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## Consultation

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### 29 November 2023 - Basel Committee opens consultation on climate risk disclosure requirements

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On 29 November 2023, the Basel Committee [opened](#) a consultation on the rules governing disclosure requirements for climate risk, i.e. Pillar 3 of the Basel Framework.

In opening the consultation, the Basel Committee is seeking the views of stakeholders on the introduction in Pillar 3 of a framework aimed at clarifying disclosure requirements relating to climate risks.

In particular, the Basel Committee proposes that disclosure requirements be divided into four categories:

- 1) **Governance:** under this category, banks should publish information on how their governance structures enable climate risks to be taken into account.
- 2) **Strategy:** under this category, banks should publish information on how their strategy takes climate risks into account, particularly in terms of adaptation to climate change and the practical implementation of transition plans.
- 3) **Risk management:** under this category, banks should disclose information on methods and procedures for assessing, managing and identifying climate risks that could adversely affect banks' financial health.
- 4) **Concentration risk:** under this category, banks should publish information on their exposure to climate risks, i.e. transition risks and physical risks.

These qualitative disclosure requirements would be supplemented by quantitative disclosure obligations. The Committee is exploring the introduction of quantitative disclosure requirements. These could cover banks' exposure sector by sector, issues financed indirectly by banks, and banks' exposure to physical risks by geographical area.

In this way, the Basel Committee is looking into how to incorporate banks' projections or expectations into their disclosure obligations.

**Next steps:**

**Stakeholders are invited to [share](#) their input by 29 February 2024.**

## Banking regulation

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### 7 November 2023 - The European Parliament and the Council adopt their positions on the proposal for a directive on certain aspects of capital requirements and eligible commitments

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On 7 November 2023, the European Parliament's Committee on Economic and Monetary Affairs (ECON) [adopted](#) its draft report on the [proposal](#) for a directive on certain aspects of capital requirements and eligible commitments. To speed up the procedure, MEPs decided to open inter-intentional negotiations with the Council on the same day. This decision was confirmed in plenary session on 20 November 2023, after the report had been validated in plenary session on 8 November 2023.

As requested by the text's rapporteur, Jonas FERNANDEZ (S&D, ES), Parliament maintained the main provisions proposed by the Commission. Parliament shared the Commission's desire to allow resolution authorities to set the internal MREL on a consolidated basis for a wider range of entities, notably subsidiaries of entities earmarked for resolution. However, the Parliament wished to specify more precisely the conditions to which entities designated as entities subject to winding-up are subject.

Similarly, MEPs wanted to tighten up the use of deductions in the context of minimum internal capital requirements and liabilities (MREL), as well as the use of MREL on a consolidated basis.

On 17 November, the Council adopted its position on the text, largely sharing the proposals made by the Commission and Parliament, and therefore calling for clarification of *"the definition and scope of entities subject to winding-up and [specifying] the conditions of application of the consolidated treatment of internal MREL"*.

**Next steps:**

***Parliament and Council must now reach a compromise on the text during inter-institutional negotiations.***

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**6 November 2023 - Crisis management and deposit guarantee framework: MEPs publish their amendments**

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On 6 November 2023, members of the European Parliament's Committee on Economic and Monetary Affairs (ECON) published their proposed amendments to the legislative package concerning the crisis management and deposit guarantee framework currently under consideration by the co-legislators.

As a reminder, the legislative package proposed by the European Commission last April contains several proposals:

- A draft [directive](#) amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation and transparency, on which Ernest URTASUN (Greens/EFA, ES) is rapporteur.
- A draft [directive](#) amending Directive 2014/59/EU as regards early intervention measures, the conditions for resolution and financing of resolution action, for which Ludek NIEDERMAYER (EPP, CZ) is rapporteur.
- A draft [regulation](#) amending Regulation 806/2014 as regards early intervention measures, conditions for resolution and funding of resolution actions, on which Pedro MARQUES (S&D, PT) is rapporteur.

**1) Proposal for a directive amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation and transparency, on which Ernest URTASUN (Greens/EFA, ES) is rapporteur**

In the amendments [tabled](#), S&D MEPs and Esther de LANGE (EPP, NL) call for achieving the last steps of the Banking Union by setting up a European deposit guarantee scheme. In addition, MEPs want the 0.8% deposit coverage threshold set for the deposit guarantee fund to be reviewed to take account of the extension of members covered by the guarantee fund. On this last point, MEPs Gilles BOYER (Renew, FR) and Stéphanie YON-COURTIN (Renew, FR) would like the threshold to be reduced below 0.8% after approval by the European Commission.

Stéphanie YON-COURTIN and Gilles BOYER also call for the level of contribution to the deposit guarantee fund to be based on the risk exposure of each participating entity.

To avoid burdening taxpayers with the cost of resolution, S&D MEPs support allowing the single resolution fund to have access to alternative financing in the event of insufficient funding from the deposit guarantee fund.

**2) Proposal for a directive amending Directive 2014/59/EU as regards early intervention measures, the conditions for resolution and financing of resolution action,**

As part of the amendments tabled by MEPs (parts [1](#) and [2](#)), S&D Group MEPs and Lidia PEREIRA (EPP, PT) call for the introduction of a European deposit guarantee scheme.

Martin SCHIRDEWAN (The Left, DE) is calling for the introduction of more stringent prudential requirements and the accelerated application of Basel III rules.

For their part, MEPs Engin EROGLU (Renew, DE), Markus FERBER (EPP, DE) and Herbert DORFMANN (EPP, IT) oppose the extension of resolution requirements to smaller banking entities.

Rapporteur Ludek NIEDERMAYER suggests better reflecting the exceptional nature of state intervention to bail out entities destined for resolution.

Similarly, a number of MEPs, including members of the Renew, Greens/EFA, EPP and S&D groups, are opposed to the European Commission's proposal to introduce a single level of ranking for deposits. As a result, the rapporteur proposes to endorse the two-tier priority system.

**3) A draft regulation amending Regulation 806/2014 as regards early intervention measures, conditions for resolution and funding of resolution actions**

As part of the amendments [tabled](#) by MEPs, the Greens/EFA group and Lidia PEREIRA (EPP, PT) are calling for a European deposit guarantee scheme to be introduced in Europe.

MEPs Markus FERBER (EPP, DE), Herbert DORFMANN (EPP, IT) and Engin EROGLU (Renew, DE) are reluctant to extend resolution requirements to smaller banking entities.

**Next steps:**

***The vote in the Economic Affairs Committee is scheduled for 4 December 2023.***

## Banking supervision

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### **2 November 2023 - Publication of a study on the adequacy of information to be disclosed under Article 89(1) of the Capital Requirements Directive**

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On 2 November 2023, on behalf of the European Commission, the European Capital Markets Institute (ECMI) [published](#) a study on the adequacy of the information to be disclosed under Article 89(1) of the Capital Requirements Directive (CRD).

The report examines the effectiveness of the reporting requirements introduced under Article 89(1) of the CRD, and in particular the country-by-country disclosure requirements. These consist of six indicators to be published by banks for each country:

1. name(s), nature of activities and geographical location ;
2. turnover;
3. Number of employees on a full-time equivalent basis;
4. profit or loss before tax
5. tax on profit or loss;
6. public subsidies received.

This reporting aims to provide more data on the fair taxation of banks and public subsidies received by credit institutions. These indicators have also been chosen with the ultimate aim of examining their applicability to non-financial companies. The aim of this report is therefore to examine the relevance of these indicators with a view to their future revision, as provided for in the directive.

The report reveals that, in practice, the absence of a harmonized reporting model provided by the European Banking Authority (EBA) limits the comparability of data published by banks.

As a result, the report proposes a series of recommendations to make reporting more relevant:

- Limit the reporting obligation to banks with international activities, and establish reporting at parent company level. This would avoid double reporting and low value-added reporting.
- Amend the list of indicators to make them more precise and relevant;
- Include the reporting required under article 89(1) in the annual report, and submit it in machine-readable format.

## Taxation incl. VAT and Legal Affairs

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### Late payment

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#### 9 November 2023 - EuroCommerce publishes its position on the Late Payment Regulation (LPR)

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On 9 November 2023, EuroCommerce has published its several documents reacting to the publication of the LPR:

- Press release: [Late payment proposal creates €150 billion financial gap in retail and wholesale alone - EuroCommerce](#)
- Letter: [letter-to-commission-ep-and-council-presidents-final-clean-signed.pdf \(eurocommerce.eu\)](#)
- Two-page position: <https://www.eurocommerce.eu/2023/11/proposal-for-a-late-payment-regulation-eurocommerce-views/>
- Calculator: <https://www.eurocommerce.eu/2023/11/late-payment-proposals-impact-on-retail-and-wholesale-in-europe/>

EuroCommerce has developed a calculator that estimates that a 30-days payment terms will create additional working capital needs amounting to up to 150 billion euros.

EuroCommerce voices its concern regarding the stricter payment term as it fears it would negatively impact the SMEs and EU businesses, while favoring big non-EU online players.

Regarding factoring, EuroCommerce states that : *“Late payments are an issue that needs to be tackled with proportional regulation and enforcement, not by imposing rigid limits on the freedom of contract, **de facto eliminating a legitimate and economically beneficial instrument such as supply chain financing**”.*

If you agree, we will provide you with a summary table of EU main stakeholders position on LPR, once all positions are made public.

## Taxation

### **22 November 2023 - VAT in the digital age: Parliament adopts its report for opinion on the legislative package**

On 22 November 2023, the plenary session of the European Parliament [adopted](#) the reports by Olivier CHASTEL (Renew, BE) on the legislative package on VAT in the digital age. The report on the proposal for a directive on VAT rules for the digital age was adopted with 570 votes in favor, 17 against and 52 abstentions.

As a reminder, the Parliament's opinion reports remain non-binding, and the Council is not obliged to take account of the Parliament's recommendations.

The MEPs propose that greater account be taken of Member States' experience of electronic invoicing. They also call for transaction-by-transaction digital reporting requirements to be based on the principle of proportionality.

MEPs consider it necessary to reverse the Commission's proposal concerning the mandatory switch to electronic invoicing for B2B transactions. They also propose that the ban on Member States' tax authorities pre-authorizing or verifying electronic invoices should apply from 2028, to allow Member States applying such systems to modify them. They also propose reversing the ban on recapitulative invoices, in recognition of the benefits they bring to businesses.

As regards the format of electronic invoices, MEPs call for companies, and in particular SMEs, to be able to opt for a format other than the European format for electronic invoices.

Finally, real-time reporting has been replaced by the obligation to issue an invoice eight days after the transaction.

#### **Next steps:**

***The Council has yet to adopt its position on the text. The Belgian presidency has made the adoption of this legislative package a priority for its presidency.***

## Sustainable Finance

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### **30 November 2023 - The European Banking Authority reiterates its commitment to the environment and climate change on the occasion of COP28**

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On 30 November 2023, the European Banking Authority (EBA) [issued](#) a statement recalling its commitment to "ESG" (environment, social, governance) on the occasion of COP 28.

In particular, the Authority underlines its efforts to integrate sustainability aspects into many areas of its mandate, including risk management, disclosure, supervisory practices, climate change stress testing and the first pillar framework.

EBA states its intention to continue strengthening the integration of sustainability aspects into all relevant parts of the regulatory framework, including advising the European Commission on the definition of possible support tools for green loans and mortgages and on how to effectively combat greenwashing in the financial sector.

It also recalls the key role that banks have to play as catalysts in the transition to sustainability. They can contribute by providing the financing needed to reach net-zero emissions targets, by helping their customers and counterparties to green their activities and assets, and by managing physical and transitional climate-related risks. While EU banks have begun to improve their practices to achieve better climate risk management, governance and transparency, EBA insists that much remains to be done.

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### **15 November 2023 - CSDD : Spanish Presidency makes a new compromise proposal**

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On 15 November 2023, the Spanish Presidency of the Council of the EU put forward a compromise proposal on the future CSDD directive.

In view of reaching to an agreement, the Spanish presidency has therefore drawn up a new compromise proposal with a more "balanced approach".

Thus, the Spanish Presidency proposes to exclude the financial sector from the scope of the directive and to postpone its potential inclusion to a later stage by adding a review clause, once a detailed impact study has been carried out.

As far as scope is concerned, the Spanish Presidency's revised compromise wishes to maintain the thresholds for categorizing companies in line with its original approach, and proposes the following elements to satisfy the MEPs who want as broad a scope as possible:

- 1) incorporating some of the anti-circumvention measures proposed by the Parliament, such as calculating thresholds at group level and including franchises.
- 2) adding new sectors considered at risk to Article 2(1) and Article 2(2)(b),
- 3) the addition of new provisions on "meaningful engagement with stakeholders" by adjusting the terms of the agreement in the new Article 8d proposed by the European Parliament.

Finally, the Spanish presidency proposes, with the aim of satisfying the demands of the EU Parliament, to strengthen the provisions relating to the obligation for companies to adopt a transition plan, by including an obligation of means, as well as linking the remuneration of managers to the effective implementation of the plan.

On 14 December 2023, legislators announced that they have reached a compromise on the text.

According to the Council [press release](#) it seems like they have agreed on :

- **Excluding the financial sector from the scope of the directive.** However, legislators agreed to propose a review clause aimed to include the financial sector in the future.
- Applying the directive to “large companies that have more than 500 employees and a net worldwide turnover of €150 million ; for non-EU companies it will apply if they have a €300 million net turnover generated in the EU, 3 years from the entry into force of the directive.”
- Establishing a 5-year period for stakeholders to bring claims.
- Establishing compliance with CSDD as a possible criterion for obtaining public contracts.

Several EU decision makers have reacted to the agreement :

- Justice Commissioner Didier REYNERS welcomed the agreement concluded by the Parliament and the Council ;
- The S&D Group, Rapporteur Lara WOLTERS (S&D, NL) and shadow rapporteur Rene REPASI (S&D, DE) welcomed the agreement but regretted that EU financial sector was not included in the scope.

**Next steps :**

***Both institutions are now expected to validate the provisional agreement. Parliament plans to adopt the agreement in the Legal Affairs Committee (JURI) and in 2024 plenary session. Afterwards, the Council should formally adopt the text, it will be published in the EU Official Journal and enter into force.***

## Other topics

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### 13 November 2023 - SMEs: Commission publishes new tool to help companies export their products

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On 13 November 2023, the European Commission [unveiled](#) a new tool to support European exporting companies entitled "Access2Conformity".

This tool will enable European exporters to obtain all details relating to export regulations, country by country, such as customs duties, taxes, procedures, formalities, rules of origin, export measures or trade barriers.

Access2Conformity has a tab [dedicated](#) to SMEs, offering them tools and services to facilitate the export of goods.

It should be noted that there is no reference to factoring among the various tools available to facilitate exports for SMEs. **Nor is there any reference to international factoring among the "solutions" open to SMEs.**



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