



## CIRCOLARE INFORMATIVA 03/24

Milano, 11 gennaio 2024

### OGGETTO: EUF Monthly Monitoring Report - Dicembre 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.

Il presente documento, riservato agli Associati e non divulgabile all'esterno, è disponibile, insieme alle edizioni precedenti, nell'Area Riservata del sito associativo: <https://areariservata.assifact.it> (EU Federation > Documenti riservati > EUF Monthly Monitoring Report).

Cordiali saluti

Il Segretario Generale  
Alessandro Carretta

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## Banking regulation

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### 14 December 2023 – EBA publishes its roadmap with regard to CRR/CRD implementation

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On 14 December 2023, the EBA [published](#) its roadmap regarding the implementation of the CRR/CRD package in parallel of several consultation.

EBA's roadmap aims to clarify how the Authority will develop the mandates needed to implement the legislation, and how it plans to finalize the most important elements before the implementation date of the new prudential rules set for 1 January 2025. EBA is expected to issue around 140 mandates in a wide range of technical areas within three years of the final adoption of the new provisions.

The banking package includes several new provisions concerning in particular the European prudential framework for credit institutions, with a number of mandates assigned to the EBA within this framework. The EBA's mandates will also cover the new rules requiring banks to systematically identify, disclose and manage environmental, social and governance (ESG) risks as part of their risk management. Finally, the EBA has a mandate to set up a Pillar 3 Data Center, which will provide users with direct and easy access to Pillar 3 information and reinforce market discipline.

Among the mandates relevant for EUF are :

- Publication under article 178(7) of CRR of **Guidelines as regards definition of default**, in particular for diminished financial obligation. The guidelines are expected to be published 12 months after CRR enters into force ;
- Publication under article 157(6) of CRR of RTS on the **calculation of the risk-weighted exposure amount for dilution risk of purchased receivables**. The RTS are expected to be published 36 months after CRR enters into force.

The EBA has also published a series of consultation for which the deadline for stakeholders to provide their feedback on the consultations is set to 14 March 2024:

- [Consultation regarding the amendments to the Pillar 3 disclosure and supervisory reporting frameworks in the context of the implementation of the Basel III reforms in the EU](#)
- [Consultation on Implementing Technical Standards amending Commission Implementing Regulation \(EU\) 2021/451 on supervisory reporting](#)
- [Consultation on Regulatory Technical Standards on profit and loss attribution requirements, risk factor modellability assessment, and the treatment of FX and commodity risk in the banking book](#)
- [Consultation on Regulatory Technical Standards on the standardised approach for counterparty credit risk](#)

The EBA has also open another consultation [on the centralisation of EEA banks Pillar 3 disclosures in the EBA Pillar 3 data hub](#), the consultation deadline is set to 29 March 2024.

**Next steps :**

**Eba will [organize](#) a public hearing on the Pillar 3 disclosures and Data Hub consultations on 23 January 2024.**

## Banking supervision

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### 12 December 2023 – EBA publishes its annual risk assessment of the banking system

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On 12 December 2023, the European Banking Authority [published](#) the results of its annual risk assessment of the European banking system.

The main conclusions of the annual risk assessment are as follows:

- The EU banking sector has shown resilience despite the banking turbulence of March 2023 and the current economic conditions and high inflation environment. EBA also points out that high interest rates have weighed on consumer and business confidence, affecting consumption and capital spending.
- Capitalization remains high, with the average CET1 ratio at its highest reported level (16%). Underlying profitability supported bank payouts.
- High interest rates have so far favored the widening of interest margins, but this phenomenon may have reached its inflection point.
- Asset quality remains solid, but moderate economic growth and high interest rates are creating pockets of risk.
- Liquidity remains high, but has begun to normalize from the highest levels of the pandemic.
- Market funding costs have risen in line with interest rates, while deposit rates have remained relatively low, but may rise in the future.

In addition, EBA also [presented](#) the results of the 2023 transparency exercise. The 2023 transparency exercise was carried out on a sample of 123 banks from 26 European Union (EU) and European Economic Area (EEA) countries.

## Taxation incl. VAT and Legal Affairs

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### Late payment

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#### 18 December 2023 – EU Observatory for payment publishes its first thematic report

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On 18 December 2023, the EU Observatory for payment [published](#) its first thematic report regarding Preventive Measures for Tackling Late Payments in B2B and G2B Transactions. The report presents Member States' initiatives aimed at tackling late payment.

Regarding payment terms the report put forward some positive conclusions as it clearly states it is not clear if *“applying stricter payment terms can influence payment behaviour”*. Quoting a 2018 EU Commission report the Observatory declares that *“the establishment of stricter or maximum payment terms does not necessarily translate into shorter payment duration”*.

The report also highlights that prior to adopt shorter payment terms countries such as Sweden or Denmark had already a robust payment culture. Thus, these measures *“had only minor effects on payment behaviour and late payment practice”*.

It has to be noted that factoring is only mentioned once in the report in the description of the preventive measures' typology as part of the invoice management measures (i.e p 10 *“Initiatives to improve cash flow such as e-invoicing or factoring”*). And the Invoice management section of the report (p24) only notes that *“overall, invoice management measures can contribute to prompt payment processes and better cash flow management”*.

The conclusions also mention that : *“other types of measures, such as financial mechanisms (incentives), **the restriction of access to public funding or invoice management have been taken rarely and only in selected countries**”* (p36).

The Observatory reports will most probably feed EU Commission technical advice to legislators and LPR negotiations and it would benefit factoring awareness if the EU Observatory supported factoring solutions.

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#### **18 December 2023 - LPR : BusinessEurope and Eurochambres call to promote factoring**

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On 18 December 2023, Agence Europe published an exclusive interview of Markus J. Beyrer, Director General of BusinessEurope, and Ben Butters Director General of Eurochambres, in which they presented their main concerns regarding the Late Payment Regulation (LPR).

In the interview Markus J. Beyrer and Ben Butters highlight that the LPR would delete freedom of contract in the EU and thus, would negatively impact EU SMEs and companies. They also detail that the current text does not take into account seasonal products and that in could, in the end, favorize companies based outside of the EU.

It is worth noting that they advocate in favor of keeping the 30-days payment term in the case of B2G transactions, as public entities are considered by BusinessEurope and Eurochambres to represent for the most part of late payments.

**But most importantly, they explicitly quote factoring as a mean to reinforce the current regulatory framework, and advocate in favor of promoting it.**

Having Business Europe and Eurochambres, two major EU stakeholders, vocally supporting factoring is a key victory of EUF lobbying strategy and it will help increasing factoring awareness .

## Sustainable Finance

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### 22 December 2023 – European Sustainability Reporting Standards (ESRS) published in the OJEU

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On 22 December 2023, the delegated act containing the European Sustainability Reporting Standards (ESRS) [required](#) to implement the Corporate Sustainability Reporting Directive (CSRD) was published in the Official Journal of the European Union. As proposed by EFRA, the European Sustainability Reporting Standards are structured around 12 general themes.

In accordance with the CSRD directive, sustainability reporting standards will come into force on January 1, 2024, with the first reports to be published in 2025.

The adoption and application of sector-specific reporting standards has been postponed by two years, following a decision by the European Commission.

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### 21 December 2023 - The Commission publishes a draft information document on the application of certain provisions of the Taxonomy Regulation

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On 21 December 2023, the European Commission [published](#) a draft information document aimed at clarifying the interpretation of certain provisions relating to the Taxonomy regulation and its delegated acts.

In view of the lack of certain data or publication obligations, the Commission is proposing a notice designed to explain to financial institutions how to adapt their performance indicators. In fact, the Commission recognizes that, for the time being, there are no publication obligations regarding the alignment of funded activities with the Taxonomy.

The document contains 71 questions and covers a wide range of topics, including

- Scope of covered entities
- Scope of the consolidation of disclosures
- Taxonomy-assessment of exposures to individual undertakings
- Taxonomy-assessment of groups
- Taxonomy-assessment of specific exposures
- Verification/assurance/evidence of compliance with the Technical Screening Criteria (TSC)
- Compliance with minimum safeguards
- Questions related to specific financial undertakings

In particular, the document provides tailored answers for each type of financial institution (banking, insurance and asset management), taking into account their specific characteristics.

**Next steps:**

***The document will not be formally adopted by the European Commission until it has been published in all EU languages.***

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#### 14 December 2023 – CSDD : colegislators reach to an agreement

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On 14 December 2023, colegislators reached to an agreement regarding the Corporate Sustainability Due Diligence directive (CSDD).

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

- **Excluding the financial sector with the regard the definition of the value chain.** However, colegislators agreed to propose a review clause aimed to examine the possibility to include the financial sector in the scope of the value chain definition. According to the writing of the text it seems like providing financing/receiving financing would not be included in the scope of the value chain and thus, **regulated financial undertakings would not have to report on the clients receiving “loan, credit, and other financial services”.**
- 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.

Once technical discussions are finalized, 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.

Several EU decision makers have reacted to the agreement :

- Justice Commissioner Didier REYNDEERS 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.

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#### 4 December 2023 – ESAs publish a joint report on amending SFDR RTS

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On 4 December 2023, the three European Supervisory Authorities [published](#) a joint report proposing amendments to the regulatory technical standards (RTS) relating to sustainability disclosure regulations in the financial services sector.

The European Supervisory Authorities propose several significant amendments, including :

1. the addition of new social indicators and the streamlining of the framework for disclosure of the principal adverse effects (PAI) of investment decisions on the environment and society.
2. publication of new product data on "greenhouse gas emission reduction" targets.

Other technical amendments to the SFDR delegated regulation are also proposed:

- Improved disclosure of how sustainable investments "do not cause significant harm" (DNSH) to the environment and society;
- Simplification of pre-contractual and periodic disclosure models for financial products;
- Technical adjustments concerning, among other things, the treatment of derivatives, the calculation of sustainable investments and provisions relating to financial products with underlying investment options.

The European Supervisory Authorities' report is based in part on contributions from Member States' national authorities on the implementation of the SFDR regulation.

**Next steps:**

***The European Commission will study the draft RTS presented by the ESAs and decide whether or not to approve them within three months of their publication.***

***These draft RTS would be applied independently of the full evaluation of the SFDR regulation announced by the European Commission in September 2023, and before any changes resulting from this evaluation are introduced.***

## Other topics

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### 8 December 2023 – ECMI calls to hit the “brakes” on EU legislation on financial sector

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On 8 December 2023, Karel LANNOO, Managing Director of the European Capital Markets Institute (ECMI), a think-tank specialized in financial issues, [published](#) an article calling for a brake on European financial legislation.

Karel LANNOO highlights the European Commission's track record in financial regulation: under the von der LEYEN Commission, the Union has adopted a significant number of texts, notably in the prudential field and in the area of sustainable finance.

In his article, the economist points to the growing role of level 2 and 3 legislation, which he estimates could bring the total body of legislation for the Markets in Financial Instruments Directive (MiFID II) alone to over 300 implementing measures and almost 30,000 pages.

However, as Karel LANNOO points out, despite the acceleration of financial market legislation, the integration of European capital markets has slowed or even diminished. Similarly, the increase in administrative obligations is threatening banks' profitability.

As a result, he calls for a reduction in the rate of adoption of new rules, and a focus instead on improving and finalizing existing regulatory frameworks. In the same perspective, Karel LANNOO advocates in favor of a reduction and simplification of European rules. He concludes by asserting that the change of Commission could thus be the occasion to proceed to a paradigm shift in this area.

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### December 2023 – The Belgian Presidency presents its priorities and work program

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On 7 December 2023, the Belgian Presidency of the Council [published](#) its work program and priorities for January 2024, on 22 December it also [published](#) the agenda for the different Council meeting. The Belgian Presidency of the Council will run from 1 January 2024 to 30 June 2024.

The Belgian Presidency has established 6 "strategic priorities" for its term of office:

- Defending the rule of law, democracy and the unity of the Union;
- Strengthening competitiveness;
- Pursue the green and fair transition to a low-carbon economy;



- Strengthen the European Union's health and social agenda;
- Protecting people and borders;
- Promoting a global Europe.

In the area of financial services, the Belgian Presidency is placing particular emphasis on the following priorities and initiatives:

- **Capital markets:**
  - Finalize ongoing inter-institutional negotiations to strengthen the Banking Union and the Capital Markets Union (CMU);
  - With regard to the Retail Investment Strategy (RIS) and the Listing Act, the Presidency will seek to adopt an approach that maintains a high level of consumer protection while supporting the financing of the real economy and access to capital for SMEs.
  - Improve the attractiveness of European clearing services without jeopardizing financial stability;
  - Strengthen financial education and citizen participation in capital markets, making these objectives the next priorities of the CMU;
  - Complete the review of the crisis management and deposit guarantee framework (CMDI) to strengthen the resilience of the European Union;
  - Support the European Commission's efforts to reduce companies' administrative and reporting obligations by 25%, and to ensure the applicability of the regulatory framework for sustainable finance;
  - Finalize work on the ESG ratings regulation.
- **Taxation:**
  - Adopt the proposal on VAT in the digital age (ViDA), **the Presidency plans to adopt a compromise on 14 May 2024.**
  - Prioritize the fight against fraud and aggressive tax optimization;
  - Reduce compliance costs for cross-border investors by harmonizing dividend withholding tax rules (FASTER);
  - Explore the benefits of introducing more harmonized tax rules;
  - Support the annual report on access to finance for businesses (SAFE);
- **Competitiveness:**
  - The Belgian Presidency will work on the revision of the Late Payment Directive (LPD), it does not seem like the Presidency plans to adopt a compromise on the text under Belgian Presidency (at the moment).
  - Evaluate the implementation of the European strategy for SMEs;
  - Ensure progress is made on the revision of the Alternative Dispute Resolution (ADR) Directive.
- **Numérique :**
  - Finalize technical negotiations on the Artificial Intelligence Act (AI Act).

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#### December 2023 – Finance Watch presents its proposal of financial regulation reforms

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In December 2023, Finance Watch [presented](#) its proposals for comprehensive financial reform ahead of the 2024 elections.

Finance Watch's program is structured in six parts:

- **Reset the regulations that are supposed to protect the EU from failing institutions and future financial crises:** this part highlights what is needed to put an end to financial crises

- **Resetting the role of finance, ending "extractive" practices and enabling a sustainable future:** this part sets out the need for extractive policy reforms in relation to sustainable finance in order to curb the financialization of the economy and enable the transition to a sustainable and just economy.
- **Reset financial practices that exclude or harm consumers, and ensure their full and equal participation and protection in the retail financial services market.** Finance watch stresses that reforms in the field of retail finance and financial inclusion are necessary to guarantee safe financial practices.
- **Update the rules in the digital field, focusing on data protection and privacy, financial stability and consumer interests.** In this section, the NGO highlights the need for digital finance policy reforms to ensure the protection of data, privacy, financial stability and consumer interests.
- **Reset the rules on public finance and unlock investment in our future.**
- **Rethink the role of lobbying in the legislative process to rebalance interest representation in supervision and regulation.** In this final section, Finance watch argues that the system needs to be reformed to ensure that the public interest is properly represented in supervision and regulation.