

**CIRCOLARE INFORMATIVA 45/23**

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**OGGETTO: EUF Monthly Monitoring Report - Maggio 2023**

Si trasmette agli Associati il rapporto mensile predisposto da Euralia per l'EU Federation for the Factoring and Commercial Finance Industry (EUF). Il Monthly Monitoring Report (MMR) descrive lo stato di avanzamento dei principali processi legislativi in corso presso gli organismi dell'Unione Europea con particolare attenzione alle tematiche di interesse per il settore del factoring.

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Cordiali saluti

Il Segretario Generale  
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### Summary of content

|  |          |
|--|----------|
| <b>SUMMARY OF CONTENT .....</b>  | <b>1</b> |
| <b>CONSULTATIONS .....</b>   | <b>3</b> |
| 30 May 2023 – IASB opens a consultation on the expected credit loss requirements set out in IFRS 9 Financial Instruments .....   | 3        |
| 25 May 2023 – The European Supervisory Authorities consult on their draft amendment of the mapping of external credit assessment bodies.....   | 3        |
| 15 May 2023 - EU Commission opens public consultation regarding the future needs of e-invoicing.....   | 4        |
| <b>BANKING REGULATION .....</b>  | <b>4</b> |
| 4 May 2023 – The Court of Justice of the EU confirms the ECB's refusal to exclude all of Crédit Lyonnais's exposure to Caisse des dépôts et consignations when calculating the leverage ratio .....              | 4        |
| <b>BANKING SUPERVISION.....</b>  | <b>5</b> |
| 4 May 2023 – The European Banking Authority publishes its annual report on the convergence of supervisory practices .....  | 5        |
| 2 May 2023 – The European Banking Authority presents a new tool to facilitate supervisory reporting by financial institutions .....  | 6        |
| 30 May 2023 – The European Banking Authority recommends several follow-up measures to refine the assessment of credit value adjustment risk.....   | 6        |
| <b>ANTI-MONEY LAUNDERING REGULATION .....</b>  | <b>7</b> |
| 31 May 2023 – AML/CFT : European Banking Authority consults stakeholders on amendments to guidelines on money laundering and terrorist financing risk factors to include cryptoasset providers .....             | 7        |
| May 2023 – Combatting money laundering: the European Commission presents a report on a cooperation project aimed at making the European regulatory framework more efficient .....                                | 7        |
| 17 May 2023 – The European Commission adopts a delegated act amending the list of high-risk third countries in the fight against money laundering and terrorist financing.....                                   | 8        |
| 26 April 2023 – Selection of the seat of the future European Anti-Money Laundering Authority: the Swedish Presidency of the Council of the EU wants the Commission to propose objective selection criteria ..... | 8        |
| <b>TAXATION INCL. VAT AND LEGAL AFFAIRS .....</b>  | <b>9</b> |
| ViDA PACKAGE .....   | 9        |
| 25 May 2023 – MEPs exchange views on ViDA package.....   | 9        |
| 5 May 2023 - « VAT rules for the digital age » (ViDA) : ECON rapporteur, Olivier CHASTEL, publishes its draft report on the directive proposal .....   | 10       |
| LATE PAYMENT DIRECTIVE.....  | 11       |
| May 2023 - LPD : European associations publish their position regarding the future LPD review.....   | 11       |
| IFRS/IASB ACCOUNTING STANDARDS .....   | 12       |

|  |           |
|--|-----------|
| <i>25 May 2023 - IASB foundation publishes its amendments to IFRS standards to enhance supplier finance arrangements transparency.....</i>               | <i>12</i> |
| <b>DIGITAL FINANCE .....</b>   | <b>12</b> |
| <i>11 May 2023 – MEPs agree on common position on Artificial Intelligence Regulation .....</i>   | <i>13</i> |
| <i>May 2023 – EU Commission publishes a report on the application of the Payment Services Directive (PSD2) .....</i>                                     | <i>13</i> |
| <b>OTHER TOPICS OF INTEREST .....</b>  | <b>14</b> |
| <i>24 May 2023 - the European Commission adopts its legislative package regarding the improvement of the retail investors’ protection framework.....</i> | <i>14</i> |

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## Consultations

[Back to summary of content](#) – Previous editions of the MMR

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### **30 May 2023 – IASB opens a consultation on the expected credit loss requirements set out in IFRS 9 Financial Instruments**

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On May 30, 2023, the International Accounting Standards Board (IASB) [opened](#) a public consultation on the expected credit loss requirements set out in IFRS 9 international accounting standards for financial instruments.

The consultation seeks to gather the views of stakeholders in order to take stock of the application of the expected credit loss requirements adopted following the 2008 financial crisis. As a reminder, IFRS standards were amended to recognize credit losses when they are expected, and not only when they take effect. These standards thus enable investors to better understand an entity's exposure to expected credit losses.

As part of this consultation, the IASB wishes to examine whether the credit loss requirements remain effective, or whether amendments may be necessary.

**Next steps:**

**Stakeholders have until September 27, 2023 to respond to the [consultation](#).**

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### **25 May 2023 – The European Supervisory Authorities consult on their draft amendment of the mapping of external credit assessment bodies**

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On 25 May 2023, the Joint Committee of the European Supervisory Authorities (EBA, EIOPA, ESMA) [opened](#) a consultation to gather stakeholders' views on its proposed amendments to the Implementing Regulation on the mapping of External Credit Assessment Institutions (ECAI) for credit risk.

- [Consultation document amending the implementing technical standards under the CRR Regulation](#)
- [Consultation document amending the implementing technical standards under the Solvency II Directive](#)

The proposed changes reflect the outcome of an exercise to monitor the adequacy of the existing mappings and propose the allocation of credit quality gradings (CQGs) for four ECAIs and the introduction of new credit rating scales for seven ECAIs, as well as the withdrawal of registration for one ECAI.

In the [Implementing Regulation](#) on the mapping of External Credit Assessment Institutions (ECAIs) adopted by the European Commission on 11 October 2016, the ESAs have adopted an approach linking credit ratings to the credit quality steps defined in the Capital Requirements Regulation (CRR) as well as in the Solvency II Directive.

The ESAs have also published individual draft mapping reports illustrating how the methodology has been applied to produce the modified mappings in accordance with the mandate including the CRR Regulation.

**Next steps:**

**[The consultation is open until 26 July 2023.](#)**

**Comments on the mapping under Article 136 of the CRR Regulation should be sent via the EBA website.**

**Comments on the mapping under Article 109a (1) of the Solvency II Directive should be sent by email to the following address [2023Public.Consultation.ECAI.Mapping@eiopa.europa.eu](mailto:2023Public.Consultation.ECAI.Mapping@eiopa.europa.eu).**

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### 15 May 2023 - EU Commission opens public consultation regarding the future needs of e-invoicing

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On 15 May 2023, the European Commission has [opened](#) a public consultation to evaluate Directive 2014/55/EU. Against the backdrop of the review of the directive, the Commission is gathering stakeholders' views regarding the current and future needs of e-invoicing and notably on: *"the technical solutions, transmission of eInvoices, and efficiency, particularly among Small and Medium-sized Enterprises (SMEs)"*. The questionnaire is also aimed to review interactions between the different legislative texts regarding e-invoicing and is not focused on a particular initiative.

The survey is a short 5-questions questionnaire but could be the occasion for EESPA to detail its main priorities regarding the update of the e-invoicing regulatory framework.

The answers gathered will be analyzed by the European Commission in a report expected to be published by November 2023.

**Next steps :**

**The deadline to answer the survey is set to the 30 June 2023.**

**Out of the scope contributions can be sent to the European Commission to:**

[EC-EINVOICING-SUPPORT@EC.EUROPA.EU](mailto:EC-EINVOICING-SUPPORT@EC.EUROPA.EU)

## Banking regulation

[Back to summary of content](#) – Previous editions of the MMR

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### 4 May 2023 – The Court of Justice of the EU confirms the ECB's refusal to exclude all of Crédit Lyonnais's exposure to Caisse des dépôts et consignations when calculating the leverage ratio

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On 4 May 2023, the Court of Justice of the European Union [annulled](#) a previous [decision](#) of its jurisdiction, dated 14 April 2021, on appeal by the European Central Bank, which had granted Crédit Lyonnais the right to exclude, for the purposes of calculating the leverage ratio, all of its exposure to Caisse des dépôts et consignations (CDC), contrary to a previous ECB decision.

More specifically, the European Central Bank, in a decision dated 3 May 2019, had authorised Crédit Agricole and the entities forming part of the Crédit Agricole group, with the exception of Crédit Lyonnais, to exclude all of their exposures to CDC from the calculation of the leverage ratio. On the other hand, Crédit Lyonnais was authorised to exclude only 66% of its exposure to CDC, and not 100% as the French bank had requested. This decision was the subject of the present action before the CJEU.

In the judgment delivered on 4 May 2023, the CJEU found that the Court had exceeded the limits of its judicial review in 2021 by substituting its own assessment of the risk of distress sales to which Crédit Lyonnais was exposed over that of the ECB, while providing no evidence of errors of assessment on the part of the ECB.

The ECB, for its part, pointed out that it had discretionary power to grant or refuse authorisation to exclude exposures for the purposes of calculating the leverage ratio, and that in this case it had applied a methodology

that took three factors into account: the credit quality of the French central government, the risk of distress sales and the level of concentration of exposures to CDC.

Following the partial annulment of the contested judgment of 2021, the CJEU has given a final ruling on the appeal at first instance: it considers that, having regard to the limited judicial review which it is required to carry out in the light of the margin of appreciation available to the ECB in this case, Crédit Lyonnais failed to demonstrate that the ECB's assessments relating to the risk of distress sales and the creditworthiness of the French authorities were manifestly wrong.

The CJEU thus confirms the ECB's decision to refuse to exclude the remaining 34% of Crédit Lyonnais' exposure to CDC from the calculation of its leverage ratio ([Press release of the Court of Justice of the EU](#)).

## Banking supervision

[Back to summary of content](#) – Previous editions of the MRR

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### 4 May 2023 – The European Banking Authority publishes its annual report on the convergence of supervisory practices

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On 4 May 2023, the European Banking Authority (EBA) published its [annual report](#) on the convergence of supervisory practices. For the year 2022, the EBA has introduced 5 key topics to the attention of national supervisors in the EU, namely the impact of the COVID-19 pandemic on asset quality, ICT, digital transformation, as well as ESG and money laundering/terrorist financing risks.

- EBA stresses that improvements have been made in the supervision of "sound" lending standards and practices. Supervisory attention to asset quality and non-performing exposures has focused in particular on the implications of the COVID-19 pandemic and on monitoring the consequences of Russia's invasion of Ukraine and developments in the macroeconomic environment.
- Information and communication technology (ICT) security and outsourcing risks should continue to be closely monitored by competent authorities and supervisory colleges. EBA stresses that, overall, the competent authorities have not yet carried out a comprehensive review of digital transformation strategies and their implementation by financial institutions.
- EBA notes that environmental and climate risks are increasingly integrated into supervisory activities, but that the accuracy of prudential assessments depends on how well institutions have integrated ESG risks into their business strategies, risk appetite and lending practices.
- Money laundering and terrorist financing risks are still high and therefore covered by most competent authorities and supervisory colleges, but their full integration into the Supervisory Review and Evaluation Process (SREP) must continue in 2023 with the implementation of the revised SREP guidelines.
- In addition, EBA positively emphasises in its report that supervisors are increasingly applying proportionality in their supervisory practices, both in identifying all the institutions to be examined and in the level of assessment carried out.

Finally, EBA stresses that the interactions and organisation of the supervisory colleges were generally of high quality in 2022, even though improvements still need to be made to certain procedural aspects of joint decisions. EBA has also noted that cooperation and the exchange of information within supervisory colleges still need to be improved, particularly in a crisis context.

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## **2 May 2023 – The European Banking Authority presents a new tool to facilitate supervisory reporting by financial institutions**

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On 2 May 2023, the European Banking Authority (EBA) [presented](#) an interactive guidance tool, which aims to help financial institutions identify relevant models for their supervisory reporting requirements.

The tool helps institutions of different size and complexity to identify the reporting requirements and models that are relevant to them, considering the type and scope of their activities. It is presented by EBA as a tool that helps to reduce the time and effort needed to familiarise oneself with supervisory reporting requirements and is particularly useful for small and less complex institutions.

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## **30 May 2023 – The European Banking Authority recommends several follow-up measures to refine the assessment of credit value adjustment risk**

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The European Banking Authority (EBA) has published a [report](#), based on a peer review, on the exclusion of transactions with non-financial counterparties established in a third country from credit value adjustment (CVA) risk. The peer review analysed the effectiveness of competent authorities' supervisory practices with regard to assessing the CVA risk of institutions subject to their supervision, with a view to enhancing the consistency and effectiveness of supervision in this area.

The peer review focused on four competent authorities and found that, overall, they were sufficiently assessing CVA risk, using different approaches tailored to regulatory requirements and EBA's Supervisory Review and Evaluation Process (SREP) guidelines. However, the review also highlighted some areas where supervision could be strengthened by all competent authorities:

- Reviewing the allocation of resources to ensure that CVA risk is properly monitored at all times and for all institutions under their supervision.
- Monitoring the intrinsic risk and potential impact on capital of CVA exemptions and assessing the CVA risk arising from securities financing transactions (SFT) and developing criteria/benchmarks for determining their incorporation into capital requirements for CVA risk.
- Reinforce the monitoring of compliance with the requirements of the technical standards in this area, and that they continue to carry out such monitoring at a frequency compatible with the one defined in the EBA's SREP guidelines.

The peer review focused on the transactions exempted from the capital requirements for CVA risk specified in Article 382(4) of the Capital Requirements Regulation (CRR), and more specifically on the procedures for excluding transactions with non-financial counterparties established in a third country from the capital requirement for CVA risk. The review of this area is important for EBA as it ensures that the treatment of non-financial counterparties established in a third country is aligned with those established in the EU, given the global nature of derivatives markets.

The review also identified "*best practices*" developed by some competent authorities. These include best practices for informing institutions about supervisors' expectations regarding CVA risk management and the measures taken to remedy any shortcomings identified.

### ***Next steps:***

***EBA intends to review the enhanced monitoring measures that it recommends in two years.***

## Anti-money laundering regulation

[Back to summary of content](#) – Previous editions of the MRR

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### **31 May 2023 – AML/CFT : European Banking Authority consults stakeholders on amendments to guidelines on money laundering and terrorist financing risk factors to include cryptoasset providers**

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On 31 May 2023, the European Banking Authority opened a [consultation](#) on its proposed amendments to the [guidelines](#) on risk factors for money laundering and terrorist financing (AML/CFT).

The proposed amendments relate in particular to the inclusion of cryptoasset service providers within the scope of the guidelines.

The amendments also introduce new sector-specific guidance for cryptoasset service providers and intermediaries to help them identify factors that may increase exposure to money laundering or terrorist financing risk. These factors will have to be considered when assessing the money laundering and terrorist financing risk of customers and their activities, at the beginning and during the course of the business relationship. The guidelines also explain how they should adapt their customer due diligence to these risks.

In addition, the proposed amendments include guidance for other credit and financial institutions on the risks to be assessed when entering into a business relationship with a cryptoasset service provider or when generally exposed to cryptoassets.

**Next steps:**

***The consultation is open until 31 August 2023.***

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### **May 2023 – Combatting money laundering: the European Commission presents a report on a cooperation project aimed at making the European regulatory framework more efficient**

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In May 2023, the European Commission [published](#) the progress report on the transnational cooperation project on building civil society capacity in the fight against money laundering and financial crime, which it supported in partnership with several national research centres. The project is entitled "*Civil Society Advancing Beneficial Ownership Transparency*".

The project is based on the premise that civil society, including non-governmental organisations (NGOs), journalists, academics, experts and trade unions, have a key role to play as users of beneficial ownership data to identify and expose corruption, money laundering and other financial crimes, and to improve beneficial ownership transparency frameworks and registers.

The problems highlighted by the project participants concern in particular the existing gaps and loopholes in the European rules relating to restrictions on access to information on beneficial owners.

Participants raised concerns about the definition of beneficial owners used in their respective countries, in particular the way in which ownership interests are currently defined. While the majority of countries have adopted the threshold of 25% of shares or holdings, Austria, Denmark, Luxembourg, the Netherlands and Spain expressed concerns that transparency by lowering the thresholds could lead to higher administrative costs for



companies and obligated entities. However, many participants stressed the need to reduce the thresholds to ensure that transparency rules could not be so easily bypassed.

Beyond the issues around ownership interests, national participants stressed the importance of more guidelines and a common approach to identifying beneficial owners, including those with indirect control. There were also calls for harmonised disclosure requirements to ensure the adequacy and accuracy of beneficial owner data across the EU.

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**17 May 2023 – The European Commission adopts a delegated act amending the list of high-risk third countries in the fight against money laundering and terrorist financing**

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On 17 May 2023, the European Commission adopted a [delegated act](#) amending the list of high-risk third countries in the fight against money laundering and terrorist financing under [Directive 2015/849](#). This list evolves in line with [the one drawn up](#) by the Financial Action Task Force ([FATF](#)), of which the European Commission is a member, and through exchanges with the Member States, the European Parliament and third countries.

Nigeria and South Africa have been added to the list: *« the Commission considers that Nigeria and South Africa have strategic deficiencies in their respective AML/CFT regimes »*.

Cambodia and Morocco have been removed from the list: *“Cambodia and Morocco have remedied the strategic deficiencies in their respective AML/CFT regimes and no longer pose a significant AML/CFT threat to the international financial system”*.

**Next steps:**

***As co-legislators, the Parliament and the Council have one month to vote against the delegated act if they wish.***

***If no objections are expressed, the delegated act will be published in the Official Journal of the European Union.***

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**26 April 2023 – Selection of the seat of the future European Anti-Money Laundering Authority: the Swedish Presidency of the Council of the EU wants the Commission to propose objective selection criteria**

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On 26 April 2023, the Swedish Presidency of the Council of the EU [presented](#) to the national delegations a letter, addressed to the European Commission, asking the European executive to intervene and propose objective criteria to determine the seat of the future European Anti-Money Laundering Authority (AMLA). The Member States are called upon to validate the content of this letter before it is officially sent.

In this [letter](#), the Swedish Presidency expressly asks the Commission to act as an *“honest broker”* to objectively assess the candidacies of the candidate cities to host the future Authority. It also invites the European Commission to give priority to defining *“objective and transparent criteria”* for selecting the future headquarters, based on the approach adopted in 2012 for choosing the location of centralised agencies.

The Swedish Presidency also asks the European Commission to propose specific additional criteria relating to the scope of the future Authority's activities that might be suitable for the co-legislators. In this context, the letter invites the European Commission to draw up a standardised application form on the basis of which candidate Member States could submit their proposals.

Likewise, the Parliament has also addressed Commissioner McGuinness, who is responsible for financial services and stability policies, asking her to intervene to help the Member States choose the city that will host the headquarters of the future Authority.

**Next steps:**

***It is up to the Member States to decide which city will host the headquarters of the future European Anti-Money Laundering Authority.***

## Taxation incl. VAT and Legal Affairs

[Back to summary of content](#) – Previous editions of the MMR

### ViDA package

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#### 25 May 2023 – MEPs exchange views on ViDA package

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On May 25, 2023, the European Parliament's Committee on Economic and Monetary Affairs (ECON) held an exchange of views on the legislative package on VAT in the digital age ([ViDA](#)).

Under the special legislative consultation procedure, the Parliament must adopt a non-binding opinion for the Council. The rapporteur on this text, Olivier CHASTEL (Renew, BE), opened the exchange by briefly presenting the legislative package and his position on the text, in particular by detailing its main objectives:

- Preserve proportionality and neutrality in tax matters;
- Enable simple application of the rules laid down in the texts and their enforcement by all parties;
- Harmonize procedures and obligations for electronic invoicing and VAT declarations, while ensuring legal clarity;
- Ensure respect for personal data and business secrecy;

The rapporteur detailed his main proposed amendments as follows:

- **Date of entry into force:** the rapporteur proposes to extend the date of entry into force of the texts by one year to ensure that companies can adapt effectively.
- **Real-time invoicing:** the rapporteur would like to delay the invoicing deadline to 10 working days, rather than the 2 working days initially proposed by the European Commission. Olivier CHASTEL (Renew, BE) justifies his position by pointing out that smaller companies outsourcing their accounting will find it difficult to meet the 2 working day deadline for issuing invoices, as well as the disparity of public holidays across the EU.
- **Summary invoices:** the rapporteur considers that recapitulative invoices reduce the administrative burden on taxpayers, facilitate cash flow management for many businesses and reduce errors.
- **Date of payment:** the rapporteur proposes not to make it compulsory for invoices to state the date of payment.
- **E-invoicing:** the rapporteur would like the e-invoicing standards to be published on the European Commission's website and made easily accessible to all taxpayers. He also calls on the European Commission to take international standards into account when defining the standard for electronic invoicing. In addition, the rapporteur calls for resources to be allocated to help taxpayers comply with e-invoicing provisions.

- Data storage: Olivier CHASTEL (Renew, BE) proposes that electronic invoicing data be physically stored within the Union.

Several MEPs also took the floor to share their views on the text:

- **Lidia PEREIRA (EPP, PT)**, shadow rapporteur on the text, said she shared the Commission's plan to spread the use of electronic invoicing and digital tools in tax matters.
- **Aurore LALUCQ (S&D, FR)**, shadow rapporteur on the text, and represented by Pedro MARQUES (S&D, PT), said she was in favor of the measures proposed by the rapporteur to make it easier for companies to adapt, and would like software to be provided free of charge to facilitate electronic invoicing. However, she disagrees with the rapporteur's proposal regarding the time limit for invoicing, and wishes to maintain the Commission's initial proposal of 2 working days. Finally, it is opposed to the rapporteur's proposal to consider invoices in pdf format as electronic invoices and to extend the deadline for entry into force of the text.

**Next steps:**

***The deadline for tabling amendments is set to June 6, 2023. The vote on the draft report in the Committee on Economic and Monetary Affairs is set for July 21, 2023, and should be followed by a plenary vote in October 2023.***

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**5 May 2023 - « VAT rules for the digital age » (ViDA) : ECON rapporteur, Olivier CHASTEL, publishes its draft report on the directive proposal**

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On 5 May 2023, Olivier CHASTEL (Renew, BE), rapporteur for the economic and monetary affairs committee (ECON) of the European Parliament on the VAT rules for the digital age directive, [published](#) its draft report.

As a reminder the European Parliament has only a consultative role in this procedure, the Council is not bound by the Parliament's position.

The rapporteur proposes to introduce a new recital (1a) asking for the directive *“to work in practice for businesses and administrative authorities”*. He asks for additional harmonisation regarding procedures in view of reducing costs for businesses (recital 2a).

He also underlines the necessity to ensure that *“digital reporting requirements aimed at providing information to tax authorities on a transaction-by transaction basis”* remain *“fair, realisable and balanced”* (recital 4).

Regarding e-invoicing the rapporteur suggests :

- Amendment 10 : to allow SMEs, VSEs and not-for-profit bodies to adopt other standards than the one defined in directive 2014/55/EU ;
- **Amendment 11 : to adapt the European electronic invoicing standard to take into account B2B needs;**
- Amendment 70 : to maintain summary invoices ;
- Amendment 41 : to allow e-invoices in pdf format with an electronic signature to be treated as an electronic invoice (for transactions not subject to the digital reporting requirements) ;
- **Amendment 42 : to include in the electronic invoice definition also *“documents created, transmitted and received by electronic means which do not contain certain data in a structured electronic format”* ;**

- Amendment 66 : to make invoices to be issued no later than 10 working days – rather than the 2-days period proposed by the Commission. For SMEs the 10 days working period start once they accepted the invoice.

**Rapporteur highlighted the need for SMEs to avoid having to use the services of third-party service provider in view of reducing their costs (amendment 44).**

The rapporteur proposes to allow the transmission of invoices in paper format in the case that the *“the recipient of the invoice is not established in a Member State which requires the issuance of electronic invoices”* and *“does not have a fixed establishment in such Member State”*. Thus, the recipient would have the possibility (during the transitional period, which lasts until 1 January 2028 at least) to *“require the issuer of the invoices to send him the invoice on paper or in any other form”* (amendment 45).

Rapporteur wants to for Member States to be able to *“allow for the transmission of the data, which may not necessarily be drawn from electronic invoices using other data formats”* (amendment 79).

**Next steps :**

***The deadline to submit amendments to the draft report is set to 14 June 2023. The ECON committee will then have to adopt the report and vote it in plenary before it is sent to the Council.***

***The Council is not bound to take into account the European Parliament report.***

## Late Payment Directive

### May 2023 - LPD : European associations publish their position regarding the future LPD review

In view of the future review of the Late Payment Directive to be published by the European Commission several European associations have published their position on the topic.

#### **1. Business Europe**

Business Europe underlines the need to have public authorities “lead by example” regarding late payment, and thus, proposes in the position paper annexes a series of recommendations to review rules regarding commercial debts of the public authorities.

The association also supports the B2B transaction payment cap to 30 days but only if freedom of contract is preserved. They are strongly against the introduction of an authority able to monitor late payment. Furthermore, Business Europe is in favor of maintaining a directive and not changing it to a regulation.

#### **2. SMEunited**

The association advocates in favor of limiting *“the standard payment term in B2B to 30 days negotiable up to a maximum of 60 days, including the verification period”*. SMEunited also wants to delete the “grossly unfair concept” as they see it as unfit for SMEs. The association however suggests giving some flexibility to the payment term in view of sector specificities, if sectorial stakeholders agree.

SMEunited advocates that:

- For B2G contracts, payment terms should be limited to 30 days and negotiable up to a maximum of 60 days ;
- The date of receipt of the invoice may not be fixed by contractual agreement ;
- The debtor must provide to the creditor all the information necessary for issuing the invoice ;
- Member States should appoint an authority responsible to monitor compliance and impose sanctions in case of non-compliance.

### 3. Eurocommerce

The association [highlights](#) that the directive has been successful in reducing payment terms and that National and EU laws already provide the necessary tools. Eurocommerce rather wants to increase the use of these tools.

Eurocommerce recognizes that : **“the use of tools that help SMEs with liquidity, such as factoring, supply chain financing and electronic invoicing, should also be encouraged. A 2020 study by the European Commission recognised that supply chain financing is seen by many governments as a solution to late payment issues”.**

## IFRS/IASB accounting standards

### 25 May 2023 - IASB foundation publishes its amendments to IFRS standards to enhance supplier finance arrangements transparency

On 25 May 2023, the International Accounting Standards Board (IASB) [published](#) its amendments regarding IFRS accounting standards in view of enhancing the transparency of supplier finance arrangements and their effects on a company’s liabilities, cash flows and exposure to liquidity risk.

The amendments to IFRS 7 Statement of Cash Flows and IFRS 7 Financial Instruments Disclosures, will become **effective for annual reporting periods beginning on or after 1 January 2024** and mainly consists on :

- **No definition of supplier finance arrangements:** the amendments rather only describe the characteristics of arrangements for which an entity is required to provide information.
- **Two additional disclosure objectives:** entities will have to disclose information enabling users of financial statements (i) to assess how supplier finance arrangements affect an entity’s liabilities and cash flows and (ii) to understand the effect of supplier finance arrangements on an entity’s exposure to liquidity risk and how the entity might be affected if the arrangements were no longer available to it.
- **Additional disclosures requirements for entities:** amendments will introduce several new disclosures requirements regarding the terms and conditions of the supplier finance arrangements as well as the “the type and effect of non-cash changes in the carrying amounts of the financial liabilities that are part of the arrangement.”
- **Supplier finance arrangements being included as an example within the liquidity risk disclosure requirements in IFRS 7**

The documents are [available](#) for premium members on IFRS website.

## Digital Finance

[Back to summary of content](#) – Previous editions of the MRR

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### 11 May 2023 – MEPs agree on common position on Artificial Intelligence Regulation

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On 11 May 2023, the members of Parliament's Internal Market and Consumer Protection (IMCO) and Civil Liberties (LIBE) committees [adopted](#) their joint report on the proposal for a regulation to harmonise the rules on artificial intelligence (AI Act).

The vote to adopt the report at the plenary session of the European Parliament will take place on 14 June 2023. Once adopted, the report will constitute Parliament's official position in the forthcoming inter-institutional negotiations.

**Next steps:**

***Inter-institutional negotiations will begin under the Spanish Presidency of the Council of the EU. A triologue agreement is expected before the end of 2023.***

***The [programme](#) of the Spanish Presidency of the Council of the EU (July - December 2023) in the digital field is available.***

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### May 2023 – EU Commission publishes a report on the application of the Payment Services Directive (PSD2)

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The European Commission has [published](#) a report on the application and impact of the Payment Services Directive (PSD2) as set out in the directive.

The Commission notes that, despite cash remaining one of Europeans' preferred payment services, digital payments have seen uninterrupted growth, partly due to the Covid-19 epidemic. In addition, the report points out that cash has become increasingly limited to small-value and day-to-day transactions.

The Commission notes a growing demand for cross-border payment methods, but these have often proved very costly, inefficient and slow to develop.

Since the adoption of the PSD2 directive, the development of new payment methods and the emergence of new players in the sector have accelerated the development of cashless payments. In the Commission's view, these developments are set to accelerate, under the Open Finance framework and the development of digital currencies by central banks.

In fact, the Commission considers that the directive, while promoting innovation, has enabled significant consumer protection and reduced the level of fraud. The report notes, however, that for the vast majority of stakeholders surveyed, the costs of complying with the directive's requirements have outweighed the benefits.

The European Commission considers the directive to be appropriate as it stands and sees no need for introduce substantive changes. Nonetheless, the report points out that the introduction of a digital euro or the adoption of crypto assets by individuals could require a targeted revision of some of the directive's provisions.

In its report, the European Commission therefore puts forward a number of recommendations concerning the application of the PSD2 directive, in order to improve its effectiveness, ensure the development of Open Banking and strengthen consumer protection. The report proposes to :

- Set up a coordination committee between the European Banking Authority and national authorities to review supervisory practices relating to the text;

- Set up a committee between the European Central Bank (ECB) and the various member central banks of the eurozone to discuss problems of application of the directive;
- Reduce the distortion of competition from which certain GAFAMs benefit through their access to external payment data;
- Develop a cooperation mechanism similar to SEPA to encourage companies to cooperate on technical standards for Open Banking.

## Other topics of interest

[Back to summary of content](#) – Previous editions of the MRR

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### 24 May 2023 - the European Commission adopts its legislative package regarding the improvement of the retail investors' protection framework

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On 24 May 2023, the European Commission adopted its legislative package regarding the improvement of the retail investors' protection framework.

The package consists in :

- An “*omnibus*” [directive](#) amending, amongst other things the insurance distribution directive (IDD) and the markets in financial instruments directive (MiFID II) ;
- A [regulation](#) amending the packaged retail and insurance-based products regulation (PRIIPS)

Among the key measures proposed, the European Commission wishes in particular to:

- **Address potential conflicts of interest in the distribution of investment products**, by prohibiting inducements for sales made on a “*execution-only*” basis (i.e. without the provision of any other advice) and ensuring that financial advice given is in line with the interests of retail investors. Authorized financial incentives will be subject to stricter safeguards and enhanced transparency requirements;
- **Improve the information provided to retail investors on investment products and services**, standardizing it further and making it more relevant by adapting disclosure rules to the digital age and investors' growing preference for sustainability;
- **Make costs more transparent and comparable by requiring the use of standardized presentation and terminology**. This will ensure that investment products really are cost-effective for retail investors (cf. the “*value for money*” concept previously mentioned by ESMA in its report on undue costs);
- **Reduce administrative burdens and improve accessibility to products and services** for sophisticated retail investors, by making the eligibility criteria for professional investor status more proportionate;
- Ensure that all retail customers receive a clear statement of the performance of their investment portfolio at least once a year;
- **Further protect retail investors from misleading marketing practices** by ensuring that financial intermediaries are fully responsible for the use made of their marketing communications, including those via social media, or by third parties whom they remunerate or offer incentives to;
- Maintain high standards of professional qualification for financial advisors;
- **Empower consumers to make better financial decisions**, by encouraging Member States to implement national measures to develop the financial literacy of citizens, whatever their age, social background or level of education;
- **Strengthen supervisory cooperation** to enable competent national authorities and European supervisory authorities to ensure that rules are effectively and correctly applied consistently across the EU, and to jointly combat fraud and abusive practices.

**Next steps :**

***Co-legislators will now have to adopt their position on the text.***





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**Contacts:**

**Pierre Degonde**

+33 6 72 44 85 18

E-mail: [pierre.degonde@euralia.eu](mailto:pierre.degonde@euralia.eu)

**Matthias Garcia de Cruz**

Tel : +32 489 38 33 16

E-mail : [matthias.garciadecruz@euralia.eu](mailto:matthias.garciadecruz@euralia.eu)

**EURALIA**

Rue Montoyer, 25

B-1000 Brussels