

Brussels, 30th of September 2025

Consultation Statement by the European AI Forum (EAIF) on:
28th Regime: A Single Harmonized Set of Rules for Innovative Companies Throughout the EU

We welcome the opportunity to contribute to the consultation by the European Commission on its upcoming proposal of a 28th Regime. The initiative comes at a critical time: in 2024, the Draghi Report estimated that the EU faces an annual investment gap of 750 to 800 billion Euros. Recently, Mario Draghi increased this figure to 1.2 billion Euros¹ and emphasised the EU's need to accelerate its efforts to catch up with global competitors. In this context, the 28th Regime represents an essential opportunity to reduce complexity for innovative firms and become a real, fully harmonised solution that strengthens the EU's competitiveness.

For European AI startups and scaleups, the initiative is of particular relevance. These companies are international and capital-intensive from the outset, and currently face a significant burden when scaling their business model on an European level due to varying national company law regimes, while competing with non-European AI companies that benefit from a more streamlined and attractive legal framework. Thus, the current situation burdens European (AI) startups and scaleups with a structural disadvantage.

One of the key challenges for European (AI) startups and scaleups is the fragmentation of company law across the European Union. With 27 different national regimes, cross-border incorporation and scaling oftentimes remains too costly and too complex. The current fragmentation of the Single Market costs the European Union approximately 1.3 trillion Euros every year² and directly holds back more than 35'000 startups and 3'400 scaleups.³ Many cases show that investors are discouraged by the legal uncertainty and complexity, making (capital-intensive) financing rounds oftentimes more economical and easier when done outside the European Union. At the same time, talent

¹ High Level Conference – One year after the Draghi report: what has been achieved, what has changed, 2025; [LINK](#).

² EU Single Market Strategy, 2025; [LINK](#).

³ EU Startup and Scaleup Strategy, 2025; [LINK](#).

mobility is restricted, as different national rules make cross-border hiring unattractive, oftentimes even within the European Union. And lastly, the bureaucratic burden persists: company formation and administration are still too slow, paper-based and lack EU-wide standardisation.

Policy Recommendations:

Without a true reform, the EU risks losing competitiveness and talent. To address these challenges, the European Union must act with ambition. The proposed 28th Regime will only be successful if it creates an attractive, harmonised framework across the European Union. The following proposals therefore set out our core requirements for a 28th regime.

1. Full Harmonisation: Regulation instead of Directive

The 28th Regime will only create real value if it takes the form of a single, harmonised EU company law framework and is therefore established through a Regulation. By contrast, a Directive would result in a variety of interpretations from EU member states of a concept that was initially meant to be a truly European regime. This would, therefore, not solve the current fragmentation but rather risk adding a 28th layer of bureaucracy on top of the existing complexity.

For startups and scaleups, particularly in the AI sector, such a fragmented outcome would be of limited value, potentially actively hindering or slowing down scaling up. Investors would continue to face burdensome complexity when financing companies across borders, founders would still need to navigate different national requirements, and the EU would miss the opportunity to create a genuinely recognisable European company brand. Thus, we are of the opinion that a 28th regime can only deliver the needed clarity, legal certainty, and simplicity when adopted as a Regulation.

2. Access to Capital

The new regime should also prioritise investor-friendly rules and flexible financing instruments that meet the needs of high-growth companies such as AI startups and scaleups. This includes clear provisions for equity investments, convertible notes and share transfers, enabling founders and investors to structure funding rounds efficiently

across borders. By addressing the EU's persistent funding gap, estimated by the Draghi Report at about 1,2 billion Euros annually, the 28th Regime can be a promising measure to ensure that innovative European AI startups and scaleups find the needed capital in order to scale up within the EU instead of having to relocate headquarters to outside the European Union.

In line with the broader objectives of the 28th regime proposal, the introduction of a standardized SAFE-type investment instrument would provide a simple, founder- and investor-friendly alternative to convertible loans. The absence of debt-like features such as maturity dates and interest accrual reduces insolvency risk for early-stage companies, while still giving investors a clear and transparent path to equity. Embedding a harmonized SAFE regime at the European level would lower transaction costs, increase cross-border familiarity, and make early investments in European startups more attractive. This would also help close a structural gap with the United States, where standardized SAFE instruments have given startups a competitive advantage by streamlining early financing and creating investor confidence at scale.

Furthermore, we strongly believe that the measures of the 28th regime concerning capital should closely be aligned with a European Capital Markets Union. An aligned approach, and by that creating a true European Capital Markets Union, could, in our opinion, be a promising measure to bridge the existing investment gap.

3. Access to Talent

In the current state, divergent national labour and tax regimes oftentimes make cross-border recruitment rather slow and costly. European startups and scaleups must be able to hire and employ talent across the EU with simple, transparent and predictable rules, without facing burdensome administrative or legal hurdles. Equally important are modern and competitive remuneration models.

In particular, employee stock options are a crucial tool for startups and scaleups to attract and retain highly skilled staff. Yet in much of the European Union, stock options remain complex, legally burdensome and unattractive due to tax treatment. Addressing this on a Union level, would certainly improve the EU's ability to retain talent, but it should be seen as part of a broader long-term reform.

Furthermore, the 28th Regime should introduce measures to simplify cross-border hiring and establish clear, startup-friendly rules for stock options and similar schemes, enabling European AI companies to remain competitive in the global race for talent.

4. Digital by Default

In our opinion, the 28th Regime must be digital from start to finish. Thus, under the 28th Regime, incorporation within 48 hours must become possible. An EU-wide company form should be automatically recognised across all Member States, supported by digital signatures, electronic registers and cross-border portability of certificates and shares. Best practices already exist within the EU. Countries like Estonia, Denmark, Sweden or Portugal have already developed promising digital solutions for company registration.⁴ The 28th Regime should therefore build on these examples and scale these solutions to an EU-wide standard.

Conclusion

The EAIF welcomes the Commission's overall ambition to reduce fragmentation in company law. Yet for European AI startups and scaleups to truly benefit from a new 28th Regime, the proposal by the European Commission must be ambitious and truly startup-oriented throughout all aspects: a single harmonised regime, digital by default, investor and founder-friendly, and supportive of cross-border talent mobility.

To ensure that the 28th Regime creates a genuine competitive advantage for European companies, it should be designed not only as a harmonised legal framework but also as an enabling instrument for innovative regulatory models. One such approach would be the introduction of Special AI Zones (AIZs), functioning as regulatory and fiscal oases where simplified company law, digital-by-default procedures, startup-friendly labour frameworks, and attractive financing instruments converge. Member States hosting such zones could benefit directly from spill-overs while maintaining companies' European headquarters and ensuring long-term value creation within the Union. By combining the 28th Regime with regulatory sandboxes, lighter administrative burdens, and flexible investment instruments such as SAFE-type agreements, the EU would provide a compelling package that mirrors and exceeds the competitive advantages currently available to startups in other jurisdictions.

For Europe's AI ecosystem, the 28th Regime will only make a difference if it delivers real simplification and a genuinely single EU framework. AI startups need one digital entry point to found, fund and scale across Europe, not 27 fragmented variations. If designed with ambition, the regime can cut costs, attract capital and talent, and enable Europe to build a strong and globally competitive AI landscape. On the contrary, if the regime falls

⁴ E.g.: [Estonia](#); [Denmark](#); [Sweden](#); [Portugal](#).

short, it will remain unused by founders and risk becoming a half-measure, leaving Europe further behind in the global race for innovation and investment.

About the European AI Forum EAIF:

The European AI Forum (EAIF) is the umbrella organisation of 13 national European AI associations and clusters. Combined, we represent over 3000 members, making us the largest European AI organisation. We represent members such as SMEs, corporates, organisations and individual experts in AI.

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