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## Consultation

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### 24 October 2023 – Commission opens two consultations on financial services

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On 24 October 2023, the European Commission opened several calls for contributions concerning financial services:

#### 1) Legislative package on the reduction of reporting obligations

Following the European Commission's announcement to reduce reporting obligations by 25%, the Commission has [presented](#) a draft regulation aimed at revising the regulations establishing the European Supervisory Authorities (ESA - European Banking Authority, European Securities and Markets Authority and European Insurance and Occupational Pensions Authority), the European Systemic Risk Board and the InvestEU regulation.

The draft regulation presented by the Commission aims to harmonize reporting obligations in order to eliminate redundant requests from Supervisory Authorities when they are entitled to collect the same information. The Supervisory Authorities are also tasked with assessing the data collected in order to identify redundant or insignificant data, and to delete them.

Finally, the Commission has [opened](#) a call for contributions from stakeholders, who have until 1 January 2023 to submit their views on the draft regulation.

#### 2) Revision of the Index Regulation (BMR)

On 17 October 2023, the European Commission [presented](#) a draft regulation aimed at revising the Benchmark Regulation (BMR) with regard to the use of benchmarks whose administrators are located in third countries. In order to facilitate the use of indices located in third countries, the Commission has decided to reduce the obligations concerning non-critical indices. The Commission nevertheless wishes to maintain reinforced requirements for Paris Agreements and European climate transition benchmarks, in order to ensure the quality and control of these benchmarks.

In addition, the Commission proposes to simplify the benchmark rules by defining critical benchmark as those representing more than 50 billion in assets. The revised regulation should apply from 1 January 2026.

As a result, the European Commission has [opened](#) a call for contributions to gather the views of stakeholders on the text, who have until 3 January 2023 to submit their input.

#### **Next steps:**

***Stakeholders have until January 2024 to submit their contributions to the different call for feedback. Both regulations must now be considered by the co-legislators.***

## Banking regulation

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### **20 October 2023 - Several associations representing the European banking sector call for Basel III rules to be postponed**

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On 20 October 2023, the European Banking Industry Committee (EBIC), bringing together associations representing European banking players such as EBF, Leaseurope and Eurofinas, [issued](#) a joint statement calling for the application date of the Basel III rules to be postponed.

With the adoption of the banking package nearing completion, discussions on a number of issues, including the level of application of the output floor and fit & proper (F&P) rules, could delay the final provisions of the CRR/CRD revision.

Thus, for the signatories of the communiqué, it is important that, to ensure that all stakeholders benefit from the best possible conditions for implementing the banking package, they should have sufficient time for the authorities to finalize the essential elements before prudential reporting can begin.

In view of the current context and the length of time it will take to finalize the dialogues, the signatory associations are calling for the current implementation deadline of 1 January 2025 to be postponed, to give banks sufficient time to adapt to the new regulations and adopt the necessary changes once the finalized texts have been published in the EU's Official Journal.

The press release also emphasizes the extra time EBA would have to develop the regulatory technical standards (RTS) and guidelines (127 mandates in all) needed to implement the regulation in a complete and harmonized way.

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### **16 October 2023 - John BERRIGAN presents his views on the crisis management and deposit guarantee framework**

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On 16 October 2023, John BERRIGAN spoke during the seminar [organized](#) jointly by the Single Resolution Board and the Single Supervisory Mechanism (SSM) on the legislative package relating to the crisis management and deposit guarantee framework (CMDI).

John BERRIGAN, Director General for Financial Stability, Financial Services and Capital Markets Union (FISMA), emphasized that the package presented by the European Commission should not fundamentally alter the existing resolution framework, and that on the contrary, it would rather strengthen the mechanisms for protecting financial stability and taxpayers, in order to improve the Banking Union.

John BERRIGAN argued that the legislative proposals should provide better protection for European taxpayers in the event of bank failures, and make it possible to:

- Ensure that more banks can be resolved through appropriate use of public interest assessment.
- Provide resolution authorities with the necessary discretionary power and adequate tools to deal with all banks in the event of failure or risk of failure;

- Make sufficient funds available so that these tools can be credibly applied to any bank where, on the basis of a least-cost analysis, resolution better protects financial stability, depositor confidence and taxpayers' money than liquidation.

He acknowledged, however, that the "funding" aspect was the most problematic and would pose the most difficulties, but that without it, the other provisions of the proposal would not have the same scope. In addition, he pointed out that the possibility of setting up a "bridge mechanism" was a less costly way of managing a bank failure and protecting deposit holders, rather than reimbursing them, after the bank had failed. John BERRIGAN nevertheless agreed that safeguards had been taken into account to limit the use of such a mechanism to banks whose resolution procedure would lead to complete liquidation, and not to banks that would be restructured.

He therefore concluded by reaffirming his wish to ensure that the cost of resolution and loss absorption falls not on taxpayers but on the industry, through their contributions, and to achieve the Banking Union.

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### **16 October 2023 - Andrea ENRIA welcomes the adoption of the crisis management and deposit guarantee framework (CMDI)**

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On 16 October 2023, Andrea ENRIA, Chairman of the Supervisory Board of the European Central Bank (ECB), [expressed](#) his views during the seminar organized by the Single Resolution Board and the Single Supervisory Mechanism (SSM) on the legislative package relating to the Crisis Management and Deposit Guarantee Framework (CMDI) presented by the European Commission.

He emphasized the key milestone represented by the legislative package in terms of progress towards completion of the Banking Union. Taking stock of the current state of crisis management, he highlighted the significant progress made in recent years to protect taxpayers in the event of bank failures. He pointed out that the Single Resolution Fund covers around 1% of all bank deposits, or nearly 77 billion euros. He also pointed out that the resolution framework put in place by the European Union had proved its effectiveness in the cases of Sberbank and Banco Popular.

Nevertheless, certain gaps remain, and the Commission's proposals concerning the CMDI should help to reduce them. He therefore welcomed the Commission's proposals, while stressing that the extension of the scope of resolution would be proportionate and would not extend to the entire banking sector.

In conclusion, he called for the next legislature to examine and propose the creation of a European deposit guarantee scheme and a liquidity regulatory framework for resolution.

## **Banking supervision**

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### **3 October 2023 - The European Banking Authority publishes its work program for 2024**

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On 3 October 2023, the European Banking Authority [published](#) its work program for 2024, highlighting its strategic objectives and supervisory priorities for the year ahead.

In 2024, EBA will be carrying out a number of mandates assigned to it under the regulatory revisions introduced this year. Particular emphasis will be placed on

- implementation of the EU banking package (Capital Requirements Regulation - CRR III and Capital Requirements Directive - CRD VI);
- monitoring financial stability and viability in a context of rising interest rates and economic uncertainty;
- the provision of an efficient data infrastructure at the service of stakeholders;
- the development of control and monitoring capabilities for the Digital Operational Resilience Act (DORA) and the Regulation of Cryptoasset Markets (MiCAR);
- an increasing focus on innovation and consumers, including on the subject of access to financial services, while preparing for the transition to the new anti-money laundering and combating the financing of terrorism (AML/CFT) framework.

EBA also stresses that the quantification and rapid evolution of risks in the financial sector will also require regular analysis and refinement of key risk tools and measures, for example through regular stress tests.

## Taxation incl. VAT and Legal Affairs

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### Legal Affairs

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#### October 2023 - Insolvency directive under discussion in Council and Parliament

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On 20 October 2023, at the Justice and Home Affairs Council, the ministers of the Member States [debated](#) the [proposal](#) for a directive harmonizing certain aspects of insolvency law.

In particular, a number of Member States highlighted the need to give Member States greater flexibility in harmonizing avoidance actions, with the aim of facilitating the movement of capital.

On 17 October 2023, this time at the Economic and Financial Affairs Council (ECOFIN), Mairead McGUINNESS regretted that the examination of the text by the States was not going as quickly as expected. In fact, according to the Commissioner for Financial Services, Financial Stability and Capital Markets Union (FISMA), barely half of the articles have been examined so far. She therefore called for closer collaboration between the Ministers of Justice and Finance. She also called for the provisions aimed at strengthening creditor protection not to be reduced.

As far as Parliament is concerned, on 9 October 2023, the members of the Committee on Economic and Financial Affairs (ECON), which will provide a report for opinion on the initiative, held an exchange of views on their amendments. In particular, draftsman René REPASI (S&D, DE), argued that pre-packed proceeding will be a key tool for preserving business activity. In particular, he called for workers' rights to be preserved in company bankruptcies, and for them to benefit from adequate protection, positions he felt were in line with those proposed by the Greens/EFA group.

The European People's Party, for its part, felt that, while SMEs should be able to benefit from simplified procedures, a certain number of safeguards should be maintained. In addition, the group does not support the

Commission's position on the non-use of liquidators for SMEs and micro-enterprises. The EPP also defended increasing the delays for initiating the insolvency proceedings, as it was deemed that the Commission's position did not take into account the diversity of practices between Member States.

Following their interventions, the European Commission wished to make it clear that it was not opposed to the use of insolvency practitioners, but that it advocated that assets belonging to the insolvency estate should not be used solely to remunerate the insolvency practitioner. Similarly, it warned against excessively lengthening the time required to launch insolvency proceedings, which could lead to a significant reduction in the insolvency estate.

**Next steps:**

***The co-legislators have to adopt their respective positions on the text. The Legal Affairs Committee (JURI) is the lead committee on the text, while the Economic and Monetary Affairs Committee will only provide its non-binding opinion.***

## Late payment

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### 25 October 2023 - IMCO Committee hosts a public hearing on LPR

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On 25 October 2023, the EU Parliament Committee on the Internal Market and Consumer Protection (IMCO) organized a hearing on the [draft](#) Late Payment Regulation (LPR).

The hearing started with Aneta WIEWIÓROWSKA-DOMAGALSKA, Member of the Executive Committee of the European Law Institute, former Senior Researcher at the European Legal Studies Institute of the Osnabrück University, which presented her views on the Regulation. The academic underlined that without public enforcement, prompt payment culture would not emerge. Similarly she stated that the “fear factor” from which SMEs suffer at the hour of assigning to court late payers, would not be overcome without the support of public authorities.

The academic, however, pointed out that the regulation faced several legal inconsistencies notably on the nature of late payments and on the terms used in the regulation (e.g. “null and void practices”). In general, she considered that the Regulation is inappropriate and would even go in contradiction with major national laws and International Convention. She called in favor of reviewing the text and ensuring it was consistent with existing regulations.

The second academic to intervene was Antonella FERRARA, Senior Assistant Professor in Applied Economics at the Department of Social and Political Sciences of the University of Calabria. She put forward in her presentation the main economic consequences of late payment for SMEs and the strong negative impact that late payments or payment of more than 30 to 60 days had on SMEs. She also defended the good outcomes of the LPD notably in fostering payments in good time between Public Administration and SMEs. She advocated in favor of implementing a package of measures to fight against late payments in addition to the 30-days payment cap.

Following the intervention of these stakeholders several MEPs presented briefly their views on the text :

- **LPR Rapporteur Rosza THUN UND HOHENSTEIN (Renew, PL)**, detailed that several options were still on the table regarding late payments : keeping the status quo, introducing a stricter cap but with sectorial negotiations or introducing a 60 days maximum payment delay.
- **S&D Shadow rapporteur, Tsvetelina PSENKOVA (S&D, BG)** highlighted that such a proposal could have important implications for companies and for the industry. Thus, she evoked the possibility to

introduce exemptions or flexibility for some types of goods such as slow moving goods or for some key sectors.

- **Laura BALLARIN (S&D, ES)**, asked for additional details on the way Authorities combating late payments could be designed.
- **Claude GRUFFAT (Greens/EFA, FR)** advocated in favor of additional protection for SMEs and asked for stronger dissuasive measures in regard to late payments. He also questioned the date from which the payment delay will start to run : the product reception or the invoice emission.

Responding to the intervention of the MEPs the academics and the EU Commission presented their responses :

- **Antonella FERRARA**, opposed the introduction of additional freedom of contract as it would hinder weakest counterparties such as SMEs. She nonetheless supported the introduction of sectorial exemptions, for example for the health sector or for slow moving goods. She strongly **suggested that when companies are paid in time they do not need to recur to external credit companies or financial institutions.**
- **Bonifacio GARCIA PORRAS**, member of the EU Commission, defended the legislative proposal and stated that having a stricter payment cap would be the best solution to support SMEs. He also opposed to introduce sectorial exemptions as it would bring uneven playing field between companies.

The public hearing ended with the intervention of two stakeholder representatives :

- **Sophia ZAKARI**, **SMEunited** representative, pointed out that SMEs almost never address their late payment issues to the court as it is costly for them. She also supported the rules in relation to public procurement as companies will have to justify that they have paid their (sub)contractors in due time.
- **Fabrice le SACHE**, **BusinessEurope** representative, called in favor of differentiating late payments from long payment terms as they are two different things. He also asked to take into account differences between Member States in particular regarding late payments as some countries do not have any late payment issues. Regarding public administration he highlighted that strict terms introduced in the LPD did not forbid late payments and that public authorities were responsible for an important part of late payments, whereas private sector has an average payment time of 13 days. He deemed the LPR inadequate as it would create a legal precedent that could pave the way to price control measures. He asked to recognized sectorial differences and in particular that payment terms differ from one sector to another. He also stated that SMEs will have to use financing solutions to pay in time or could even be charged for the refinancing.

**Next steps :**

***Colegislators will now have to examine the text. The Commission has [opened](#) a call for feedback on the draft regulation, stakeholders can submit their comments by the 9 of November 2023.***

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**16 October 2023 - Thierry Breton's responds to MEPs' question on late payments**

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On 7 July 2023, Portuguese EPP MEPs Lúcia PEREIRA, José Manuel FERNANDES, Maria da Graça CARVALHO and Cláudia MONTEIRO de AGUIAR [submitted](#) a question to the European Commission concerning Portugal's failure to comply with the rules of the Late Payments Directive (LPD). The Portuguese MEPs asked the Commission to detail its views on reducing late payments, particularly in view of the infringement procedure launched against Italy, Belgium and Greece, as well as the appeals against Portugal and Slovakia concerning late payments.

As a reminder, in April 2023 the European Commission [launched](#) three infringement procedure against the above-mentioned countries:



- **Italy:** the Commission considers that the healthcare sector in Calabria is not complying with the Late Payment Directive, since Italy is extending payment deadlines for public authority debts beyond the deadlines set out in the European Directive.
- **Belgium:** the Commission criticizes Belgium for failing to provide complete data to prove the adoption of national measures to comply with the European text.
- **Greece:** in a first letter, the Commission criticizes Greece for having introduced provisions that prevent lawyers from being paid on time. In a second letter, the Commission points out that the provision introduced by Greece to allow "immediate payment of long-standing debts owed by public hospitals to their private suppliers, on condition that these suppliers waive their rights to interest, compensation and judicial redress" "constitutes a breach of EU rules on late payment in commercial transactions".

In addition, the Commission had referred Portugal and Slovakia to the Court of Justice of the European Union (CJEU) for their incorrect application of the directive's provisions on late payment. The European Commission accuses Slovakia of failing to reduce significant late payments by public hospitals, and Portugal of failing to sufficiently reduce late payments by the public administration.

As a result, on 16 October 2023, Thierry Breton, European Commissioner for the Internal Market, sent his [response](#) on behalf of the European Commission to the Members of Parliament. The Commissioner points out that in Portugal, only 21% of commercial transactions are carried out on time, and that the current directive on late payment has failed to provide effective protection for SMEs. In his response, the Commissioner argues that the new late payment regulation should resolve a number of the directive's shortcomings.

## Taxation

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### 24 October 2023 - EU Commission publishes its 2023 VAT Gap report

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On 24 October 2023, the European Commission [published](#) its 2021 annual VAT gap study which measures the total estimated VAT gap per Member States. The report provides an overall outlook and an analysis country by country of the VAT gap with the view of providing a broad analysis of VAT fraud situation in the Union. The 2021 study highlights that the loss in VAT has decreased from 99 billion euros in 2020 to 61 billion euros in 2021. Some countries such as Italy (-10,7%), Poland (-7,8%) or Belgium (-6,7%) have seen an important reduction in their VAT gap figures .

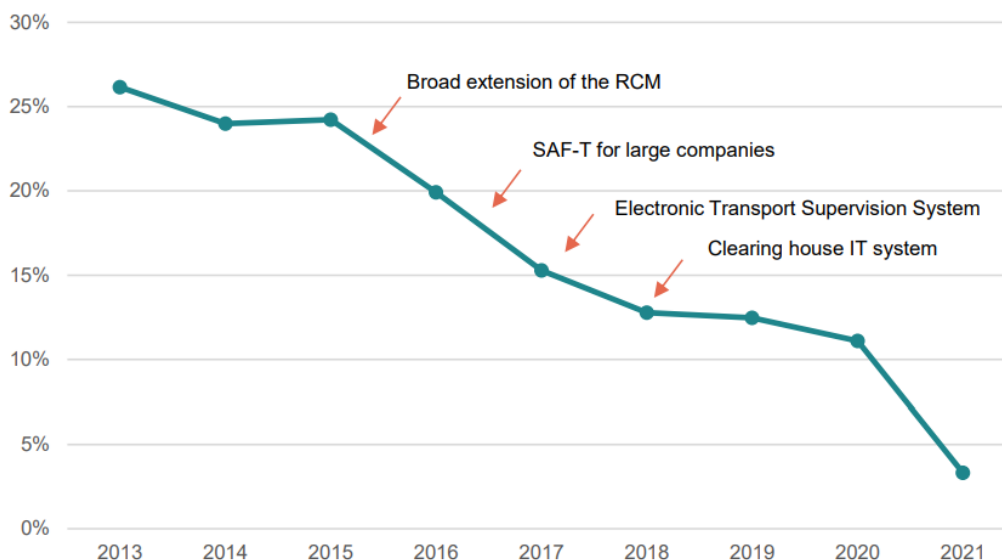
The report, however, highlights that countries continue to face large VAT gaps, notably Romania (36,7%), Malta (25,7%), Greece (17,8%) and Italy (10,8%).

In view of providing best practice recommendations, the report provides an analysis of Latvia, Hungary, Poland and Slovakia "success stories". For these counties, according to the study, one of main driver of the decrease in VAT gap was the introduction of e-invoicing and real time reporting mechanisms.

In particular, it is worth noting that the report identifies four main reasons behind Poland important reduction of its VAT gap :

- extension of the use of the reverse charge mechanism (RCM) ;
- implementation of a national version of the Standard Audit File for Tax (SAF-T) developed by the OECD;
- monitoring the movements of goods and third-party data through the Electronic Transport Supervision System (SENT) ;
- implementation of a clearing house IT system designed to combat tax fraud by fostering data exchange between tax authorities and banks (STIR).

**Figure 15: Development of the VAT compliance gap in Poland and tax administration reforms (2013-2021)**



Source: own elaboration.

EU Commissioner, Paolo GENTILONI, took advantage of this report to call Member States to adopt swiftly a compromise regarding the ViDA proposal.

The European Commission publications includes :

- the [VAT Gap Report 2023](#) ;
- the [VAT Gap Report 2023 Executive Summary](#) ;
- the [VAT Gap Factsheet 2023](#).

## Sustainable Finance

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### 25 October 2023 - Regulation on ESG ratings: MEPs publish their amendments proposals.

On October 25, 2023, members of the European Parliament's Committee on Economic and Monetary Affairs (ECON) [published](#) their proposed amendments to the [directive](#) proposal on the transparency of environmental, social and governance (ESG) rating activities.

These [amendments](#) follow the publication on 10 October by the rapporteur on the text, Aurore LALUCQ (S&D, FR) of her draft [report](#).

A number of MEPs from the far left to the EPP wanted to strengthen sustainability considerations. Sirpa PIETIKÄINEN (EPP, FI), for example, proposed that the recitals should include "disincentives" for unsustainable investments.

Renew MEPs Stéphanie YON-COURTIN (FR), Gilles BOYER (FR) and Olivier CHASTEL (BE) have proposed (amendment 11) to extend the scope of the text not only to ESG ratings but also to "ESG data products". Since the definition of ESG data products proposed by the MEPs remains very broad, the MEPs wish to include in the scope data enabling companies to extrapolate or assess the sustainable impact of companies for which they have no data, as well as raw ESG data. According to MEPs, this should ensure that "ESG data products" in their broad definition are subject to transparency rules to ensure the confidence of market players. MEPs also want rated entities to be informed and to be able to pass on any comments or objections to the rating agency.

MEP Rasmus ANDRESEN (Greens/EFA, DE) wants the European Securities and Markets Authority (ESMA) to develop draft regulatory technical standards (RTS) to define precisely what constitutes an ESG rating used for internal purposes. It would also like to go further, by making it compulsory for rating agencies to publish the share represented by each component of the ESG rating (environmental, social and governance). In addition, he advocates that each ESG rating component should represent at least 20% of the total rating. It also proposes strengthening the governance requirements for rating agencies offering ESG ratings, in order to ensure the independence and quality of ESG ratings.

The Socialists and Democrats (S&D) group proposes that the concept of double materiality is placed at the heart of ESG rating methodologies.

**Next steps:**

***MEPs must now agree their position on the text. The vote in the ECON Committee is scheduled for November 28, 2023, after which it will have to be validated in plenary.***

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**18 October 2023 - ESMA presents two studies on sustainability practices in asset management**

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On 18 October 2023, the European Securities and Markets Authority (ESMA) organized a seminar presenting two reports on sustainability in funds.

The first study [dealt](#) with ESG names and claims in the EU fund industry

ESMA notes that, as it stands, the European regulatory framework for sustainability lacks regulations on labels. Indeed, the [Regulation](#) on Sustainable Finance Disclosures (SFDR) only addresses the issue of transparency and disclosures.

ESMA considers that having fund names containing terms associated with sustainability may mislead investors. In fact, however, ESMA notes that funds with sustainability-related terms in their names share more sustainability-related information in their prospectuses or disclosure documents. As a result, ESMA believes that, for the time being, there is a degree of consistency between funds with sustainability-related terms in their names and their disclosure documents, where ESG terms are more widely represented. However, the conclusions of this case must be qualified, since they relate to the presence of terms linked to the concept of sustainability in funds with "ESG"-related names, and not to an analysis of the underlying assets or investment strategies.

ESMA points out that these studies demonstrate the importance of developing standardized reporting to enable funds to be compared more accurately with each other, and of extending this to alternative investment funds (AIF).

Regarding a potential "greenium" concerning certain financial instruments with sustainable characteristics ESMA has [presented](#) the conclusions of its paper on the subject.

First of all, ESMA defines a "greenium" as the fact that investors are prepared to cut back part of their interest or expected return on a bond compared with the market benchmark, if the bond in question contains sustainability features. The hypothesis would then be that investors would be prepared to reduce their return on investment for three reasons:

- A preference for "green" financial instruments;
- A mismatch between supply and demand for "green" financial instruments;
- The "sustainable" nature of the investment is perceived as less risky.

However, ESMA refutes these hypotheses, stressing that there is currently no evidence that such a "greenium" actually exists. In the Authority's view, if such a price trend could have been observed in the past, it is no longer in force today.

ESMA therefore draws a number of conclusions in this respect:

- Companies' sustainability declarations or commitments do not lead to a reduction in interest rates for companies;
- Risks to financial stability are low.

Finally, while ESMA does not deny that "greenium" may occur, this is more likely to be due to a mismatch between supply and demand for products deemed sustainable, which is not the case today.

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## 17 October 2023 – EU Commission and the Platform for sustainable finance launch the ESG Request Mechanism

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On 17 October 2023, the European Commission and the Platform on Sustainable Finance (PSF) [published](#) a new initiative : the EU taxonomy stakeholder request mechanism. Through a [questionnaire](#) stakeholders will have the possibility to **suggest “new economic activities that could be added to the EU taxonomy or potential revisions of technical screening criteria of existing activities”**. The Commission highlights that stakeholders’ propositions should be based on scientific evidence.

The Platform and the EU Commission will then examine stakeholders’ proposals and the PSF may decide to recommend to the EU Commission the revision of the EU Taxonomy based on these feedbacks.

The Platform will be running continuously, and stakeholders will be allowed to submit their suggestions at any time. For the first batch, the PSF will examine **all contribution submitted before 15 December 2023**. Afterwards, a new contribution period will start for which the PSF and the Commission will soon publish the cut-off-date.

Depending on EUF and its ESG Committee work on “green factoring”, **EUF may be interested in responding to this questionnaire**.

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## 12 October 2023 - EBA publishes a report on the role of environmental and social risks in the prudential framework of credit institutions

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On 12 October 2023, the European Banking Authority (EBA) [published](#) a report on the role of environmental and social risks in the prudential framework of credit institutions and investment firms. This report follows up on a May 2022 [discussion](#) paper on which the Authority collected feedbacks from stakeholders.

EBA's report is aimed at assessing how the current prudential framework encompasses ESG risks. It also explores the appropriateness and feasibility of possible clarifications and targeted enhancements to the prudential framework to better reflect the importance of environmental and social risk drivers.

The EBA considers that one of the main priorities for financial institutions remains identifying to which extent environmental and social risks (E&S) translate to financial risks. According to EBA, E&G risks are not yet fully priced in, notably due to a lack of consistent data and methodologies. Due to these issues, the EBA recommends that external credit assessment integrate environmental and social risk factors when deemed relevant. In general, the EBA recommends that under the Standardized Approach for Credit Risk, environmental and social risks are better taken into account be it under due diligence requirements or under collateral valuation. The EBA also hopes to improve forward-looking metrics that can contribute to precise the estimation of losses to environmental and social risks.

To better take into account ESG risks the EBA develops a series of policies recommendations that are broke down between risks or between credit risk calculation approaches (Internal Ratings Based Approach or SACR). Amongst the many recommendations made by EBA, the Authority proposes to assess :

- the introduction of environmental requirements for high-quality specialized lending corporate exposures to be deemed eligible ;
- whether environmental risks could be considered when evaluating the appropriateness of risk weights assigned to real estate exposures ;
- If the Standardized Approach correctly reflects ESG risks ;
- The development of a definition of environment related concentration risks

The EBA pinpoints that while the SACR must remain of simple use it should better reflect environmental and social risk.

On a more longer term the EBA examines the different possibilities to amend pillar 1 framework :

- *"The possible use of scenario analysis to enhance the forward-looking elements of the prudential framework.*
- *The role that transition-plans could play in the future as part of the development of further risk-based enhancements to the Pillar 1 framework.*
- *Reassessing the appropriateness of revising the IRB supervisory formula and the corresponding standardised approach (SA) for credit risk to better reflect environmental risk elements.*
- *The introduction of environment-related concentration risk metrics under the Pillar 1 framework."*

It is worth noting that EBA's recommendation does not include any change to the LCR or NSFR framework are proposed by the EBA at the moment, and that the **EBA does not recommend to introduce specific provisions such as green supporting factors or brown penalizing factors**. The EBA however will examine if the Systemic risk buffer (SyRB) can be the most relevant tool to address environmental risks.

The EBA highlights that overall, “environmental risks should not be regarded as risk factors per se, rather, they should be considered risk drivers of traditional risk factors, meaning that they do affect, albeit indirectly, the prices of financial instruments”.

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#### **10 October 2023 - rapporteur presents its draft report on the ESG rating providers regulation**

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On 10 October 2023, Aurore LALUCQ (S&D; FR), rapporteur on the [proposal](#) for a regulation on the regulation of the ESG ratings market, [presented](#) her draft report to the members of the Committee on Economic and Monetary Affairs.

This proposed regulation aims to establish a clear and solid framework for ESG criteria providers, as well as to enhance transparency on the methodology employed by providers.

The rapporteur makes a number of proposals to strengthen these provisions, in particular those concerning the prevention of conflicts of interest and the use of ratings from non-EU countries.

She also insists (amendment 9) on the integration of standardized data from recent sustainability initiatives, including the SFDR regulation, the taxonomy regulation and the CSRD directive, into the assessments carried out by ESG rating agencies.

The rapporteur also proposes in amendment 7 that credit institutions, investment firms, insurance and reinsurance companies that rely on external ESG ratings and external product data assume responsibility in the event of accusations of greenwashing concerning their financial products. However, it is specified that the distribution of ESG information on financial entities or products, which is based on an established methodology, should not be covered by this regulation.

**Next steps:**

**MEPs have until October 20, 2023 to table amendments.**

**The vote on the report is scheduled for November 28, 2023.**

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#### **October 2023 - CSDD : Spanish Presidency explores the way to find a compromise on CSDD directive**

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On CSDD, according to [Euractiv](#), Council is currently examining the possibility to give in regarding the exclusion of financial sector under CSDD directive. The article details that the Spanish Presidency is currently trying to find a compromise on CSDD and to solve several blocking points.

The Council was in favor of providing flexibility to Member States in regard of the possibility to exclude financial services from the scope of the CSDD directive -notably on France’s demand-, however European Parliament considers that this option would entail EU level of harmonization and is strongly opposed to it.

In view of this blocking point, the Spanish Presidency could try to convince Member States to give up the option for Member States to exclude financial sector from the scope of the directive. Negotiations are currently ongoing and no final stance regarding CSDD or the exclusion of financial services from the scope of the directive has been reached by legislators at the moment.

As a reminder EU Parliament [suggested](#) to frame the financial sector sustainable requirements by introducing several amendments amongst which are :

- (recital 19) As regards regulated financial undertakings providing financial services, **linked to the conclusion of a contract within a value chain**, the provision of such services should **include** the activities of the clients **directly** receiving **them**, and the subsidiaries thereof whose activities are linked to the contract in question. **In order to avoid an overlap of due diligence exercises of regulated financial undertaking, activities of companies or other legal entities that are part of the value chain of that client are excluded from the scope of this Directive if due diligence obligations are set elsewhere under EU law.** Clients that are households and natural persons not acting in a professional or business capacity, as well as small and medium sized undertakings, should not be considered to be part of the value chain **of regulated financial undertakings**.
- **Art 3 (1) g 1a : As regards companies within the meaning of point (a)(iv), ‘value chain’ with respect to the provision of these specific services shall include the activities of the clients directly receiving such financial services provided by financial undertakings pursuant to point (iv) and of other companies belonging to the same group whose activities are linked to the contract in question. The value chain of regulated financial undertakings within the meaning of point (a)-(iv) does not cover households and natural persons or SMEs;**

## Other topics

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### 11 October 2023 - SMEunited calls for lighter reporting standards for SMEs

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On 11 October 2023, SMEunited [issued](#) a press release on the financing challenges facing SMEs. This press release follows an exchange with the European Banking Federation (EBF).

SMEunited underlines the growing demand from customers and banks for sustainability information.

SMEunited points out that SMEs are being asked to provide sustainability information in order to access loans or negotiate contracts. However, the association points out that these reporting requirements vary significantly from customer to customer, resulting in additional costs for companies. Consequently, SMEunited calls for the voluntary reporting standard for SMEs to be published as soon as possible.

Finally, SMEunited calls for loans to SMEs not to be limited to "green" loans, as this would penalize the entire economic fabric.

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