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OGGETTO: EUF Monthly Monitoring Report - Agosto 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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Banking regulation

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BRRD

30 August 2023 – MEPs discuss the BRRD proposal during ECON committee

On 30 August 2023, members of the European Parliament's Committee on Economic and Monetary Affairs (ECON) held an exchange of views on the [proposal](#) for a directive to amend the Credit Institutions Recovery and Resolution [Directive](#) (BRRD) and the Single Resolution Mechanism (SRM) [Regulation](#) with regard to certain aspects of the minimum capital requirement and eligible liabilities. As a reminder, this proposal for a directive is part of the legislative package relating to the crisis management and deposit insurance framework (CDMI) and aims to adjust the conditions of applicability of the minimum capital requirement and eligible commitments (MREL).

Jonas FERNANDEZ ALVAREZ (S&D, ES), rapporteur on the text for the Committee on Economic and Monetary Affairs (ECON), stressed his desire to make rapid progress on the text. Given the technical nature of the text, the rapporteur proposed to keep amendments to a minimum, and not to alter the European Commission's initial proposal in any major way.

Only Johan van OVERTVELDT (ECR, BE), shadow rapporteur on the text represented by Michiel HOOGEVEEN (ECR, NL), announced that he wanted to ensure that the impact of the resolution of European banks would not fall on European taxpayers.

Next steps:

The rapporteur plans to present his draft report on 20 September 2023. Members of Parliament will then have until 28 September 2023 to table their amendments. Finally, the vote in ECON should take place on 7 November 2023, to allow dialogues to begin as soon as possible.

Banking supervision

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3 August 2023 – EBA opens consultation on draft RTS regarding extraordinary circumstances for continuing the use of an internal model

On 3 August 2023, the European Banking Authority (EBA) [opened](#) a consultation aimed at gathering the views of stakeholders on draft regulatory technical standards (RTS), the purpose of which is to identify the exceptional circumstances of market disruption that allow certain requirements to be waived when calculating capital.

EBA has been mandated, under the Capital Requirements Regulation (CRR), to specify the extraordinary circumstances in which the competent authorities may authorize an institution to waive certain requirements concerning the calculation of capital requirements for market risk on the basis of internal models in accordance with the revised market risk framework (FRTB).

The [draft RTS](#) establishes a framework and defines indicators for identifying a situation of extraordinary circumstances, and sets out the conditions that must be met.

Under extraordinary circumstances, institutions may continue to use their internal models for a trading room, even if that trading room does not meet the back-testing requirements or fails the profit and loss attribution test.

Next steps:

The [consultation](#) is open until 3 November 2023.

A [public hearing](#) will be held on 20 September 2023.

3 August 2023 – SRB publishes a dashboard on MREL

On 3 August 2023, the Single Resolution Board (SRB) [published](#) a dashboard for monitoring minimum capital requirements and eligible liabilities (MREL) for the first quarter of 2023. The dashboard presents the evolution of MREL targets and shortfalls for entities in resolution (external MREL) and entities not in resolution (internal MREL), as well as the level and composition of resources of entities in resolution during this quarter.

The data in the dashboard show that, compared with the regulatory targets set for January 2024, the overall deficit in MREL assets available to large European banks in the event of bank resolution continued to fall in the first quarter of 2023.

The overall MREL deficit now stands at around €8 billion, down 8% (€706 million) on the previous quarter. According to the SRB, ten financial institutions, representing 13% of the total number of resolvable banks at European level, are still short of their targets, even though nine of them have an additional deadline of no later than 2025 to comply.

The Single Resolution Board (SRB) notes that the turbulence triggered by the failures of Silicon Valley Bank and Crédit Suisse tightened financing conditions until May, after which conditions eased back to close to pre-turbulence levels by the end of July. This improvement enabled small banks to refinance again on the financial markets.

AML/CFT rules

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10 August 2023 – EBA publishes 3rd report on the functioning of AML/CFT colleges

On 10 August 2023, the European Banking Authority [published](#) its third report on the functioning of anti-money laundering/combating the financing of terrorism (AML/CFT) colleges.

AML/CFT colleges are permanent structures designed to strengthen cooperation between the various supervisors involved in the supervision of cross-border institutions. By 30 December 2022, the competent authorities had notified EBA of 229 fully operational colleges in the EU.

This report, which presents the findings and observations of the monitoring of AML/CFT colleges in 2022, suggests that college members have taken significant steps to improve the effectiveness of AML/CFT colleges:

members approached the organization of colleges in a more structured way, which contributed to a more substantial and actionable exchange of information compared with previous years.

EBA also notes that prudential supervisors and financial intelligence units participated in a greater number of colleges. The report underlines the fact that supervisory authorities have had access to more relevant information to inform their approach to the supervision of cross-border institutions. In some colleges, members have taken steps to identify common problems and resolve them in a coordinated fashion.

Nevertheless, despite these notable achievements, EBA concludes that the AML/CFT colleges have not yet reached full maturity. The competent authorities have reported that around 50 colleges have yet to hold their first meeting. In some colleges, the sharing of relevant information remains insufficient. Finally, the integration of third-country authorities remains a challenge, with only a few of them able to participate in college meetings.

Finally, the report highlights good practices that could be useful to competent authorities in overcoming these challenges and further improving the effectiveness of AML/CFT colleges in the future.

Taxation incl. VAT and Legal Affairs

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Insolvency

30 August 2023 – MEPs discuss Insolvency proposal during ECON Committee

On 30 August 2023, the European Parliament's Committee on Economic and Monetary Affairs (ECON) held an exchange of views on the [proposal](#) for a directive on the harmonization of insolvency rules.

As a reminder, it is the Legal Affairs Committee (JURI) that is responsible on the text, the Economic and Monetary Affairs Committee (ECON) is only entitled to present an opinion report. During the exchange of view the ECON MEPs presented their positions on the text :

- **René REPASI (S&D, DE)**, rapporteur for the ECON Committee: the MEP stressed the importance of harmonizing insolvency rules to facilitate cross-border lending. The rapporteur regretted that certain issues, such as the hierarchy of creditors, had not been addressed by the proposal. He was also concerned about certain proposals made by the European Commission. René REPASI warned against abusive pre-pack proceedings and advocated the introduction of safeguards. Finally, he was in favour of maintaining the principle of recourse to an insolvency practitioner.
- **Frances FITZGERALD (EPP, IE)**, EPP shadow rapporteur for the ECON Committee, represented by Markus FERBER (EPP, DE): the MEP also calls for harmonization of insolvency rules. However, she warns against excessive harmonization. In her view, national rules often respond to different and specific realities and issues, and over-harmonization could have considerable negative effects. She was in favor of introducing safeguards against abusive pre-pack proceedings.
- **Georgios KYRTSOS (Renew, EL)** Renew Group shadow rapporteur for the ECON Committee: the MEP expressed concern that the directive would not sufficiently harmonize insolvency rules. He also called for employee contracts to be separated from financial debt in order to protect their rights.

The European Commission also commented on the position defended by the parliamentarians. Representatives of the European Commission defended the legislative proposal, arguing that it was balanced and would maximize the value that could be recovered by creditors, while ensuring a sufficient level of protection for employees. They further argued that recourse to an insolvency practitioner should be an exception, in order to reduce costs for SMEs.

Next steps:

The JURI Committee and the ECON Committee will have to adopt their draft reports

Late payment

August 2023 – EU Commission confirms the coming presentation of its SME relief package

The European Commission has included in its autumn agenda the presentation of a legislative package to promote the resilience of SMEs in the EU. The package would comprise two main initiatives:

- **Revision of the Late Payments Directive:** the initiative will aim to help SMEs by revising existing EU payment rules to accelerate a shift towards a faster payment culture.
- **Framework for the taxation of business income (BEFIT):** this initiative will aim to introduce a common set of rules that enable EU companies to calculate their tax base on a formula basis, while ensuring a more efficient distribution of profits between EU countries. The initiative will also aim to reduce compliance costs and bring about a coherent Europe-wide approach to corporate taxation.

Next steps:

The legislative package should be presented on 12 September 2023 by EU Commission Executive Vice-President, Valdis DOMBROVSKIS.

Sustainable Finance

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2 August 2023 – ESMA answers ISSB consultation

On 2 August 2023, the European Securities and Markets Authority (ESMA) published two letters addressed to the International Sustainability Standards Board (ISSB). The [first letter](#) concerns ESMA's feedback to the [consultation](#) on ISSB agenda priorities, and the [second](#) concerns ESMA's advice to the [consultation](#) on improving the international [implementation](#) of sustainability accounting standards (SASB) and updating the taxonomy of SASB standards. The [SASB standards](#) are under the authority of the ISSB and form part of [IFRS S1](#) and [IFRS S2](#).

ESMA has a number of comments to make on the ISSB's priorities:

- Supporting entities in implementing IFRS S1 and IFRS S2 must be a priority. The links between sustainability impacts, risks and opportunities may test the interoperability between ISSB standards and jurisdictional standards.
- ESMA encourages the development of new thematic standards:
 - The Authority calls for the development of research into the remaining topics of the ESG spectrum that are not yet covered by ISSB standards. ESMA encourages the ISSB to begin work on social reporting standards relating to human rights.

- For ESMA, the other priorities for standards to be developed are biodiversity, ecosystems and ecosystem services.
- Interoperability between the ISSB's international standards and the European ESRS standards (Corporate Sustainability reporting directive (CSRD)) is a priority for ESMA. In addition, ESMA points out that the first set of ESRS standards covers a wider range of topics than the ISSB standards: ESMA therefore invites the ISSB to pay "particular attention" to the approach and structure adopted in the ESRS standards in order to define and structure future thematic research projects.

In the second letter to the ISSB, ESMA comments on the international applicability of the SASB standards and the updating of the SASB taxonomy:

- With regard to the targeted review exercise, ESMA suggests that greater emphasis be placed on the jurisdictional comparability of the information to be published.
- ESMA agrees with the ISSB document regarding the reliance on internationally recognized guidance and frameworks. However, the Authority suggests that parameters should be selected according to more detailed criteria, and that the parameter review process should be more transparent.
- A broader review of SASB standards should be organized for full integration into ISSB IFRS standards.

Next step:

The consultation on ISSB agenda priorities is open until 1 September 2023.

August 2023 – EU Commission plans to reduce by 25% EU corporate reporting requirements

In October 2023, the European Commission plans to present a series of proposals aimed at reducing by 25% the information and data that companies must transmit to the authorities in application of European regulations.

This 25% reduction project, already mentioned by President Ursula von der Leyen, is in line with the proposals on the long-term competitiveness of the European economy [published](#) by the executive last March.

In addition, these proposals are part of the "Better Regulation" strategy, which aims to make EU regulation more efficient and reduce the burden of obligations imposed on companies.

Further rationalization of reporting obligations and reduction of the administrative burden are priorities for the European Commission at the end of its mandate. According to the European executive, reporting obligations are necessary to monitor and correctly apply legislation, but they entail costs for companies, particularly SMEs.

In order to "streamline and simplify companies' reporting obligations", the European Commission is expected to present several proposals for each of the "green", "digital" and "economic" thematic areas during the autumn. The aim remains to reduce reporting burdens by 25%, without compromising the political objectives on which the Commission has been working since 2019. Without compromising the desire to guarantee greater transparency, the Commission insists on the need to cut red tape and simplify the regulatory environment in order to boost the international competitiveness of European companies.

The reasons given for implementing such a reduction in reporting standards are :

- Enhance the competitiveness of European companies with clear, stable regulations and a reduction, as far as possible, of the mandatory reporting requirements imposed on companies;
- Adopt a more innovation-friendly regulatory approach;

- Streamline European reporting rules: move towards greater consistency between different regulations and simplification of reporting by digitizing procedures.

Focus on the Regulation on Sustainability Reporting in the Financial Services Sector (SFDR)

The Commission believes that there is room for improvement, in terms of consistency and interoperability, between the SFDR regulation and other European regulations on sustainable finance, first and foremost the Taxonomy regulation.

While a stable regulatory framework is conducive to a business-friendly environment and legal certainty for the players involved, Commissioner McGuinness believes that improvements can be made to converge sustainability reporting standards at European and international level. With this in mind, the Commission is working to streamline the implementation of disclosure requirements wherever possible, while maintaining the EU's ambition in terms of transition to a low-carbon economy and providing clear guidance to companies in this area.

In particular, Commissioner Mairead McGuinness has announced that a full review of the SFDR regulation is underway.

Next steps:

The European Commission aims to present an "SME relief" legislative package on 12 September 2023, including several measures to ease the administrative burden on SMEs.

A round table on transparency and streamlined reporting, preceded by a statement from Commissioner McGuinness, is scheduled for 10 October 2023.

August 2023 – the EU Commission seeks to amend the SFDR regulation

The Commission believes that there is room for improvement, in terms of consistency and interoperability, between the [Sustainability-related disclosures in the financial services sector regulation](#) (SFDR) and other European regulations on sustainable finance, first and foremost with the Taxonomy regulation.

With this in mind, the Commission wishes to streamline the implementation of disclosure requirements wherever possible, while maintaining the EU's ambition in terms of transition to a low-carbon economy and providing clear guidance to companies in this area.

In particular, Commissioner Mairead McGuinness announced that a full internal evaluation of the SFDR regulation was being launched, and that a public consultation aimed at gathering the views of stakeholders.

Next steps:

The European Commission is expected to open a three-month consultation in September 2023 to gather stakeholders' views on a possible revision/rationalization of the SFDR Regulation following an internal evaluation by its services.

Digital finance

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4 August 2023 – EBA opens consultation on the use of machine-learning by internal models

On 4 August 2023, the European Banking Authority [published](#) a follow-up report to its earlier consultation on the use of machine-learning by internal models (IRB).

In November 2021, EBA had published an [initial note](#), open for comment, on the use of machine-learning by internal models to gather practitioners' views on the challenges and opportunities presented by this AI-based technology.

In this report, EBA reiterates its recommendations proposed in the discussion paper, which were broadly supported by respondents, aimed at ensuring the prudent use of machine-learning models in the context of the IRB framework.

The use of machine-learning techniques in credit risk models can create problems beyond prudential considerations. In this regard, the report also examined the interaction with two other legal frameworks, namely the General Data Protection Regulation (GDPR) and the Artificial Intelligence (AI) Regulation, and called for clarifications to avoid legal uncertainty for practitioners.



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