Proposal for a Regulation on the 28th regime corporate legal framework - 'EU INC.'— COM/2026/ 321

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Executive Summary

Concordia welcomes the European Commission's proposal for an optional, harmonized European company regime ("EU Inc.") as a potentially important contribution to reducing fragmentation in the Single Market and to improving the conditions under which European companies start, scale and compete globally.

Concordia's position draws on the full range of perspectives expressed by our constituents and partner organisations during the consultation process — including the venture capital and growth-investment community, SME and family-business representatives, and the social partner dialogue conducted at EU level — and seeks to reconcile them into a single, coherent position. We support an ambitious, genuinely uniform EU Inc., open to all companies, built on digital-by-default principles and equipped with modern financing tools. At the same time, we insist that this ambition must be matched by legal certainty, by realistic safeguards against misuse, and by a clear, stable boundary between what is harmonised at EU level and what remains — rightly — within the competence of the Member States.

Five principles anchor this position:

- **Preserve the Regulation as a true single legal form.** National-law cross-references must be minimized and clarified; a genuine, centrally governed EU register should follow as soon as feasible after the interim BRIS-based interface.
- **Open EU Inc. to all companies, while keeping it workable for SMEs.** The form must not become a de facto instrument reserved for venture-backed scaleups; templates and governance defaults must remain proportionate for smaller, less complex businesses.
- **Equip EU Inc. with the financing and governance tools that modern company-building requires.** Preferred shares, convertible instruments, flexible ESOP rules and a calibrated liability regime for non-executive directors are not optional extras — they are why founders currently look outside the EU, in coordination with the rest of the instruments under the Start-up and Scale-up Strategy.
- **Keep labour law, social protection and tax firmly within Member State and existing EU competence.** Concordia supports the proposal's current scope and legal basis as a fair level-playing field.
- **Remove Chapter X.** The separate, practitioner-free insolvency regime for "innovative startups" duplicates and risks undermining the EU insolvency reform concluded only recently and should be deleted from the proposal.

Concordia believes EU Inc. has the potential to become one of the more consequential structural reforms for European competitiveness in years. Europe does not lack entrepreneurial talent, technical capability or investment capital; it lacks a sufficiently uniform, predictable legal environment in which talent and

capital can combine across borders without disproportionate cost, to scale. An ambitious, carefully calibrated EU Inc. — open to all companies, equipped with modern financing tools, digitally administered, while maintaining its relationship with national labour, social and tax law — can meaningfully reduce the incentive for European founders to incorporate outside the Union.

Summary of Recommendations

Preserve

- The legal instrument – Regulation – enabling automatic cross-border recognition, and the optional, additive nature of EU Inc. alongside national company-law forms.
- The current scope and legal basis: no extension into labour law or co-determination beyond Article 12.
- The blacklist of prohibited Member State practices, with stronger enforcement mechanisms.
- The EU-ESO framework and its deferred-taxation principle.

Strengthen

- Openness – ensure access to all company types and to incorporation ex nihilo by natural persons.
- Explicit recognition of venture capital share-class rights (liquidation preferences, anti-dilution, drag/tag-along, vesting, transfer restrictions customary in venture financing).
- An express framework for convertible instruments and SAFEs, covering post-money SAFEs, valuation caps, discount mechanisms and automatic conversion procedures.
- EU-ESO coverage of mandate holders, contractors and advisors, single applicable law for cross-border pools, and buyback exemptions from capital-maintenance rules.
- A calibrated liability regime (business-judgment rule) for non-executive, investor-appointed directors, with express recognition of board observer structures.
- A genuine economic-link requirement and clearer allocation of anti-money-laundering due-diligence responsibilities.
- A harmonised autonomous framework for minority shareholder withdrawal (exit) rights, including valuation methodologies and buy-out procedures, without requiring mandatory court intervention as a first step.
- Express regulation of dividend distribution rules for EU Inc. companies, including whether interim distributions are permitted and the financial tests and payment conditions that govern them.
- A digital-by-design approach & impact monitoring
- Dispute resolution: accesible ADR mechanisms

Clarify

- The treatment of EU special fiscal territories outside the EU VAT area.
- The definition of director "residence" for purposes of the Regulation.

- The constitutive effect of digital share-register entries and its interaction with commercial transaction timing.

Remove

- Chapter X (simplified, practitioner-free insolvency for innovative startups) in its entirety.

Accelerate

- Development of a genuine, centrally governed EU company register, without delaying the Regulation's entry into force.
- Complementary, through other legal instruments, non-rate tax measures: common tax-base definitions and streamlined access to existing EU tax directives for cross-border EU Inc. activity.

1. General Assessment

Concordia welcomes the Commission's choice to legislate by Regulation rather than Directive. Regulation is the only instrument capable of preventing the proposal from fragmenting into twenty-seven divergent national versions of EU Inc., which would defeat its purpose before it began. We also welcome the optional, additive nature of the regime: EU Inc. must sit alongside national company law forms, not replace or destabilize them, and companies must remain free to choose the vehicle that best fits their stage of development.

The proposal correctly focuses on company law — incorporation, governance, capital structure and digital administration — while leaving taxation, labor law and social security within Member State and existing Union competence. Concordia regards this division of competence as essential to the proposal's legal soundness and political viability as detailed in Section 5.

An instrument as significant as EU Inc. should not be assessed only against its own stated objectives. It must also be tested against the practical experience of those who will use it: investors structuring financing rounds, SME owners weighing the cost of cross-border expansion. The sections below set out where the current draft meets that test, and where it requires correction before adoption.

2. Scope: Open to All Companies, Workable for SMEs

Concordia supports the principle that EU Inc. should be available to all companies — not restricted to innovative enterprises, startups or scaleups as defined in the accompanying Commission Recommendation C(2026) 1800. Restricting personal scope to a category that is, by the Commission's own admission, difficult to define with precision would introduce legal uncertainty at the point of incorporation and create an artificial cliff-edge between qualifying and non-qualifying companies. The possibility of creating an EU Inc. ex nihilo, including by individual entrepreneurs and not only by pre-existing companies, is a welcome improvement on the precedent set by the Societas Europaea.

At the same time, openness to all companies must not come at the cost of usability for smaller and less complex businesses. The value of the instrument will be measured in tangible reductions of administrative burden and legal uncertainty and degree of digitalization, and not in legal harmonisation on paper. Three implications follow.

- **Templates must remain genuinely optional and sufficiently flexible.** If the standard Articles of Association templates are too rigid, companies will revert to bespoke statutes drafted with cross-border legal advice — precisely the cost EU Inc. is meant to eliminate. Templates should be developed in consultation with business stakeholders representing the full range of company types, innovative scaleups.
- **Governance and reporting defaults should scale with company size and complexity.** Single-member companies simplified digital general meetings and written resolutions are welcome defaults; they must not be accompanied by reporting obligations calibrated for venture-backed or listed companies.
- **Access to EU Inc. should not require expensive cross-border legal advisory services.** Procedures, application forms and guidance must be clear, standardized and digitalized enough that any SME can use the regime without disproportionate professional fees.

3. Financing and Governance: Closing the Gap with Competing Jurisdictions

The principal reason European founders and investors continue to look outside the Union, particularly to the US, is not the cost or speed of incorporation, but the absence, later in a company's life, of governance and financing tools that venture-backed growth requires. Concordia urges the co-legislators to address this gap directly in the text of the Regulation, rather than leaving it to twenty-seven divergent national interpretations.

3.1 Share classes and investor protections

Concordia welcomes the introduction of a harmonized framework for share classes carrying differentiated economic and voting rights, which gives venture capital transactions a clearer EU-wide legal basis. While tese are acknowledged in the European Startup and Scaleup Strategy, the Regulation should go further and expressly recognize, rather than merely permit by omission, the full range of protections standard in growth financing: liquidation preferences, anti-dilution protections, preferred dividend structures, investor veto rights on reserved matters, drag-along and tag-along rights, founder vesting arrangements, and transfer restrictions customary in venture financing. Explicit recognition — rather than implicit tolerance — is what gives these arrangements cross-border enforceability, particularly in insolvency scenarios where their absence creates the greatest risk for investors.

3.2 Convertible instruments and SAFEs

Modern early-stage financing relies heavily on convertible notes and Simple Agreements for Future Equity (SAFEs), instruments that allow capital to be raised quickly without an immediate valuation negotiation. These instruments are not expressly regulated in most Member States' company laws, including Romania's, and in the absence of clear EU-level rules, national courts would be left to qualify them under general civil or company-law concepts, with twenty-seven potentially divergent outcomes on conversion mechanics, investor protection and insolvency treatment. The Regulation should expressly define convertible equity instruments, validate future equity rights, and permit simplified, formality-light conversion procedures. Specifically, the framework should cover: post-money SAFEs, valuation caps, discount mechanisms, and automatic conversion procedures triggered on defined financing events. These are not technical refinements — they are the operative terms on which most early-stage deals are structured, and their absence from the Regulation would leave precisely the gap that currently pushes founders towards US or common-law incorporation.

3.3 Employee Stock Ownership Plans (EU-ESO)

Concordia strongly supports the introduction of a common EU framework for employee stock options, including the alignment of taxation with the moment of disposal of the underlying shares, which avoids premature taxation and the liquidity strain this currently places on employees in several Member States. We recommend the following refinements to ensure the instrument functions as intended in practice.

- **Clarify the personal scope.** The current draft's focus on "employees" leaves unclear whether members of management operating under mandate agreements — the norm in many Member States — are covered, and equally whether contractors and advisors who contribute substantially to a startup's development can participate. The Regulation should state expressly that mandate holders, contractors and advisors fall within EU-ESO, subject to appropriate substantive conditions to prevent abuse.
- **Permit a single applicable law for cross-border ESOP pools.** A plan covering employees in multiple Member States should be governed by one national law, not by the law of each employee's habitual workplace, to avoid duplicative compliance.
- **Exempt ESOP-related share buybacks from restrictive capital-maintenance rules.** Several Member States, including Romania, limit share buybacks to narrow exceptions; this is incompatible with the treasury-share mechanics that ESOPs typically require.
- **Recognize virtual shares and phantom equity.** Founders should be free to use cash-settled equity-linked instruments where these better suit the company's capital structure, without separate national-law qualifications.

Stock options must never substitute remuneration set by law or collective agreements, and employees must be clearly informed of the risks as well as the opportunities such instruments carry. With appropriate and proportionate safeguards, the decision-makers should not detract from the instrument's usefulness.

3.4 Director liability and governance

Institutional and venture investors frequently require board representation to monitor governance and protect minority investments. Broad, undifferentiated director-liability regimes inherited from traditional company law deter exactly this kind of active, responsible investor participation. Concordia recommends that the Regulation codify a European business-judgment-rule standard, distinguish clearly between executive and non-executive functions, and permit appropriately limited liability and indemnification for non-executive, investor-appointed directors acting in good faith — without in any way reducing accountability for operational misconduct. The Regulation should further expressly recognise board observer structures, allowing investors to appoint representatives who attend and participate in board meetings without holding formal director status or the associated liability exposure. This is a standard feature of institutional investment in jurisdictions that compete with the EU for incorporation of growth companies, and its absence from the Regulation would leave a practical gap that no amount of liability-limitation for formal directors can fill.

3.5 Access to capital markets

Concordia notes the divergence between calls to grant EU Inc. companies access to regulated stock markets and the more cautious view that EU Inc. is, by design, best suited to smaller and less complex corporate structures. We consider the cautious view the more realistic one at this stage: regulated-market listing requires governance and reporting infrastructure that most EU Inc. companies will not yet have built. Concordia supports guaranteeing EU Inc. access to multilateral trading facilities, where listing requirements are proportionate to the company's stage of development, while leaving regulated-market admission subject to the same governance maturity expected of any company law form. We further support work towards a proportionate, EU-level accounting framework for startups and scaleups, which would reduce reporting fragmentation without imposing listed-company obligations on early-stage businesses.

3.6 Shareholder rights: minority exits and dividend distributions

Two further areas of shareholder rights require more autonomous regulation than the current proposal provides.

Withdrawal rights (exit rights) for minority shareholders. The current proposal does not sufficiently regulate the conditions under which minority shareholders may exit an EU Inc. Company. Leaving withdrawal rights to national law means that a shareholder in an EU Inc. registered in one Member State may face entirely different exit conditions from one registered in another, directly contradicting the goal of a uniform company form. Where the proposal does address withdrawal, mandatory court intervention as the only mechanism is excessively burdensome and inconsistent with the objective of creating a simple, commercially usable corporate form. Concordia recommends that the Regulation establish a harmonised, autonomous framework for minority exit rights, including valuation methodologies and buy-out procedures, that operates independently of national law and without requiring judicial intervention as a first step. This will also be in line with the Savings and Investments Union objectives.

Dividend distribution and interim payments. The proposal provides insufficient autonomous regulation of dividend distribution rules, in particular whether interim distributions are permitted and the

conditions and timelines that govern them. For growth companies, the ability to make distributions at flexible intervals — rather than only following year-end accounts — is commercially significant, particularly in connection with the liquidity preferences and preferred dividend structures addressed in Section 3.1. Concordia recommends that the Regulation address explicitly whether interim distributions are permitted for EU Inc. companies, establish the financial tests (solvency, balance-sheet) that apply, and specify the payment terms and conditions, rather than leaving these to diverge across twenty-seven national regimes.

4. Digital-by-Default Implementation

Concordia strongly supports the digital-by-design philosophy underpinning EU Inc.: registration within forty-eight hours through model templates, the once-only principle, automatic exchange of information with tax, social security and beneficial-ownership registers, and full integration with the incoming European Business Wallet. These features are the proposal's most tangible deliverable for businesses of every size, and they must be protected from dilution during the legislative process.

- **Bring forward the central EU register.** Reliance on the Business Registers Interconnection System as an interim solution, with a genuine centrally governed EU register only foreseen from 2030, risks reproducing exactly the fragmentation and divergent interpretation the proposal is meant to eliminate. Concordia supports accelerating the EU register's development without delaying the Regulation's entry into force.
- **Address the uneven digital readiness of national registries.** The gap between the digital-by-default aspiration and the actual state of company registries in several Member States makes delays and cross-border coordination problems foreseeable; the Commission should publish, and regularly update, a public readiness assessment per Member State.
- **Accommodate EU special fiscal territories.** Territories outside the EU VAT area must not be operationally excluded from the registration and information-exchange system for want of a VAT identification number.
- **Preserve, but make proportionate, preventive controls.** Mandatory administrative or judicial or notarial control on incorporation and amendment must not be allowed, in practice, to undermine the forty-eight-hour objective, particularly in Member States with traditionally more cumbersome procedures.

These commitments must be backed by mandatory, measurable benchmarks integrated into the body of the Regulation itself — not left as aspirational projections in recitals or impact assessments. Concordia recommends that the Regulation specify binding performance indicators against which implementation is measured, such as: time-to-registration from submission of a complete application; total cost of compliance for cross-border formation; number of procedural steps eliminated relative to equivalent national formation procedures; and number of document categories subject to the once-only principle. These indicators should underpin a mandatory periodic review mechanism with the first review no later than two years after the Regulation enters into force. The Commission's projection of EUR 328–440 million in administrative savings over ten years provides a useful baseline; it should be converted into a trackable commitment.

5. Scope Limits: Labour Law, Co-Determination and Taxation Remain Outside EU Inc.

Simplification and streamlining that EU Inc. affords in organising company governance must not, even indirectly, erode the rights of employees to information and consultation that exist under Union and national law— including in smaller companies where these rights may be less formally structured. We believe that the current proposal does not affect, and must continue not to affect, individual and collective labour law, including existing worker-participation rights. Article 4(2) and Recital 83 of the proposal correctly state that Union and national employment law remain fully applicable to EU Inc. companies, on the same footing as any other company law form. Concordia does not support extending the proposal to co-determination or other harmonized labour-law rules. Such an extension would require a different legal basis under Article 153 TFEU, would reopen the protracted disputes that contributed to the practical failure of the Societas Privata Europaea and Societas Unius Personae initiatives, and would jeopardise the prospects of timely adoption of this file altogether.

The text should remain as it stands in Commission's proposal, without addition or amendment during the co-decision process. The Fair Mobility Package should also be carefully calibrated to avoid disproportionate effects on an already tight labor market.

On taxation, Concordia agrees with the assessment, shared across the business community, that a purely formal simplification of company law without any corresponding convergence on tax base definitions, compliance processes or allocation rules risks leaving EU Inc. materially uncompetitive against jurisdictions — inside and outside the Union — that combine simple incorporation with predictable, favorable tax treatment. Concordia does not call for tax-rate harmonisation, which lies outside the current political and economic EU-wide realities and outside the legal basis chosen for this proposal. However, the Commission can advance, in parallel and complementary legislative tracks, targeted measures such as common tax-base definitions for cross-border EU Inc. activity, streamlined access to existing EU tax directives (notably the Parent-Subsidiary and Interest-Royalties Directives), and simplified compliance processes for companies operating across several Member States under the EU Inc. form. The practical uptake should be carefully calibrated with potential a race to the bottom effect.

6. Preventing Misuse Without Undermining Attractiveness

An instrument that grants founders complete freedom to choose any Member State of incorporation, irrespective of where the company's real economic activity takes place, must be accompanied by safeguards proportionate to that freedom. Concordia supports the blacklist of prohibited Member State practices and calls for it to be backed by rapid, practical enforcement mechanisms, since challenging national barriers through ordinary infringement procedures can take years — long enough to discourage the very cross-border activity the Regulation is meant to enable.

- **Genuine economic link, not formal substance alone.** Concordia supports requiring a genuine economic link between an EU Inc. and its Member State of registration, sufficient to deter the creation of abusive shell entities used for tax evasion, money laundering or circumvention of national or Union law, while stopping well short of a unity-of-seat requirement that would conflict with the freedom of establishment.

- **Clarify which obliged entities perform due diligence, and when.** In cross-border scenarios where the registered office is in one Member State and economic activity predominantly occurs in another, it should be clear which actors in the anti-money-laundering ecosystem — banks, registrars, auditors, the Anti-Money Laundering Authority — are responsible for checks at incorporation and on an ongoing basis.
- **Minimise, but clarify, references to national law.** Concordia agrees with the assessment that excessive reliance on national law for matters such as the formalities of share transfers, correction of register errors, or director nationality and liability standards risks producing twenty-seven different versions of EU Inc. in practice. Implementing guidelines should specify, with precision, when and for what matters national law applies.
- **Director disqualification must be genuinely EU-wide.** A disqualification imposed in one Member State should result in an equivalent disqualification from serving as a director of any EU Inc., and the Regulation should state expressly that EU Inc. cannot be used to circumvent the Insolvency Directive's and Company Law Directive's existing director-ban registers.

7. Insolvency Should Be Removed (Chapter X)

Concordia recommends the deletion of Chapter X of the proposal, which introduces a simplified, practitioner-free winding-up procedure for EU Inc. Companies. We reach this position for four cumulative reasons.

- **It duplicates a debate only recently settled.** A comparable simplified winding-up mechanism for micro-enterprises was deliberately excluded from the recently adopted Directive harmonising certain aspects of insolvency law. The considerations that led co-legislators to exclude it then remain valid now, and there is no persuasive reason why a narrower category of EU Inc. companies should be treated differently.
- **It creates an internally inconsistent regime.** Operating a separate insolvency track alongside the general regime, distinguished only by whether a company happens to meet the innovative-startup definition, introduces exactly the kind of qualification uncertainty and unpredictability that the EU Inc. is meant to eliminate elsewhere.
- **It weakens protections precisely when stakeholders are most exposed.** Permitting self-liquidation without an independent insolvency practitioner removes the actor responsible for verifying claims, ensuring fair treatment of creditors, supporting a transparent sale of intangible assets, and giving employees the documentation needed to access national wage-guarantee schemes. The absence of a minimum capital requirement for EU Inc. makes independent oversight at the point of winding-up more important, not less.
- **It may raise, rather than lower, the cost of finance.** Increased legal uncertainty and weaker creditor protection in a winding-up scenario are likely to be priced into the cost of credit available to EU Inc. companies from the outset, working against the proposal's own objective of improving access to finance.

Company-law instruments are not the appropriate vehicle for bespoke insolvency regimes, and that the recently concluded EU insolvency reform should be allowed to operate, and be evaluated, before any sector- or category-specific carve-outs are considered.

Concordia notes, however, that the deletion of Chapter X must not foreclose the possibility of using EU Inc. as a vehicle for worker buyouts and alternative forms of ownership — including steward ownership and cooperative-type structures — in situations where a company faces financial difficulty or ownership transition. The general insolvency framework applicable to EU Inc. companies should be designed, or interpreted, in a way that accommodates these continuity mechanisms. Concordia calls on the Commission to confirm explicitly, whether in the Regulation, in a recital or in accompanying guidance, that EU Inc. is available as a legal vehicle for such alternative ownership structures and that their use in a restructuring context is not impeded by the removal of Chapter X.

8. Operational Functionality: From Legal Form to Working Business Vehicle

The success of EU Inc. will ultimately be judged on whether it functions seamlessly across the Single Market. In operational terms, we would like to highlight the following priorities:

- **Mandatory recognition by national authorities.** Banks, tax authorities and other national bodies must be required to recognize EU Inc. entities on the same footing as domestic company forms, with streamlined onboarding for banking and know-your-customer procedures.
- **Branch operation without re-registration.** An EU Inc. firm should be able to operate in any Member State, including through branches, without additional local registration of a legal entity, consistent with the proposal's cross-border purpose.
- **Real-time recognition of corporate changes.** Changes to an EU Inc. firm's registered seat, directors or governance should be recognized by national authorities directly from the EU Inc. platform, without separate corporate formalities being required at national level.
- **Coherence with the Digital Tools in Company Law Directive.** The Commission should clarify explicitly how EU Inc.'s digital processes relate to those already required under existing digitalization legislation, to avoid two parallel, diverging digital tracks for the same underlying obligations.

Concordia notes, finally, that incorporation alone does not guarantee access to a bank account, financing or the operating permits a business needs. EU Inc. should be understood, and presented to founders, as an important foundation — not as a complete solution to the structural barriers, including digital infrastructure disparities and uneven implementation across Member States, that continue to affect cross-border business activity in the Union.

9. Dispute Resolution: Accessible ADR Mechanisms

The current proposal does not address how disputes arising from EU Inc. Relationships. Cross-border disputes resolved through ordinary national court proceedings involve translation costs, jurisdictional complexity and timelines that are disproportionate to the scale of most EU Inc. companies, particularly SMEs and early-stage businesses for whom legal costs alone can be existential.

Concordia recommends that the Regulation, or its accompanying implementing measures, address the following:

- **Accessible ADR mechanisms.** The Regulation should encourage, and where appropriate require, the availability of mediation and arbitration as primary dispute-resolution routes for EU Inc.

companies, with procedural rules adapted to the resources and scale of SMEs and early-stage companies.

- **Fast-track proceedings for common disputes.** The Regulation should identify categories of EU Inc. disputes — e.g. share transfer validity, withdrawal-right valuation, shareholder deadlock — for which Member States are required to provide dedicated fast-track judicial or quasi-judicial procedures, with maximum timelines specified at EU level.
- **Digital case-tracking.** Consistent with the digital-by-default philosophy of the Regulation, EU Inc. dispute proceedings — whether in national specialized chambers, arbitration panels or ADR bodies — should be supported by digital case-tracking tools accessible to all parties, enabling real-time status monitoring without requiring physical presence or expensive legal intermediation at procedural stages.

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Concordia Employers' Confederation is the legitimate common voice of the business community in Romania, at home and abroad. We are a cross-sectoral organisation established as a nationally representative social partner. We represent more than 4,200 companies with Romanian and foreign capital across more than 20 key industries, which generate over 30% of Romania's GDP and employ 500,000 people.
We are the only organisation in Romania that is a member of BusinessEurope, Business at OECD (BIAC) and the International Organisation of Employers (IOE).