, 'Follow the Money: Channelling Savings into Investment and Innovation in Europe' (Speech at 34th European Banking Congress, 22 November 2024) <https://www.ecb.europa.eu/press/key/date/2024/html/ecb.sp241122~fb84170883.en.html>; Ravi Balakrishnan and Mahmood Pradhan, Europe's Elusive Savings and Investment Union (June 2025) IMF F&D Magazine 36; Draghi (n 1) 63; Letta (n 1) 35. While very much in the spotlight currently, the issue of fragmentation in the European stock exchange landscape is not new: Carmine di Noia, 'Competition and Integration Among Stock Exchanges in Europe: Network Effects, Implicit Mergers and Remote Access' (2001) 7 European Financial Management 39.
[95] Danieli et al (n 93).

tended to be unfavourable to the consolidation of major European players.[96] The vision of a single European stock exchange, which has the backing of Friedrich Merz, the German Chancellor, would thus require a significant shift in competition policy. Ignazio Angeloni and Marco Pagano argue that 'competition policy should also be reframed with global, not merely internal, benchmarks'.[97] At the time of writing, there were reports of divisions at the top of the European Commission on the future direction of competition policy.[98]

In the capital markets sphere, the European Commission has focused on streamlining the operations and supervisory oversight of financial market infrastructures.[99] The proposed concentration of supervisory power in ESMA within the market infrastructure-related proposals represents a significant step towards its emergence as the single EU capital markets regulator.[100] While the prospect of centralised supervision of the securities markets has been debated for decades, what was once politically contested is gradually acquiring an aura of eventual institutional inevitability.[101]

Nevertheless, it is legal rather than market infrastructure reform that stands out as potentially the most profound EU regulatory policy change currently under consideration. EU Inc., which is the proposed new optional legal form that would operate under a new EU 28th company law regime, could be transformative in helping innovative companies and investors to overcome barriers to operating more seamlessly across the Single Market. [102]

Conceptually, a new corporate form and legal regime established by EU Regulation and inserted into, and optionally available alongside, Member States' existing national company laws would introduces competition between jurisdictional levels, different from the horizontal competition in corporate law between U.S. States made famous by Roberta

[96] In 2012 the Commission blocked a Deutsche Börse/NYSE Euronext merger and in 2017 it blocked London Stock Exchange/Deutsche Börse.
[97] Ignazio Angeloni and Marco Pagano, 'Making Savings and Investments Union Work' (2026) SUERF Policy Brief No 1401 <https://www.suerf.org/wp-content/uploads/2026/03/SUERF-Policy-Brief-1401_Angeloni-Pagano.pdf>.
[98] Barbara Moens and Kieran Smith, 'Europe's Dealmakers Warn of EU Merger Policy Confusion' *Financial Times* (25 May 2026).
[99] European Commission, COM (2025) 942 (n 88) and COM (2025) 943 (n 88).
[100] Valerio Novembre, 'Rationale for and Challenges of Further Integrating European Capital Markets in the Face of Technological Disruptions and Transitions' in Lorenzo Moretti and Katarzyna Kornosz-Koronowska (eds), *EU Competitiveness and the Innovation-Finance Nexus* (European University Institute 2025) 86.
[101] But as the recent failure of proposals to confer prospectus approval powers on ESMA demonstrated, significant pockets of resistance are likely to persist: Gargantini (n 33).
[102] European Commission, COM (2025) 500 (n 1) 7-8.

Romano's seminal work.[103] At the same time, while a legally-enforceable 28th regime is more than a template model law, its optionality means that it would be less forceful than U.S. federal constraint over state laws.[104] Notwithstanding how much is riding on its future success, the EU Inc. proposal cannot escape the constraints of the EU's legal and constitutional order.

The EU Inc. would be a new *national* corporate form designed at EU level rather than a supranational form that floats above Member State laws. This is an important nuance because the chosen legal basis for the proposed Regulation positions the EU Inc. as an 'approximation of Member State laws'.[105] Critically, this legal basis relies on qualified majority voting rather than unanimity, thus avoiding national vetoes. However, it is a controversial choice.[106] Choosing a legal basis that requires qualified majority voting rather than unanimity could potentially smooth the passage of the proposal but equally it is a tactic that could easily backfire. While, in theory, a 28th regime could sidestep political resistance by preserving Member States autonomy,[107] the chequered history of efforts to propagate EU corporate forms tells a different story. [108]

While the broad objective of the EU Inc. proposal is to 'enable innovative companies to operate under a single, harmonised set of EU-wide rules covering relevant aspects of corporate, insolvency, labour and tax law',[109] Member State laws will continue to play a gap-filling role in areas not covered by the EU Inc. framework, including with respect to employee protection (codetermination) requirements.[110] This feature is also rather controversial. Luca Enriques, Casimiro Nigro and Tobias Tröger are representative of a significant sub-group of commentators in regretting that if the EU Inc. proposal is adopted as

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[103] Roberta Romano, *The Genius* (n 30). The EU Inc. is a new national corporate form designed at EU level rather than a supranational form that floats above Member State laws. While functionally the distinction may seem fine, it is legally significant. The discussion of legal basis around (n 105) - (n 108) elaborates.
[104] Mark J Roe, 'Delaware's Competition' (2003) 117 Harvard Law Review 588. On a model law approach to company law in the EU: Paul Krüger Andersen et al, 'European Model Company Act (ECMA) 2017 Nordic & European Company Law Working Paper No. 16-26, Available at SSRN: https://ssrn.com/abstract=2929348.
[105] Treaty on the Functioning of the European Union (TFEU), art 114.
[106] Thomas Jaeger and Adnan Tokić, 'Article 114 TFEU: The Wrong Choice for the 28th Regime' (*European Law Blog*, 19 May 2026) < https://www.europeanlawblog.eu/pub/s65d2lnm>.
[107] Novembre (n 100) 88.
[108] Luca Enriques, 'EU Corporate Law Reforms to Create an Integrated Market for Innovation' in Moretti and Kornosz-Koronowska (n 100); Guy Reiffers, 'EU Inc. vs Societas Europaea (SE): Have We Learned Our Lesson?' (*Medium*, 14 April 2026) <https://medium.com/@guy.reiffers_42019/eu-inc-vs-societas-europaea-se-have-we-learned-our-lesson-4540e05e9bf3>; Schmidt and Teichmann (n 8) [2].
[109] European Commission, 'EU Inc.: A New Harmonised Corporate Legal Regime' (Press Release, 18 March 2026) <https://ec.europa.eu/commission/presscorner/detail/en/ip_26_614>
[110] Proposed EUIncR, art 4.

proposed, the end result will be '27 different versions of the EU Inc., each with its own national legal substrate'.[111] On the other hand, Jessica Schmidt and Christoph Teichmann are representative of a more pragmatic response, which recognises that 'a supranational legal form floating freely above national law, providing autonomous European answers to all legal questions, cannot exist'.[112] At some level, an outcome that leaves founders and funders still having to navigate divergencies in Member States' outside the sphere of company law covered by the EU Inc. Regulation is unavoidable.

Turning to the contents of the proposed EU Inc. proposal, the guiding principles are 'digital-only' and 'once-only', meaning 'digital procedures applicable throughout the company life cycle'[113] and one time submission of information to public authorities.[114] There are some concerns that, as proposed, the EU Inc. framework may underestimate the importance of maintaining anti-fraud and anti- money laundering preventative safeguards in the EU Inc. formation process.[115]

Directors of all EU Inc. companies would be subject to a harmonised set of general directors' duties[116] and would benefit from a harmonised business judgment rule.[117] As well as standardising requirements for company meetings and voting rights, the proposed regulation includes a harmonised right of withdrawal for minority shareholders in exceptional cases of flagrant prejudice.[118] The general meeting would have the power to give instructions to the board of directors.[119] Concerns that have been flagged about the proposal in these areas include possible deficiencies in the drafting of the EU Inc. business judgment rule,[120] broader issues about the adequacy of the harmonising effect of the directors' duties provisions,[121] and

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[111] Luca Enriques, Casimiro A Nigro and Tobias H Tröger, 'Why the 28th Regime Proposal Falls Short of Europe's Challenge' (*Oxford Business Law Blog (OBLB)*, 19 March 2026) https://blogs.law.ox.ac.uk/oblb/blog-post/2026/03/why-28th-regime-proposal-falls-short-europes-challenge.
[112] Schmidt and Teichmann (n 8) [20].
[113] Schmidt and Teichmann (n 8). Proposed EUIncR, art 10.
[114] Proposed EUIncR, art 20 and art 28.
[115] Michael Denga, 'The EU Inc Proposal: Structural Flaws, Neglected Safeguards, and a Trojan Horse for the Single Market?' (*OBLB*, 5 May 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/05/eu-inc-proposal-structural-flaws-neglected-safeguards-and-trojan-horse>; Oriana Casasola and Ilaria Zavoli, 'The Business Must Go on? The EU Inc Proposal and Its Money Laundering Risks' (*OBLB*, 4 April 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/04/business-must-go-eu-inc-proposal-and-its-money-laundering-risks>.
[116] Proposed EUIncR, arts 44-46.
[117] Proposed EUIncR, art 44(3).
[118] Proposed EUIncR, art 52.
[119] Proposed EUIncR, art 42(4)
[120] Simone M Sepe, 'The EU Inc Business Judgment Rule: A Safe Harbour without a Harbour' (OBLB, 13 April 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/04/eu-inc-business-judgment-rule-safe-harbour-without-harbour>.
[121] Schmidt and Teichmann (n 8) [83]-[88].

the failure to make provision for an EU Inc. that is a subsidiary to take account of group interests.[122]

The proposed Regulation also includes rules on simplified winding-up proceedings for EU Inc. companies that are innovative startups.[123] In addition, a recital encourages Member States to designate or establish specialised judicial chamber or court for disputes involving EU Inc. companies on matters covered by the Regulation.[124] Appreciation of the role that specialised corporate judiciary, especially the Delaware Court of Chancery, plays in underpinning U.S. corporate law, as highlighted by Romano, can be detected here.[125]

Especially pertinent to the themes of this paper, the proposed Regulation aims to equip companies with the legal flexibility required to compete effectively for venture capital and other investments on a global scale.[126] Against the backdrop of rising economic nationalism, the EU Inc. proposal thus seeks to navigate carefully around the recurrent tension between autonomy/sovereignty and market openness, recognising that it would be neither feasible nor desirable to expect exclusive reliance on homegrown sources of finance.

From a path dependency perspective, there is radicalism in the radical redesign of corporate capital requirements, which remove outdated legal capital concepts such as minimum capital, par value shares, restrictions on non-cash consideration for shares and court oversight of reductions of capital, and replacing them with more flexible balance sheet and solvency tests.[127] These reforms would facilitate the use of convertible equity instruments that are standard in the global venture capital industry but that are technically complicated under current legal capital requirements in Europe.[128] In addition, express provision is made for a new standardized employee stock option plan that defers taxation until the underlying shares are sold.[129]

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[122] Schmidt and Teichmann (n 8) [90]-[92].
[123] Proposed EUIncR, arts 88-102.
[124] Proposed EUIncR, rec 81.
[125] Romano, *The Genius* (n 30).
[126] Proposed EUIncR, rec 43..
[127] Proposed EUIncR, arts 61-77.
[128] Proposed EUIncR, rec 45. On why these forms of finance are currently difficult/impossible in some Member States: Luca Enriques, Casimiro Nigro and Tobias Tröger, 'Can U.S. Venture Capital Contracts Be Transplanted into Europe?
Systematic Evidence from Germany and Italy' (2025) ECGI Law Working Paper No 848/2025 <https://dx.doi.org/10.2139/ssrn.5287685>
[129] Proposed EUIncR, art 78-79.

The proposed EU Inc. Regulation also envisages that EU Inc. companies would be able to seek admission to trading of their shares on multilateral trading facilities and that Member States may also allow them to seek admission to trading of their shares on regulated markets.[130] This element of the proposed framework builds on earlier Member State and EU level initiatives that move away from requiring companies to change their corporate form prior to accessing public markets.[131] However, the European Commission's stakeholder consultations identified mixed views on allowing access to public markets without change of corporate form.[132]

The Jacques Delors Friends of Europe Foundation describes the universality of the EU Inc. proposal as an essential feature because 'the transformative effect of the 28th regime will only be fully realised if all firms facing the barriers it is designed to address are able to benefit from it'.[133] A contrasting position is taken by Giovanni Strampelli, who argues that the possibility of an EU Inc. having full access to public capital markets undermines fundamental distinctions in EU corporate and capital markets law.[134] The universality of the proposed EU Inc. corporate form is also a problematic feature for Enriques et al who, for different reasons from those identified by Strampelli, regard it as a potentially fatal flaw in its design. They regard the decision to make the EU Inc. a universal corporate form rather than a genuinely uniform specialised regime for start-ups and scale-ups as a misstep because it opens the door to lobbying around labour and codetermination.[135] Workers' rights would not have been so prominent if the EU Inc. proposal had been limited to start-ups because few start-ups are likely to reach the thresholds for worker participation.[136]

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[130] Proposed EUIncR, art 60.
[131] Schmidt and Teichmann (n 8) [143].
[132] European Commission, COM (2026) 321 (n 8) 11.
[133] Jacques Delors Friends of Europe Foundation, 'One Europe, One Market: Europe's Strongest Response to a World in Transformation' (April 2026) 10 <https://www.friendsofeurope.org/wp/wp-content/uploads/2026/05/One-Europe-One-Market_paper_final.pdf>
[134] Giovanni Strampelli, 'The Limits of the EU Inc-for-All Approach: The Unintended Consequences of Unrestricted Access to Capital Markets' (*OBLB*, 14 May 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/05/limits-eu-inc-all-approach-unintended-consequences-unrestricted-access>. While agreeing with Strampelli on the need for calibrated requirements that allow closed companies more flexibility and impose more stringent requirements on publicly traded companies, I argue for linking differentiated requirements to functional triggers such as trading status or corporate size rather than corporate form: Eilís Ferran, 'Does the UK Need the Plc' [2026] Cambridge Law Journal (forthcoming). See also Part IV.4 below.
[135] Enriques et al, Why the 28th Regime (n 111).
[136] European Transport Workers Federation, '28th Regime (EU Inc.): A Single Market Tool or a Licence to Bypass Workers' Rights' (*ETF*, 21 May 2026) <https://www.etf-europe.org/28th-regime-eu-inc-a-single-market-tool-or-a-licence-to-bypass-workers-rights/>

There are good arguments in principle for not using corporate form as a condition for entry to capital markets or as a hook for differentiated regulatory intensity.[137] Allowing the EU Inc. unrestricted access to public markets would sit coherently with the objective of supporting companies across every stage of the corporate pipeline through financing structures best suited to their needs.[138] It would also help to reshape regulation around function rather than form, which is apt in an era of blurring boundaries between public and private markets. Thus, in the context of this paper, which argues for getting to grips with these blurred lines, the universality of the proposed EU Inc. emerges as a very positive feature. Provided, that is, it is recognised that making the EU Inc. available as a universal corporate form carries with it a responsibility to confront the challenge of thinking through appropriate triggers for progressively more demanding requirements that are functionally attuned to the different stages of the corporate lifecycle. I return to this point at the end of this section and explore it further in Part IV.4.

The overview of the proposal and sample of commentary referenced here can give no more than a flavour of a very lively debate on the EU Inc. Indeed, the outpouring of commentary from researchers, practitioners and others that it has provoked underlines the EU Inc. proposal's flagship status and potentially transformative impact. Since this stream of commentary will continue long after this paper is finalised, I direct readers to the excellent Oxford Business Law Blog, which maintains a series on the topic.[139]

Yet based on commentary available at the time of writing, it is evident that the EU Inc. proposal faces a difficult gestation process: it could be further compromised during the legislative process; if adopted on the proposed legal basis, it could face an immediate legal challenge and potential annulment; or it could simply run into the sands before adoption because of insufficient political will, regardless of whether the relevant legal basis requires qualified majority voting or unanimity. Even if it is adopted in some form, it will ultimately face a market test, and there is no guarantee that the regime will be sufficiently aligned with commercial practice and market needs to achieve significant practical impact. Nevertheless, as with PISCES, the possibility of failure should not distract from the importance of considering the implications of success.

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[137] Ferran (n 135).
[138] Marco Ventoruzzo, 'Welcome EU Inc!' (*OBLB*, 2 April 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/04/welcome-eu-inc.>
[139] OBLB https://blogs.law.ox.ac.uk/oblb/blog-post/2026/05/eu-inc-debate-oblbs-growing-series-28th-regime.

If the EU Inc. were to establish itself as a meaningful component of the European corporate finance ecosystem, the resulting societal consequences may not be entirely benign. In the context of this paper, its most concerning feature is that its success in facilitating the flow of private market financing could contribute further to the migration of economically significant activity away from traditional public market regulatory architecture. Each significant regulatory modernisation that makes it easier for large companies to remain private comes with a responsibility to confront its side effects for the broader economy.

Part IV – Societal implications

1. *Introduction*

Part II introduced regulatory competition theory as a lens through which to examine how and why jurisdictions learn from, imitate and compete with each other. That Part also acknowledged limitations in a market-based approach to regulatory design. This Part considers imitation, experimentation and societal misalignment risks with these observations in mind.

2. *Regulatory imitation*

A paradox running through the UK and EU's reform agendas to strengthen domestic capital markets so that they can better meet the needs of start-up and scale-up companies and reduce dependency on foreign capital is the extent to which the regulatory design choices have drawn on U.S. regulatory models. Economic nationalism tendencies notwithstanding, Nasdaq listing standards, U.S. issuer disclosure requirements and Delaware corporate law have functioned as key benchmarks against which European regulatory frameworks have been re-evaluated.

The intellectual dependency on U.S. norms has been very noticeable in the trajectory of the UK's recent listing and issuer disclosure reforms. Simplifying somewhat, it can be argued that the big idea that animated the 2024 reform of the UK listing rules was to remove idiosyncratic features of the UK listing regime around shareholder rights to be more like Nasdaq. The UK of old used to hold out the differences in its capital markets regime as an example of intellectual leadership that gave London a competitive edge internationally. Being an outlier is now viewed rather negatively.[140] Likewise, while the 'Brussels effect', denoting the influence of EU regulation on the global stage, is an important part of the EU's international soft power,[141] much of its recent capital market agenda has been more reactive than agenda-setting. For instance, recent EU changes to SME access to public markets are broadly convergent with US norms in seeking to achieve a tiered framework that is proportionate for smaller issues.[142] This convergence is also evident in changes to issuer continuous disclosure requirements.[143]

The EU Inc. proposal is another example of the epistemic influence of U.S. standards. EU scholars and thought leaders have found inspiration for the design of a business law framework that would be conducive to the advancement of the EU venture capital market by looking to the enabling nature of Delaware corporate law and the U.S. Uniform Commercial Code.[144] This vision is supported by the Draghi Report, which links European entrepreneurs' preference for financing from U.S. venture capitalists to inconsistent and restrictive European regulations.[145]. Thus while the U.S. is not mentioned specifically, it does not take much reading between the lines to work out what the European Commission had in mind in saying that the EU Inc. proposal aims to address the 'complexity and fragmentation of rules that deter investors such as third-country venture capitalists and cross-border angel investors'.[146]

The EU Inc. proposal validates the idea of regulatory competition functioning as a learning or discovery mechanism.[147] U.S. standards are a natural benchmark for European policymakers to use when considering what successful capital market regulation should look like given both the general dominance of the U.S. markets and the extent to which UK and EU policy concerns have been driven by firms' migration to the U.S. and their reliance on U.S. sources of funding. The close entanglement of U.S. and European financial market

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[140] UK Government, *Financial Services* (n 1) 11.
[141] Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press, 2020).
[142] Merritt B Fox, 'Regulating Public Offerings of Truly New Securities: First Principles' (2016) 66 Duke Law Review 673.
[143] Arnoud Pijls, 'The EU Listing Act Shows How EU and U.S. Law Are Converging on the Duty to Disclose Inside Information' (*CLS Blue Sky Blog*, 2 May 2024) https://clsbluesky.law.columbia.edu/2024/05/02/the-eu-listing-act-shows-how-eu-and-u-s-law-are-converging-on-the-duty-to-disclose-inside-information/
[144] Enriques, 'EU Corporate Law Reforms' (n 108); Letta (n 1) 108.
[145] Draghi (n 1) 6.
[146] European Commission, COM (2026) 321 (n 8) 6.
[147] Wolf-Georg Ringe, 'Regulatory Competition in Global Financial Markets—the Case for a Special Resolution Regime' (2016) 1 Annals of Corporate Governance 175.

ecosystems that has developed since the 1960s, as described by Jared Ellias and Narine Lalafaryan, is further reason to regard this recourse to U.S. norms as a logical step.[148]

It would go too far, however, to characterize this dynamic as full-scale outsourcing of regulatory design choice since this characterisation ignores the reality of how regulatory transplants work.[149] Policymakers in 'follower' jurisdictions borrow ideas from elsewhere but they do so with an awareness that institutional context matters. The juxtaposition of regulatory alignment with the U.S. and local institutional context is a strategic choice that positions the UK and the EU to compete for business that would not thrive in the U.S. The logic of offering U.S.-like regulatory standards without replicating the intensity of U.S. market scrutiny and enforcement mechanisms becomes even clearer once it is recognised that regulatory designers may be simultaneously competing for different corporate and investor clienteles. For European tech unicorns, the availability of U.S. lite standards may do little to affect the trade-offs that favour of U.S. listing. However, those same reforms may be considerably more meaningful for the larger number of UK and EU companies for which a U.S. listing is not a realistic option.

Yet it would be complacent to ignore the risks that are embedded within this strategy. Deleting existing domestic requirements and replacing them with U.S.-like standards could mean the loss of protective mechanisms that in a broad sense have historically functioned as equivalents to U.S. formal enforcement tools. The removal of certain shareholder approval requirements in the previous UK Listing Rules is a relevant example.

Downside risks embedded in imitation strategies are explored further in Part IV.4.

3. *Regulatory experimentation*

The UK FCA has gone as far as to describe the PISCES initiative as an example of the 'bold risk-taking that has made the UK the leading financial centre it is today'.[150] This seems a slightly exaggerated claim to make about a framework that is wrapped around a specialised market segment that is already functioning without the underpinning of bespoke regulation. However, while PISCES-enabled platforms may start out as niche products, as companies

[148] Jared Ellias and Narine Lalafaryan, 'The Global Law of Debt' (2026) 75 Duke Law Journal (forthcoming).
[149] Part II.4 above.
[150] FCA, 'FCA Rings Bell on New Type of Private Stock Market in Growth Boost' (Press Release, 10 June 2025) https://www.fca.org.uk/news/press-releases/fca-rings-bell-new-type-private-stock-market-growth-boost.

stay private longer and increasingly look for secondary market liquidity solutions, they could become important parts of market infrastructure. At a minimum, the UK deserves some credit, therefore, for regulatory innovation that begins to address the challenge of the changing typical corporate lifecycle in an era of large private markets.

As a secondary market, there are three key niches PISCES could fill: a stepping stone to an IPO; an alternative (partial) exit route for venture capital and private equity investments in portfolio companies; and a boost to growth companies whose ability to provide share-based employee incentives is enhanced by a secondary liquidity mechanism. By providing a future exit option, PISCES could also indirectly boost the private placements market.

A key question is whether venture capital and private equity firms will use PISCES. Their response could be critical to whether the initiative achieves success at scale. Broadly, in the absence of carefully negotiated bilateral agreements governing control rights, controllers of private companies, especially PE firms, tend not to welcome arms-length minority shareholders and may not regard company-set buyer eligibility criteria as an adequate safeguard. Crucially, there are also concerns about portfolio valuations: unlike the privacy of bilateral secondary trades, trading on a PISCES venue would (subject to pre-set parameters) produce a price, potentially low and volatile, that is likely to seep into the public domain despite confidentiality conditions.[151] The intensification of exit pressures might make PISCES platforms more appealing to PE firms: driven by high financing costs, valuation gaps and slow market activity, portfolio exit backlogs are growing at the same time as investor redemption demands are increasing, feeding liquidity mismatch risk.[152] But if PISCES platforms becomes a dumping ground for assets that PE firms are struggling to sell and they are bought by investors that were previously shut out of alternative asset classes, the negative repercussions could be considerable.[153]

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[151] This is especially sensitive given the downward pressure on valuations from the large backlog of unsold PE companies in current markets: Alex Chauvin, Richard Jobes and Jonathan Parry.' Eyes on the Exit: Selling Portfolio Companies in Complex Markets' (*White & Case*, March 2025) <https://mergers.whitecase.com/highlights/eyes-on-the-exit-selling-pe-portfolio-companies-in-complex-markets#!>. The FCA has flagged the importance of robust valuation practices for fairness and confidence in private markets: FCA, 'Growth of Private Markets Requires Continued Focus on Valuations' (Press Release, 5 March 2025) < https://www.fca.org.uk/publications/multi-firm-reviews/private-market-valuation-practices).

[152] A point stressed by Sarah Paterson 'Regulating for Growth and Competitiveness: What Does This Mean for the UK Financial Services Sector and its Regulation?' Workshop, London School of Economics, 15 May 2025.

[153] Brooke Masters, 'Should Ordinary US Retirement Accounts be Investing in Private Assets' *Financial Times* (28 May 2025).

If PISCES-enabled platforms do succeed in becoming a meaningful part of the corporate financing landscape, they may serve as a robust market-tested way to assess trends in the demand for public growth markets. We already know that companies are delaying their IPOs.[154] While PISCES has been presented as a complementary initiative supporting the pipeline for future UK IPOs,[155] the more successful PISCES is at attracting companies and investors, the more likely it is to substitute for, rather than complement, public venues, especially those that cater for small and midcap issuers.[156]

AIM, the UK's most prominent growth market, already suffers from low liquidity, and competition from PISCES for capital flows could exacerbate the problem. While the London Stock Exchange has described AIM as the 'Jewel in the Crown' of London's market,[157] others contend that AIM is in a 'dire state' and facing an 'almost existential threat'.[158] There have been calls to close AIM and create a rapid route to main market listing with favourable tax concessions and lighter disclosure requirements.[159] There is already movement in this direction. The revised Listing Rules no longer prescribe a three-year minimum trading record, so growth companies wanting to go public early can now weigh main market access against growth market alternatives. The favourable tax concessions that AIM-quoted shares have vis-à-vis Main Market shares are eroding,[160] and remaining AIM concessions have already been extended to PISCES-traded shares.[161]

Of course, we should not rush to consign public growth markets to history just because a new and unproven type of stock exchange has arrived on the scene. Public growth markets emerged to fill a significant challenge in smaller company access to finance, and funding gaps still persist. Their potential to be a part of a rich menu of financing options that

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154 Part II.2 above.
155 FCA, PS25/6 (n 46) para 1.18.
156 Discussing, in a different context, the prospects for experimentation involving the creation of alternatives that operate on more lenient standards than the public markets to end badly because the alternatives eventually hollow out the traditional system: Fox (n 142) 722.
157 LSE, 'Shaping' (n 39), 22. See also William Wright and James Thornhill, The Future of Smaller Company Capital in the UK (*New Financial*, October 2024) < https://www.newfinancial.org/reports/the-future-of-smaller-company-capital-markets-in-the-uk>.
158 Lex Column 'There are No Easy Answers to the Decline of UK's AIM' *Financial Times* (17 October 2024).
159 Ned Hammond, Prachetas Bhatnagar, Tom Smith, Tom Westgarth and Rebecca Yiming 'Capital Issues: Reforming the UK's Capital Markets to Boost Science and Tech (*Tony Blair* Institute, 14 October 2024) <https://institute.global/insights/economic-prosperity/capital-issues-reforming-the-uks-capital-markets-to-boost-science-and-tech#foreword>.
160 Reduced inheritance tax relief on AIM shares (from 100% to 50%) was announced in the UK Autumn Budget 2024 and took effect from April 2026.
161 The Private Intermittent Securities and Capital Exchange System (Exemption from Stamp Duties) Regulations 2025, SI 2025/666.

caters comprehensively to the diversity of corporate needs over the lifecycle is considerable. Nevertheless, if growth markets increasingly become the 'squeezed middle' between intermittent trading platforms for shares in privately owned companies and main markets, confronting the question whether they have become an unnecessary layer will eventually be unavoidable.

Growth markets are often positioned as venues that give retail investors early access to companies that could become the giants of the future. If PISCES contributes to the further weakening of AIM yet PISCES platforms continue to be regarded as too risky venues for them, retail investors may thus lose an opportunity for exposure to growth-stage companies. It cannot be assumed that main market changes together with new fund products providing retail access to private assets would fully offset this loss.

Thus, again, there is a need to consider downsides as well as upsides. Conceptually, PISCES sits within a broader landscape of experimentation in financial market infrastructure that is emerging at the intersection of digitalisation, platformisation and the rapid growth of private markets. Its potential to embed weaker standards in market regulation, to be used opportunistically by sophisticated investors in ways that are not accurately priced by other investors, and to narrow the range of investment channels available to retail investors are specific examples of a potentially much wider issue about the eventual winners and losers from an increasing shift of business to private markets. Part IV.4 elaborates further.

The EU Inc. proposal is also experimental, but in quite distinctive ways. First, it involves competition *within* a partially-integrated legal order rather than *between* completely separate jurisdictions. Secondly, it is a competition that involves different jurisdictional levels: the EU and its Member States, as well as Member States between themselves. Thirdly, whereas in the 'ordinary' case of competition between separate jurisdictions, full convergence is a remote prospect because of different institutional settings, the nature of the EU legal order makes this a somewhat more likely outcome. The ultimate vision that underpins the EU Inc. proposal is the elimination of fragmentation, achieved by first offering a harmonised legal form that wins business from other corporate forms by being more efficient and more effective in addressing challenges that businesses are facing. As Tom Vos has argued, this is a combination of harmonisation and regulatory competition.[162]

[162] Tom Vos, 'The 28th Company Law Regime: A Mix of Harmonization and Regulatory Competition' (2026) 23 Europea Company Law Journal 4

That the European Commission, Council and Parliament all agree in principle on the need for a 28th regime, and that it is also backed by the influential Draghi and Letta reports,[163] is a strong signal that the EU Inc. proposal is an experiment that addresses a real need.[164] While some Member States have already adopted national company law frameworks that offer 'extensive contractual freedom and highly adaptable governance structures',[165] horizontal regulatory competition between EU Member States has fallen short of providing the EU with the coherent, consistent and investor-friendly framework that it requires.[166] There is a multiplicity of reasons for the underdevelopment of Member State-led regulatory competition, ranging from 'choice of law' technicalities at the intersection of corporate law and insolvency law through to language and culture issues that can make incorporation outside their home state uncomfortable for founders.[167] There are also questions of political will. For instance, it does not require the imprimatur of an adopted EU regulation for a Member State to emulate Delaware or (now) Texas, Nevada Wyoming (and other U.S. states) by establishing a specialised judicial chamber or court for company law matters, yet no Member State has done so.[168]

It is indisputable that the EU Inc. proposal does not match the level of ambition that some had hoped for. If adopted broadly as proposed, it is 27 national EU Inc.'s. that will compete with the many corporate forms that are already available within EU Member States' company laws. Yet each of those 27 EU Inc. forms would operate under a modern, digital-first, flexible regulatory framework that at its core is standardised across the EU, even if operational details are affected by local variations. Directionally, these developments would represent a significant advance.

Moreover, if the EU Inc. were to confound the critics and sceptics and succeed in becoming a single, unified legal entity that operates seamlessly across the single market this could be truly transformative. While dependent on a combination of harmonization and regulatory competition that could not be replicated outside the EU's unique institutional

[163] Draghi (n 1); Letta (n 1).
[164] European Commission, COM (2026) 321 (n 8) 2.
[165] Vos (n 162) 6.
[166] European Commission, COM (2026) 321 (n 8) 7.
[167] Stefano Lombardo, 'Regulatory Competition in European Company Law. Where Do We Stand Twenty Years After Centros?' ECGI Law Working Paper No 452/2019. This paper includes reference to the CJEU decision in *Kornhaas v Dithmar* C-594/14 as a complicating factor for the European incorporations market because contrary to a rather liberalising line of earlier caselaw, the court imposed 'host' state (German) company law duties on the directors of an insolvent UK-incorporated company.
[168] Paul Oudin, 'The 28th Regime and the False Promise of a European Delaware' (*ECGI Blog*, 2 February 2026).

setting, the ripple effects within the EU could be considerable. Fully digital procedures would put more cumbersome practices in Member States' pre-existing corporate law systems under pressure, and flexible substantive requirements in the EU Inc. framework would become the benchmark for re-evaluation of Member States traditional company law rules. The universality of the EU Inc. would smooth access to the capital markets for companies at different stages of the corporate lifecycle, again putting competitive pressure on other, more restricted, corporate forms.

Successful adoption and significant practical uptake of the 28th company law regime could also open the door to other 28th regimes.[169] For instance, linking directly across to market infrastructure digitalisation and defragmentation, ECB board member Piero Cipollone has welcomed the proposed 28th company law regime but has questioned its sufficiency, arguing that a dedicated EU-level framework for tokenised assets may also be needed as 'otherwise, we run the risk of building advanced settlement infrastructure on a patchwork of regulations, leaving us unable to fully reap the benefits'.[170] But, of course, the precedent-setting potential is another reason for the EU Inc. proposal to encounter stiff opposition.

Even if it not ultimately adopted, the EU Inc. proposal could still have a positive legacy as an enduring signal of the need for both defragmentation and a more enabling orientation of company law within the EU. While the EU Inc. proposal has divided opinion, much of this has focused more on questioning its level of ambition than on the fundamental need for change.[171] This gives credence to the possibility of the EU Inc. proposal being more than a symbolic gesture. The momentum behind the EU Inc. proposal could potentially be channelled into further development of national company law frameworks. It might also usefully inspire a review of the existing body of EU company law with a view to introducing more flexibility and streamlining.[172] Admittedly, these are relatively small consolations for those who have viewed the EU Inc as a 'now or never' moment to take advantage of a window of opportunity for radical change presented by the current political and economic circumstances. But they are not nothing.

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[169] Christine Lagarde, 'From Resilience to Strength: Unleashing Europe's Domestic Market' (Speech at the 35th Frankfurt European Banking Congress, 21 November 2025) <https://www.ecb.europa.eu/press/key/date/2025/html/ecb.sp251121~bd4c7eacd0.en.html>

[170] Piero Cipollone, 'Building the Rails for Europe's Tokenised Financial Markets' (Speech at "Building Europe's integrated digital asset ecosystem: from vision to implementation" hosted by the House of the Euro, 26 March 2026) < https://www.ecb.europa.eu/press/key/date/2026/html/ecb.sp260323~a88f20c049.en.html>.

[171] But see Denga (n 115): true problem is lack of capital not corporate forms.

[172] Schmidt and Teichmann (n 8) [168].

As with all experiments, the EU Inc. is not without downside risks. To a greater or lesser extent these risks would be present irrespective of whether its future is as a concrete and operational legal form or as just an influential idea. The next section elaborates.

4. Societal misalignment risk

Every regulatory reform, and especially those that are highly experimental, have potential pluses and minuses. One risk is that an experiment does not take hold in practice, thus not repaying the investment of policy and legislative time that went into it, and potentially casting a shadow over the credentials of its creators as regulatory designers.

In the case of the PISCES framework, the sandbox format has a safeguard against this since it builds in the possibility of failure. One option for the EU Inc. if the current proposal is not adopted could be to bring it back as a sandbox or pilot initiative.[173] The use of regulatory sandboxes within the EU is growing.[174] As time-bounded testing environments, a sandbox/pilot version of the EU Inc. would still have to address potentially contentious issues around the governance and financing structures that EU Inc.s would graduate into post-sandbox. The need to factor eventual graduation might limit the appeal of a temporary form EU Inc. entity to founders and investors. Yet while not without its own complicating factors, in the spirit of experimentation, a sandbox/pilot format could be worth exploring further.

Another risk is that the experiment succeeds very well but in doing so creates new winners and losers in ways that were not anticipated at the design stage. Critics of treating law as a commodity worry especially about the latter risk because of the extent to which regulatory competition relies on meeting the preferences of market actors as a success metric. It is the main concern here.

Potential minuses embedded within specific reforms have been mentioned already in the doctrinal discussion in Part III and also the discussion of imitation and experimentation strategies in Part IV.2-3. For instance, concerns that the UK has gone too far in mimicking

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[173] Silvie Rohr, 'Build It and They Will Come? Why EU Inc Needs a Pilot' (*OBLB*, 21 May 2026 <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/05/build-it-and-they-will-come-why-eu-inc-needs-pilot#:~:text=Paper%20design%20is%20not%20market,Market%20with%20lower%20structural%20frictions>; Jesús Alfaro Águila-Real, 'Completing the EU Inc Regime: A VC-Gated Startup Sandbox' (*OBLB*, 28 April 2026 <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/04/completing-eu-inc-regime-vc-gated-startup-sandbox>.

[174] Hanna Vuorinen, Milena Isakovic Suni and Eleonora Bonel, 'Use of Regulatory Sandboxes in Eu Member States: 2025 Survey Report' (*European Commission*, March 2026) <https://op.europa.eu/en/publication-detail/-/publication/6942cc0e-3d27-11f1-814f-01aa75ed71a1/language-en>.

US listing standards and has undervalued, on-the-ground institutional differences; that the PISCES framework hybrid private plus approach could concretise lax private market standards in regulation; or that, if adopted in its current form, the EU Inc. could become a vehicle for fraud or for circumvention of workers' rights because important safeguards have been dispensed with. The characterisation of the EU Inc. proposal as a potential 'European analogue: a Trojan horse endowed with single-market legitimacy but lacking the institutional architecture to prevent misuse' is particularly striking.[175]

That regulatory competition risks driving standards downwards is a standard critique but the predictability of the argument does not take away its potency. While market discipline can check a race to the bottom because trust and reputation are economically valuable, market incentives are not always aligned with social welfare. Repeated financial crises illustrate the limits of relying solely on market discipline to prevent excessive risk-taking and broader social harms. Moreover, the surfacing of negative reactions is a legitimate and valuable part of robust rule-making processes, as multi-stakeholder scrutiny expands the evidence base and mitigates against over-reliance on a small set of powerful voices. Some fears may be exaggerated but that is true of hopes as well.

Nevertheless, the core contention in this paper in any event goes beyond the usual concern about risks of excessive deregulation. Telescoping out from case-by-case evaluation of specific reforms allows a deeper concern to surface.

The PISCES framework and the EU Inc. proposal share common underlying assumptions about the importance of private markets as a source of growth finance. They can be commended for recognising the need to adapt regulation to the new realities of corporate finance. In principle they are both worthwhile experiments. Their optionality allows for market testing, which is a valuable discipline. However, above and beyond questions about specific features within these measures, the concerning underlying risk is that unless the broader implications of the market transformation that these experiments could accelerate are confronted early, their success could end up doing significantly more societal harm than good in the long run.

PISCES makes it easier for companies to stay private by providing a liquidity option. The EU Inc offers financing flexibility, including the possibility of access to public capital

[175] Denga (n 115).

markets without a change of corporate form. While it is important to avoid alarmism, nor should their potential to accelerate the migration away from public markets, with potentially very significant economic and societal implications, be underestimated. Regulatory interventions that, in effect, give a public blessing to, financing and liquidity options that make it easier for companies of increasing size and scale to stay private indefinitely risk conferring legitimacy while ignoring the elephant in the room. Properly viewed in the round, these experiments point to a growing urgency to think about how the public interest is protected when economically significant corporate activity relocates to private market environments.

The regulatory implications of the migration of activities to private markets is not an exclusively European problem. Lenore Palladino and Harrison Karlewicz argue that 'the growth of private markets upends the dominant conception of public financial markets as the central organizing entity of the economy' that we ignore at our peril.[176] There is already a growing thread of scholarship examining the reducing coherency of U.S. regulation of publicly-traded companies because of private market developments.[177] Looking at the issues from a European perspective, Sergio Gilotta has drawn attention to the need to rethink the optimal scope of securities regulation to take account of privately owned companies that have a large and dispersed shareholder base, including non-professional investors.[178]

The staying private trend prompts questions about the most appropriate hook for differentiated requirements that demand more of more economically significant companies. While the EU Inc. proposed universality in terms of capital market access is contentious,[179] in an increasingly private world corporate form (and indeed trading status) become increasingly unreliable proxies for the pool of companies that should be within the scope of more demanding requirements intended for very economically significant companies.[180] The UK and the EU are already quite advanced in using quantitative criteria to trigger progressively more demanding requirements on companies, especially in the areas of financial and

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[176] Lenore Palladino and Harrison Karlewicz, 'The Growth of Private Financial Markets' (*Political Economy Research Institute*, 2024) <https://peri.umass.edu/wp-content/uploads/joomla/images/publication/WP600.pdf>.
[177] Elisabeth de Fontenay and Gabriel Rauterberg, 'The New Public/Private Equilibrium and the Regulation of Public Companies' 2021 Columbia Business Law Review 1199; George S Georgiev, 'The Breakdown of the Public-Private Divide in Securities Law: Causes, Consequences, and Reforms' (2021) 18 New York University Journal of Law & Business 221; Renee M Jones, 'The Unicorn Governance Trap' 166 University of Pennsylvania Law Review 165.
[178] Sergio Gilotta, 'The Decline of Public Stock Markets and the Optimal Scope of Securities Regulation' presentation at the European Tribute to Roberta Romano, Madrid, 27 June 2025.
[179] Strampelli (n 134).
[180] Ferran (n 135).

sustainability disclosures and audit requirements, but the more institutionalised staying private becomes, the greater the need for thought-through system-wide responses.[181] Of course, efforts to include larger, privately owned companies within the scope of more demanding requirements, can provoke sharp divisions of opinion. The recent gyrations over the scope of the EU corporate sustainability regulatory framework are a case in point.[182] But difficult new regulatory calibration threshold questions prompted by the rise of private markets cannot be deferred indefinitely.

The regulatory design questions arising from the growth of private markets are substantial and wide-ranging; they do not at ensuring that the scope of regulation of companies remains aligned with economic realities. For instance, on what basis should retail investors have access to the upside located (increasingly) in private markets? Should retail investors be steered towards indirect participation via fund products and if so, what are the investor protection implications of the growth of a more retail-oriented private funds segment? What are the liquidity implications and potential systemic repercussions of markets becoming more private? Broader still, how does regulation maintain coherence when established distinctions are breaking down not only because public and private markets are converging but also because this is happening alongside the blurring of lines between traditional and digital/decentralised finance?

That there is an inevitable progression from experiments like the PISCES framework and the EU Inc. that have the potential to accelerate the staying private trend and the need to confront fundamental questions about changing market structures is the thread that has run throughout this paper and which represents its core contribution. While not attempting to

[181] Ann M Lipton, 'Not Everything Is About Investors: The Case for Mandatory Stakeholder Disclosure' (2020) 37 Yale Journal on Regulation 499 has noted that compared to the US, there is greater receptiveness in the UK and EU to not allowing private ownership to shield large companies from the obligation to internalise the cost of the societal harm resulting from their activities. Progressively more demanding requirements for companies of increasing size are triggered by reference to quantitative thresholds, which are adjusted periodically to reflect inflation. The UK thresholds for 'small' companies are now: turnover ≤£15M; assets: ≤ £7.5M; employees: ≤ 50: The Companies (Accounts and Reports) (Amendment and Transitional Provision) Regulations 2024, SI 2024/1303. For 'medium sized they are: turnover ≤£54M; assets: ≤ £27M; employees: ≤ 250: ibid, SI 2024/1303. The EU equivalents for 'small' companies are: turnover ≤€12M; assets: ≤ €6M; employees: ≤ 50: Directive 2013/34/EU (last updated by Directive (EU) 2023/2775). An EU medium-sized company is defined by reference to: turnover ≤€40M; assets: ≤ €20M; employees: ≤ 250: ibid.

[182] Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 amending Directives EU 2022/2464 and EU 2024/1760 as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements [2025] OJ L 16.4.2025 ('Stop-the-clock Directive'); Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements [2026] OJ L 26.2.2026.

resolve such questions here, the paper nevertheless takes an important step by highlighting the growing erosion of key categorical foundations in corporate and capital markets regulation, and foregrounding the criticality of beginning now to think more broadly and deeply about the forms of regulatory adaptation challenge that may ultimately be required.

Part V: conclusion

In an era of economic nationalism and technological transformation, capital markets have become strategic sovereign assets. 'Regulating for growth' in this environment means going beyond the traditional efficiency-enhancing role of regulation: it is also an explicit response to a fractured world order in which regulation is used strategically as a mechanism for strengthening geopolitical resilience.

This paper has explored how, why and with what potential consequences the UK and EU are pursuing regulation for growth agendas that combine imitation of successful U.S.-style standards and experiments in market (PISCES) and legal (EU Inc.) infrastructure that are tailored to local conditions within their respective economies. These experiments share common underlying assumptions about the importance of private markets as a source of growth finance and, as such, can be commended for recognising the need to adapt regulation to the new realities of corporate finance. However, these experiments also point to a growing urgency to think more broadly about what the public interest is and how it is protected when economically significant corporate activity migrates into private market environments.

Ultimately what is at stake is much bigger than a European competitiveness problem. The hollowing out of public capital markets raises deeper questions about modern capitalism that all market economies need to confront.

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