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## Banking regulation

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### CRR / CRD

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#### 27 January 2023 – EBF publishes a study analyzing the applicable banking regulatory framework in the EU and its impact on banks

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On January 27, 2023, the European Banking Federation (EBF) [published](#) a study analyzing the applicable banking regulatory framework in the EU and its impact on banks and the European economy. The main takeaways are :

- The study calls for a completion of the banking and capital markets union and a simplification of the current resolution regime, which is too complex and costly for European banks.
- The study calls on supervisors to put more emphasis on streamlining and improving the efficiency of key processes (such as prudential supervisory review -SREP- or stress tests) and to be more vigilant about breaches of the level playing field in EU countries.
- In line with current events and in view of the full implementation of the Basel III accords, the study recommends that the Authorities ensure that EU banks are not put at a global disadvantage.
- The study concludes that a review of current capital requirements and supervisory processes could provide the capacity to provide around €4 trillion in additional bank lending to finance the green and digital transitions and thereby enhance the competitiveness of the European economy.

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#### 24 January 2023 – CRR report adopted in ECON Committee

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On 24 January 2023, the committee on economic and monetary affairs (ECON) of the European Parliament adopted its report regarding the review of Capital Requirements Regulation (CRR). The results of the votes were 41 in favor, 14 against and 1 abstention. The final report should be soon published integrating the different compromise amendments.

The ECON committee also voted in favor (43 votes in favor) of entering into interinstitutional negotiations with the Council. The main takeaways are :

- Regarding the definition of default:  
The compromise amendment provides that EBA shall update its guidelines on default before 30 June 2024 (*cf. compromise Q, p.16*). As the recital from the Council position, the provision ask to focus on restructuring but does not restrict the scope of the review. Thus, it would create a new opportunity to amend the NDOD guidelines.  
Moreover, a new recital 36b is introduced with the same objective (*cf. compromise R, p.10*).
- Regarding the prudential treatment of factoring:  
The compromise found on article 151 doesn't extend the EBA mandate to develop draft regulatory technical standards (RTS) on the prudential treatment of purchased receivables to the Standardised approach.

Regarding article 157, the EBA shall develop draft RTS for the calculation of risk-weighted exposure amount for dilution risk of purchased receivables by the end of 2025 (vs. 2026). (*Cf. compromise Q, p.28*)

Regarding credit-insurance, the EBA shall produce a report on the eligibility and use of policy insurance as credit risk mitigation (CRM) technique in close cooperation with EIOPA, as suggested by the EUF, by the end of 2024. If appropriate, the Commission will present a legislative proposal on the matter. (Cf. *compromise Q*, p.21)

- Regarding fraud by the obligor :  
As suggested by EUF, the provisions at article 183 (cf. *compromise G*, p. 29) and article 213 (cf. *compromise Q*, p. 7) are deleted.
- Regarding the definition of “ancillary services undertaking”:  
Factoring is still included in the activities listed in this definition (cf. *compromise A*, p.1).

***Next steps : the Parliament is expected to vote on ECON’s CRR report in plenary session – the date should be soon communicated. Trilogues will be able to start once Parliament adopts its definitive position and its negotiating mandate.***

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#### **18 January 2023 – Finance Watch sends letter to MEPs to advocate in favor of the “brown penalizing factor” under CRR**

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On 18 January 2023, Finance Watch sent a [letter](#) to every MEP in the Economic and Monetary Affairs Committee (ECON) in view of CRR vote on 24 January. The key takeaways are :

- Finance Watch supports the introduction of a “brown penalizing factor” in the Capital Requirements Regulation (CRR) ;
- Finance Watch calls MEPs to adopt the 1250% prudential risk weight for fossil fuel exposures amendment deposited by Renew and S&D MEPs.

The CRR vote took place in the ECON committee on 24 January 2023. The brown penalizing factor was not adopted by MEPs. The ECON report ask for the EBA to produce a report on the matter.

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#### **16 January 2023 – EBA publishes its annual quantitative report on minimum capital requirements and eligible liabilities (MREL)**

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On January 16, 2023, the European Banking Authority (EBA) [published](#) its annual quantitative report on minimum capital requirements and eligible liabilities (MREL) based on December 2021 data:

- The report shows progress in closing MREL deficits, albeit at a slower pace for smaller banks;
- It concludes that the impact of MREL on bank profitability is manageable, although heterogeneous across bank types and member states.

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#### **13 January 2023 – EBA publishes a report on liquidity measures under CRR**

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On January 13, 2023, the European Banking Authority [published](#) a report on liquidity measures under Article 509(1) of the Capital Requirements Regulation (CRR). Key takeaways are :

- Despite some reduction in EU banks' LCR levels, LCR buffers remain well above the minimum requirement.
- EBA report indicates that it is essential to continue monitoring the evolution of banks' LCR levels.

- EBA indicates that significant currency mismatches should be closely monitored by the banks concerned as well as by their supervisors.

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### 12 January 2023 – EBA publishes an update of its risk scorecard for the European banking sector

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On January 12, 2023, the European Banking Authority (EBA) [published](#) an update of its risk scorecard for the European banking sector for the period relating to the third quarter of 2023. Key takeaways are :

- Banks maintain strong capital and liquidity ratios and remain optimistic about their profitability prospects despite the deteriorating economic environment.

Nonperforming loan (NPL) ratio declined slightly to just below 1.8 percent. However, banks' asset quality expectations deteriorated further, especially for SMEs and consumer credit.

## Shadow banking

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### January 18 2023 - FSB publishes progress report on the implementation of the G20-driven non-bank intermediary reform

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On January 18, 2023, the Financial Stability Board (FSB) [issued](#) a progress report on the implementation of the G20-driven non-bank intermediary reform. The key takeaways are :

- Jurisdictions have made progress in implementing the Basel III reforms to mitigate contagion effects between banks and non-bank financial entities, but implementation is not yet complete.
- Adoption of IOSCO's recommendations on incentive alignment approaches for securitization and the Basel Committee for Banking Supervision's actions on the revised securitization framework is underway.
- Implementation of the FSB's recommendations to mitigate procyclicality and other financial stability risks associated with securities financing transactions (SFTs) is incomplete and continues to experience significant delays in most jurisdictions.

## Banking supervision

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## European Banking Authority

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### 31 January 2023 – EBA publishes methodology for its 2023 stress tests

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On January 31, 2023, the European Banking Authority (EBA) [published](#) the methodology for its 2023 stress tests. The stress test will assess the solvency of EU banks under a hypothetical adverse macroeconomic scenario over a three-year horizon (2023-2025). The EBA decided to propose a scenario based on the following parameters:

- Heightened geopolitical tensions;
- High inflation and higher interest rates having strong adverse effects on private consumption and investments, both domestically and globally;
- The most severe GDP decline used in the EU wide stress up to now.

The EBA expects to publish the results of the exercise at the end of July 2023.

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### **31 January 2023 – EBA opens consultation on its draft ITS regarding introduction of interest rate risk in the banking book (IRRBB) reporting in supervisory reporting**

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On 31 January 2023, the European Banking Authority (EBA) [opened](#) a public consultation on its draft Implementing Technical Standards (ITS) regarding the introduction of interest rate risk in the banking book (IRRBB) reporting in supervisory reporting. The key takeaways are :

- This draft amending ITS aims to provide quality data for supervisors to monitor institutions' IRRBB risk as well as to monitor the implementation of the package published by EBA on this topic in October 2022.
- The [consultation paper](#) includes simplified templates for reporting for small and non-complex institutions (SNCIs) and requests specific feedback on proportionality for medium-sized institutions.

***Next Steps: The consultation is open until 2 May 2023. A public hearing to present the draft standards and the objectives of a revised prudential reporting will be held on 15 March 2023.***

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### **24 January 2023 - European Central Bank published a first set of climate-related statistical indicators**

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On January 24, 2023, the European Central Bank [published](#) a first set of climate-related statistical indicators to allow for a better assessment of the impact of climate-related risks for the financial sector. These indicators will also allow a better monitoring of the development of sustainable finance according to the ECB.

## **Sustainable finance**

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### **16 January 2023 – ENVI committee adopted the agreement on the regulation on imported deforestation**

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On January 16, 2023, members of the European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) adopted the agreement [reached](#) by the co-legislators on December 6 following the trilogues on the proposed [regulation](#) on imported deforestation.

As a reminder, financial services are not included in the scope of the regulation agreed upon. The final text provides that the European Commission will have to present an impact assessment 2 years after the regulation entry into force. Such report shall “*evaluate the role of financial institutions in preventing financial flows contributing directly or indirectly to deforestation and forest degradation*” and assess whether new and/or specific obligations for these institutions are needed.

***Next steps : A vote in plenary session to validate the compromise text resulting from the inter-institutional negotiations is expected at the end of March 2023. The regulation will then be published in the Official Journal within 20 days.***

## Sustainability reporting

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### 26 January 2023 – ESAs publish their opinion on EFRAG's sustainability reporting standards

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On January 26, 2023, the European Supervisory Authorities (ESMA, EBA, EIOPA) published their respective opinions on the draft regulatory technical standards (RTS) on sustainability reporting standards proposed by the European Financial Reporting Advisory Group (EFRAG).

The three European Authorities have issued a favorable opinion and suggested areas for improvement in their respective areas of supervision.

- [Report for opinion of the EBA](#)
- [Report for opinion of ESMA](#)
- [Report for opinion of EIOPA](#)

In particular, the European Banking Authority believes that certain aspects of the draft standards merited further consideration by the European Commission, including aspects relating to the timing of the development of sector-specific standards for credit institutions. EBA also emphasizes the need for standards that are interoperable with Pillar 3 information as well as with the data that credit institutions need from a risk management perspective.

## CSDD directive

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### 24 January 2023 - ECON, INTA and ITRE Committees adopt their opinion report on CSDD directive

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On 24 January 2023, the committees consulted for opinion under the legislative procedure (Committees on Economic Affairs, International Trade, Industry and Research) adopted their reports for opinion.

The report for opinion [adopted](#) by the ECON Committee goes further than the European Commission original proposal. As such, ECON committee proposes to lower the threshold determining if a company is included in the scope and to increase of due diligence requirement for companies :

- The revised scope of application would include all companies with more than 250 employees and a global turnover of more than 40 million.
- The ECON committee proposes to apply the due diligence requirements to the entire value chain, and not only to "established commercial relationships" as the European Commission initially wanted.
- The ECON committee has also put forward the inclusion of the "financial services" sector in the category of high-risk sectors, a category for which the minimum threshold of employees and turnover required to be included in the scope of the future directive are even lower.

The other committees consulted for opinion also adopted similar amendments aimed at raising the ambitions of the initial proposal (see the [report for opinion of the Industry and Research Committee -IMCO-](#) and the [report for opinion of the International Trade Committee -INTA](#)).

**Next steps : the parliamentary committee responsible for the file is the Committee on Legal Affairs (JURI) and its report is scheduled for adoption on 13 March 2023. The Parliament's position should be adopted afterwards in May 2023 plenary session.**

**The trilogues are expected to start under the Swedish Presidency and end under the Spanish Presidency: a final agreement between co-legislators is expected by the end of 2023.**

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#### 19 January 2023 – main industry representatives publish a statement regarding CSDD directive

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On January 19, 2023, the main industry representatives (BusinessEurope, SMEUnited, Eurochambres, Insurance Europe) [issued](#) a joint statement on the proposed [directive](#) on corporate sustainability due diligence. The key takeaways are :

- They call on the co-legislators to be realistic when negotiating the provisions to be adopted ;
- They are in favor of a risk-based approach aiming at implementing all possible measures to prevent and mitigate all possible impacts of their activities on their environment ;
- They advocate in favor of limiting the duty of care should to an obligation of means.

## Late payments

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### Late payment directive

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#### 20 January 2023 – European Commission launches public consultation regarding the Late Payment Directive (LPD).

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On 20 January 2023, the European Commission has [published](#) a public consultation on the review of the late payment directive (LPD). The public consultation is [open](#) from 20 January, to 17 March 2023.

This public consultation (which takes the form of a questionnaire) aims to gather information on late or unfair payment practices and payment behavior in commercial transactions. The responses received will allow the Commission to better understand how these late or unfair payments impact the day-to-day management of businesses and their ability to invest in the "dual" green and digital transition.

The European Commission believes that the current Late Payments Directive (2011) has helped reduce late payments. However, it wants to improve these rules on the grounds that, according to data available to it, 60% of European companies are still not paid on time, affecting in particular SMEs. The European Commission also wants to create a "culture of prompt payment" throughout the EU by improving the current rules.

The consultation is taking place in parallel with the call for evidence which is intended to allow interested parties to express their views on the understanding of the problem, the need for EU intervention and the preliminary range of possible options and their expected impacts.

**Next steps: the public consultation is open from 20 January to 17 March 2023. The European Commission plans to present its initiative in the 3rd quarter of 2023.**



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## 12 January 2023 – European Commission opens call for evidence regarding the future revision of the Late Payment Directive (LPD)

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On 12 January 2023, the European Commission [launched](#) a call for evidence regarding the future revision of the Late Payment Directive (LPD).

In its call for evidence the European Commission underlines several assessments made throughout various reports. The Commission identifies several “regulatory gaps and ambiguous rules”:

- The lack of maximum payment terms in B2B transactions : the Commission highlights that the absence of maximum payment terms in business to business (B2B) transactions (whereas public authorities’ payment are subject to it) creates difficulties for smaller economic operators. Thus, there is no real obligation for companies to pay on time.
- The absence of clear definition of “unfair” practices or clauses. The Commission underlines that the directive does not define precisely unfair transactions. In particular, the Commission identifies as “unfair” practices banning assignments of receivables, as it considers that it “hampers factoring as well as other novel and digital forms of payment”.
- The absence of flat fee compensation (article 6) applicable to individual late invoices.
- The lack of clarity concerning verification procedures, especially their duration.
- A Lack of “tools” for monitoring and enforcing compliance : notably regarding (i) the monitoring of compliance (for example, collection of data on average payment periods or average payment terms in both B2B and G2B transactions), (ii) the enforcement of the rules and (iii) transparency about payment performance.
- The lack of suitable means of redress. The Directive does not provide small creditors with adequate tools to take action against their debtors. In fact, the only measure envisaged in the Directive, i.e. legal action, can be too costly and time-consuming, and could cause serious damage to business relations between the parties.

The Commission considers that there is an asymmetry of bargaining power between large and smaller operators because the later are often subject to longer payment terms. The Commission also put into perspective that the systems does not reward payment on time but rather encourages paying late as it provides an easy way of financing at zero cost and no administrative burden.

In consequence the EU Commission wants to strengthen the habit of paying on time and welcomes stakeholders’ feedbacks on three pillars of actions that could be part of the revision :

1. Embedding into law what prompt payment behaviour looks like by combating late payments “proactively”. Laying down measures to prevent creditors (especially smaller operators) from incurring late payment. Options under this objective could include:
  - Capping payment terms in B2B transactions ;
  - Introducing stronger deterrents (automatic payment of interest, increasing the rate of interest, clarifying the rules on flat fee compensation) ;
  - Clarifying the rules on verification procedures ;
  - Defining unfair practices and clauses ;
  - Requiring contracting authorities to ensure that the main contractors pay their subcontractors on time.

2. Facilitating timely payments, by promoting the use of modern digital payment tools and building up an “SME-friendly” business environment, supportive of timely payments. Options under this objective could cover:
  - Improving the framework conditions for the uptake of modern digital payment tools ;
  - Facilitating availability and access to credit management training and financial literacy (digital as well) for SMEs ;
  - Laying down common minimum criteria for prompt payment schemes ;
  - Setting up an EU Observatory of Payments ;
  - Rewarding prompt payment in public procurement procedures.
  
3. Strengthening prevention and enforcement so that prompt payments become a norm across all industrial sectors. Laying down effective remedies against late payments when they occur (“reactive” approach). Options under this objective could include:
  - Making more widespread use of mediation schemes to deal with payments disputes faster, while protecting business relationships ;
  - EU governments to designate national authorities to deal with complaints and initiate official enforcement action ;
  - Introducing administrative penalties.

**Next steps : the call for evidence is open from 12 January to 17 March 2023.**

## Fight against money laundering and financial crimes

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### AMLR

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#### 3 February 2023 – AMLR rapporteur gives an interview regarding the AML/CFT package

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Eero HEINÄLUOMA (S&D, FI) recently gave an interview to Agence Europe in which he details his position regarding the proposal on the anti-money laundering and counter terrorism financing package currently under discussion in the Parliament. Eero HEINÄLUOMA (S&D, FI) is the co-rapporteur with Damien CARÊME on the proposed [regulation to prevent of the use of the financial system for the purposes of money laundering or terrorist financing](#).

The key takeaways of the article are the following:

- The issue of money laundering is, according to him, first and foremost a security issue and the revision of the AML/CFT package must be treated as such.
- He wishes to insist on the need to reduce the fragmentation between Member States concerning anti-money laundering provisions. In particular, he cites "problems of interpretation" of the directive in certain member states.
- **On the question of beneficial owners, the co-rapporteur underlines that this dimension is "the biggest gap" in the current provisions.**
- **He maintains his proposal to amend the proposed regulation by setting a threshold of 5% of shares to qualify as a beneficial owner under the regulation. He hopes that a compromise will be found quickly between the political groups, but says he wants transparency to prevail.**

- As for the CJEU decision on the maintenance of public registers of beneficial ownership of companies, he believes that this decision is not in line with the objectives of the AML/CFT reform (or at least with his vision of this reform). In this context, he states that "transparency is one of the key factors in the fight against money laundering" but that it is necessary to adopt proportionate measures, between transparency and privacy protection.

Finally, he also mentions the role and missions of the future European Authority dedicated to the fight against money laundering. According to him, the AMLA regulation foresees to give it enough resources to collect information, to set up rules or to issue recommendations to partners and national intelligence units. He also states that the future Authority will have the possibility to intervene, if it sees that, in some of the Member States, the European regulatory provisions are not or poorly implemented.

***Concerning the timetable for the examination of the text, the co-rapporteur hopes for a vote on the proposed regulation in the joint ECON/LIBE committee at the end of March. A vote would ideally take place on the whole AML/CFT legislative package. The objective of starting the inter-institutional negotiations under the Swedish Presidency, in April or May at the latest, remains.***

## Taxation incl. VAT

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### 19 January 2023 – European Parliament publishes its amendments regarding DEBRA proposal

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On 19 January 2023, the European Parliament [published](#) its amendments regarding the [proposal](#) on the debt-equity bias reduction allowance directive (DEBRA). The key takeaways are :

- Claude GRUFFAT (Greens/ELA, FR) proposes to extend the scope of application of the directive to financial institutions ;
- Greens/ELA and S&D groups propose to limit interest deductibility.

***Next steps : the ECON committee vote on the report is planned for the 21 March 2023, if adopted the report will then be voted upon during the Parliament's plenary session on 17 April 2023. Under the special legislative procedure the Council has to adopt his position after Parliament provides with his opinion, although the Council is not required to take it into account.***

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### 12 January 2023 – First exchange of views in the Parliament regarding DEBRA proposal

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On 12 January 2023, a first exchange of views regarding the [proposal](#) on the debt-equity bias reduction allowance directive (DEBRA) took place in the Economic and Monetary Affairs Committee (ECON). The key takeaways are :

- The Rapporteur Ludek NIEDERMAYER (PPE, CZ) [presented](#) his draft report, in which he supported additional measure in favor of SMEs.
- Claude GRUFFAT (Greens/ELA, FR) declared his opposition to this proposal and proposed to limit interest deductibility.

To be noted: as DEBRA deals with taxation matters, the European Parliament will only provide an opinion. The decision on the legislative proposal lies within the EU Council that will decide at the unanimity.

## Data and Artificial intelligence related regulation

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### Data act

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#### 24 January 2023 – Swedish Council Presidency circulates new compromise proposal regarding the Data Act

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On 24 January 2023, the Swedish Presidency of the Council circulated a new [compromise](#) proposal regarding the [Data Act](#). The key takeaways :

- Data owners will have the possibility to receive compensation when data protection measures are not correctly implemented ;
- The Presidency wishes to enforce additional measures to protect business secrecy.

### Artificial Intelligence Act

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#### January 2023 – Rapporteurs continue their discussions about compromise amendments regarding the Artificial Intelligence Act

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On January 2023, discussions around compromise amendments between co-rapporteurs Brando BENIFEI (S&D, IT) and Dragos TUDORACHE (Renew, RO) continued. Particularly the issue around the classification of high risk IA systems is still debated between rapporteurs and shadow rapporteurs.

***Next steps : the co-rapporteurs aim to reach agreement on the proposed compromise amendments by the end of February/beginning of March 2023. The IMCO/LIBE committees have not yet communicated a date for the vote in committee.***

## Digital Finance

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#### 12 January 2023 - ESAs publish a report regarding financial education on digitalization, cybersecurity and fraud

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On January 12, 2022, the European Supervisory Authorities (ESAs) [published](#) a joint report focusing on national initiatives and "best practices" in the area of financial education on digitalization, cybersecurity and fraud.

Against the backdrop of the digitization of financial services and the rise of online fraud during the pandemic, the European Supervisory Authorities highlight the fact that lack of financial literacy and digital literacy can lead to further vulnerability and exclusion for consumers. Specifically, the report states that without appropriate digital financial skills and the ability to ensure their cybersecurity, consumers are at greater risk of scams and fraud.

## Other topics of interest

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### 1 February 2023 – European Commission presents its response to the American Inflation Reduction Act (IRA)

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On February 1, 2023, the European Commission [presented](#) an action program aimed at preserving European competitiveness and strengthening the EU's strategic autonomy. With this new action program, Ursula von der Leyen hopes to draw the outlines of a European industrial policy consistent with the objectives of the European Green Deal.

***Next steps : once the Action plan is discussed with the Member States, the European Commission will work to present the legislative initiatives necessary to implement its action plan.***

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### 18 January 2023 – MEPs publish their amendments on the revision of the directive regarding financial services contracts concluded at a distance

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On 18 January 2023, following the [draft report](#) by rapporteur Arba KOKALARI (EPP, SE), the amendments [tabled](#) by MEPs in the Committee on the Internal Market and Consumer Protection (IMCO) were published.

Like the draft report and the draft opinion, several amendments recall the prevalence of sectoral provisions over this "safety net" directive

***Next steps : negotiations between the rapporteur and shadow rapporteurs will begin on the basis of the amendments tabled.***

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### January 2023 – the Commission adopts its agenda regarding the initiative planned to be adopted from January to June 2023

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On January 2023, following the publication of its work program, the European Commission [circulated](#) its draft agenda regarding the initiatives planned to be adopted by the Commission from January to June 2023. In this document the Commission details the indicative dates on which its various initiatives should be presented and adopted by the College of Commissioners.

Among the published initiatives that may impact EUF members are :

#### 8 March 2023 :

- Bank crisis management and deposit insurance package :
  - Review of the bank recovery and resolution directive ;
  - Review of the deposit guarantee schemes directive ;
  - Review of the single resolution mechanism regulation;

3 May 2023 :

- Investment package :
  - Improving the retail investment framework ;
  - Retail investment strategy (RIS) ;

24 May 2023 :

- **Strengthening the role of the euro**
  - **Digital euro** ;
  - Scope and effects of legal tender of euro banknotes and coins ;

7 June 2023 :

- Taxation package
  - Tackling the role of enablers involved in facilitating tax evasion and aggressive tax planning in the European Union (SAFE) ;
  - New EU common system for the avoidance of double taxation and prevention of tax abuse in the area of withholding taxes ;

28 June 2023 :

- **Data access in financial services :**
  - **Open finance framework** ;
- **Revision of EU rules on payment services.**

The Consumer package, that included the revision of the Advanced alternative dispute resolution for consumers directive and a new initiative regarding Reinforced consumer protection cooperation was postponed to the second semester (tbc).

Realised by



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