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Banking regulation

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25 October 2024 - Elizabeth McCAUL outlines her vision for regulatory change in prudential regulation

On 25 October 2024, Elizabeth McCAUL, member of the Supervisory Board of the European Central Bank (ECB), [presented](#) her vision of the evolution of European banking regulation at the conference entitled “EU banking regulation at a turning point”.

The ECB Supervisory Board member emphasized that the general discourse had shifted from financial stability to strengthening European competitiveness. Nevertheless, she stressed that financial stability and competitiveness had to be addressed together. She therefore called for the Banking Union to be finalized, but also for the Capital Markets Union to be strengthened. Similarly, new risks such as those posed by non-bank financial intermediaries (NBFIs) must be addressed to ensure the resilience of the European financial system.

As calls to strengthen the competitiveness of financial markets increase, Elizabeth McCAUL warns against the risk of weakening the robust regulatory framework applying to banks. In her view, reducing prudential rules would not be accompanied by stronger growth for players in the sector. She also points out that a number of studies suggest that the short-term costs of implementing Basel III will be outweighed in the long term by the benefits in terms of financial stability.

She also dismissed the idea that American banks are less affected by prudential regulations than European banks.

While she acknowledged that the European banking sector remains resilient in the face of risk, the absence of a European Deposit Insurance Scheme (EDIS) remains a key point to be finalized in order to ensure that Europeans are protected regardless of member state. She called on the co-legislators to make progress on the proposal for a crisis management and deposit guarantee framework (CMDI).

According to Ms McCAUL, the absence of a true Banking Union is at the root of the fragmentation of banking markets and an obstacle to the consolidation of banking institutions at European level. Indeed, she points out that the impossibility for transnational groups to optimize their liquidity and capital at group level, rather than at the level of individual entities, limits the interest in expanding into other member states.

To enable banks to benefit from a truly integrated market, Elizabeth McCAUL also calls for progress to be made on the Capital Markets Union. She therefore calls for the harmonization of certain aspects of member states' laws to facilitate cross-border lending, and for a review of the securitization framework to unlock capital for the real economy.

Finally, it warns of the risks posed by NBFIs, and calls for information sharing to be facilitated between supervisors to ensure that risks are properly assessed.

Banking Union

14 October 2024 - ECON Commission commissions study on consolidation of the European banking sector

On 14 October 2024, the study [commissioned](#) by the European Parliament's Committee on Economic and Monetary Affairs (ECON) on the consolidation of the European banking sector was made public.

The study points out that the historical construction of the European banking prudential framework continues to allow national supervisors to impose individual (“solo”) prudential requirements for branches of banks. This “ring-fencing” system has meant that banking groups are unable to allocate their capital and liquidity freely at European level, reducing the attractiveness of operating in several member states. This, in turn, has limited the scope for banks to consolidate at European level by acquiring other institutions. The Banking Union has therefore not really led to the emergence of a truly integrated banking system.

Furthermore, the study notes that, despite the accepted view that the third banking pillar remains incomplete, it is in fact, in a more holistic sense, the entire crisis management and resolution framework that remains incomplete. It would seem that centralizing crisis management and resolution rules at European level alone, and revising the rules governing the regulatory treatment of sovereign exposures, would be more effective than simply implementing the 3rd pillar.

With regard to banks' exposure to their home country, the study underlines that, despite the possibility of exposure to all eurozone member states, the majority of banks remain exposed to their home country. The reasons for this exacerbated exposure can be explained in various ways, including informal pressure from home member states to obtain financing.

But this bias can also vary between banks, as the graph below shows:

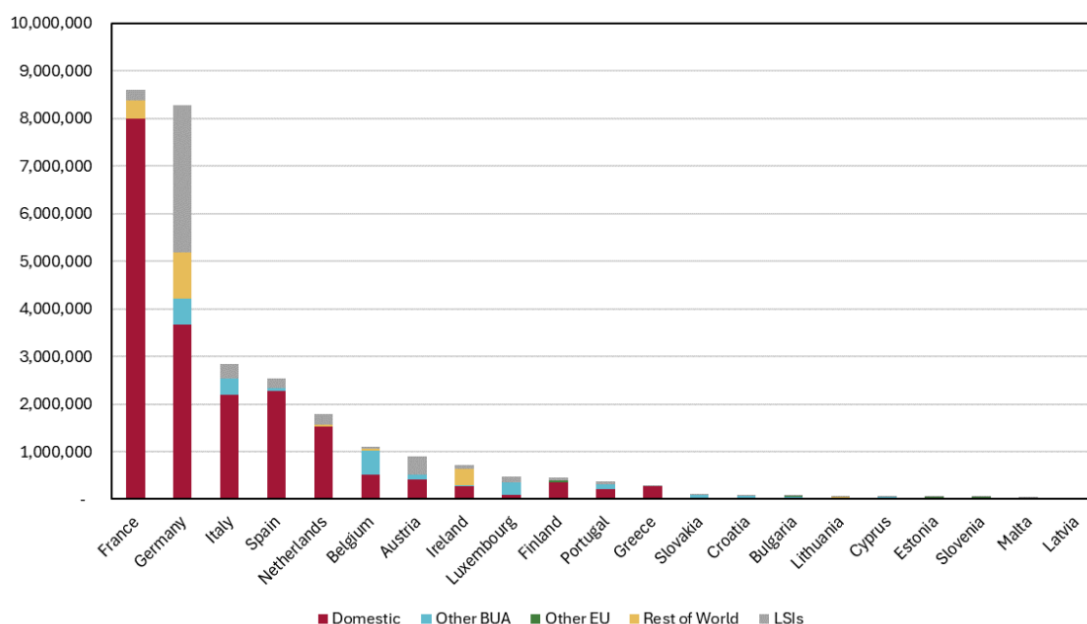
Figure 3: Home bias of euro-area-based G-SIBs



Source: EBA, Bruegel calculations.

Even so, at European level, banks remain largely exposed to their domestic markets (see chart below).

Figure 21: Total banking assets in each BUA country, by home category (€m)



The second reason limiting consolidation in the banking sector is the much lower capitalization of European credit institutions compared with American banks.

The study identifies several solutions for consolidating the European banking market:

- Facilitating the use of branches rather than separate divisions for banks operating in several Member states;
- Elimination of “ring-fencing” measures, which impose prudential requirements at the level of individual entities;
- Mandatory publication of banks' assets on a country-by-country basis would greatly contribute to public understanding of the links between banks and sovereign states.

1st October 2024 - Publication of a study commissioned by the ECON Commission on the Banking Union and the consolidation of European capital markets

On 1 October 2024, the study commissioned by the European Parliament's Committee on Economic and Monetary Affairs (ECON) on the role of the Banking Union in market integration and the lessons to be learned for the Capital Markets Union was [published](#).

The study analyzes the contribution of single supervision and resolution to market integration in the eurozone. The study considers that the main indicators of financial integration have made little progress since the launch of the first Banking Union measures in 2014, and that financial integration currently remains highly disparate across member states.

For example, cross-border lending to businesses and individuals remains very low. Despite this, there are a number of positive points to consider:

- the introduction of a single supervisory authority and a single set of rules has contributed to the application of uniform rules throughout the euro zone, and the more homogeneous implementation of local regulations. This has helped to level the playing field and improve transparency and comparability.
- capitalization and risk management practices have also improved, as evidenced by the increase in risk-based capital ratios and the reduction in non-performing loans (NPLs). More transparent bank balance sheets
- More transparent and healthier bank balance sheets are better able to attract investors and reassure savers. As a result, a large proportion of the unsecured debt issued by EU banks is now held outside the banking sector and even outside Europe, contributing to a better spread of risk.

According to the authors of the study, the main reasons for the failure of the Banking Union are as follows:

- Obstacles to cross-border capital and liquidity mobility within banking groups remain high. This is mainly due to the attitude of local supervisors, who tend to protect their national champions, and to the authorization of capital derogations within a single country, but not across borders.
- National authorities regularly engage in “ring fencing”, leading to inefficiencies in resource allocation and higher costs for Europe-wide consolidation of groups established in several member states.
- The EU resolution framework remains too rigid, limiting its effective application and leading to divergent national practices.
- The absence of a European Deposit Insurance Scheme (EDIS).
- The fragmentation of national legislation on taxation, competition, credit and consumer protection limits the possibility of sustainable integration of banking markets.

According to the study, the experience of the Banking Union should make it possible to remove the various obstacles to the Union of capital markets, in particular by facilitating the consolidation of players at European level, by establishing a single European supervision and by harmonizing a certain number of national legislations.

Finally, the study stresses the need to create a European risk-free asset.

Securitization

9 October 2024 – EU Commission launches a consultation regarding the review of the Securitization framework

On 9 October 2024, the European Commission [launched](#) a consultation to gather stakeholders' views on the functioning of the European securitization market. The consultation is [open](#) until 4 December 2024.

As a reminder, the three NOYER, DRAGHI and LETTA reports called for a revival of the European securitization framework, and the President of the European Commission pledged in her policy statement to make this issue a priority of her mandate. This mobilization is therefore a European political priority supported primarily by France, Germany and the Eurogroup, in order to revitalize securitization and free up capital for financing the economy.

Thus, the European Commission has decided to open a consultation in order to start preparing future and potential securitization initiatives.

The consultation document seeks the views of stakeholders on a number of topics, including:

- **The effectiveness of the regulatory framework for securitization:** in this section, the Commission is seeking views in particular on the functioning of the securitization market and its effectiveness for SMEs. Based on the observation that “exposures to SMEs, in the form of direct loans, trade

receivables, auto loans/leases, mortgages or other trade credits, are asset classes that can easily lend themselves to securitization, stakeholders are asked to detail the **obstacles that institutions may face when securitizing SME-related assets**.

- **The scope of the securitization regulation:** in this section, the consultation aims to assess the need to specify the conditions of application of the regulation to entities located in third countries, as well as certain definitions such as the definition of a securitized transaction. Similarly, the consultation seeks stakeholders' views on the sponsorship role of alternative investment funds in securitized transactions.
- **Due diligence requirements:** noting that due diligence costs can sometimes be disproportionately high, the Commission invites the industry to share its data on due diligence costs, and to provide feedback on how to improve these obligations.
- **Transparency requirements and definition of public securitization:** the Commission proposes two ways of amending the current framework
 - 1/ broaden the definition of public securitizations to include more transactions in this category, thereby improving market transparency while significantly reducing reporting on private securitizations, or
 - 2/ remove the public/private securitization distinction and abolish harmonized reporting templates.
- **Supervision:** the Commission wishes to harmonize and simplify the supervision of securitizations in order to reduce costs and reinforce the legal certainty of these transactions through European supervision based on the model of the Single Supervisory Mechanism's securitization “supervision hub”.
- **The “STS” standard:** Noting that certain criteria of the STS standard are too burdensome (in particular *“homogeneity of underlying assets, collateral requirement for on-balance sheet securitizations, prohibition on including exposures to credit-impaired obligors, disclosures prior to pricing and/or closing”*), the Commission wishes to review some of these criteria in order to make the STS standard more attractive.
- **Securitization platform:** on the basis of the NOYER report, the Commission is seeking the industry's opinion on the establishment of a common securitization platform and the **creation of a European risk-free asset**.
- **Prudential and liquidity treatment of securitization for banks:** going back to the requirements set out in the CRR (i.e. *“a risk weighting floor of 15% for non-STS securitization positions and 10% for STS securitization positions”*), the Commission considers these to be far too high and unjustified, and proposes reducing them to 12% and 7% respectively. On the other hand, with regard to the “p factor”, the Commission proposes to consider a limited reduction in prudential requirements. With regard to “Significant risk transfer (SRT)”, the Commission proposes replacing the existing mechanical tests with a single test using a principle-based approach (PBA), which would make the SRT framework less complex and more flexible.
- **Prudential treatment of securitization for insurers:** in this section, insurance companies and occupational pension institutions are invited to share their proposals for facilitating investment in securitization vehicles.

- **Contribution to the objectives of the Capital Markets Union:** the Commission wishes to identify which segments of the securitization market have the greatest potential to contribute to the objectives of the CMU, and which should be the subject of a possible regulatory review. In particular, the Commission cites several segments:
 - ABCP securitization
 - Securitization of SME and corporate exposures
 - Securitization of mortgage loans

Next steps:

Stakeholders have until December 4 to [respond](#) to the consultation.

Supervision

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Banking Supervision

28 October 2024 - ECB responds to Eero HEINALUOMA on banks' prudential requirements

On 28 October 2024, the European Central Bank (ECB), through the voice of Claudia BUCH, Chairman of the Supervisory Board, [sent](#) a reply to MEP Eero HEINALUOMA (S&D, FI) concerning banking prudential requirements.

The ECB's response is structured in three points:

- **Prudential requirements for banks:** Claudia BUCH states that, according to her data, the prudential ratios of European banks are not significantly different from those in other economies. Thus, she indicates that the average CET1 capital requirement for large systemic institutions was 10.2% of risk-weighted assets for European institutions and 11% for US institutions in 2024. Furthermore, she points out that in the US, prudential requirements are adapted to the size of institutions, and that on average, US banks have higher prudential requirements. Once the banking package comes fully into force from January 2025, requirements for European banks are likely to increase by 8.6%, and by 9% for US banks.
- **Competitiveness of the banking sector:** the President states that monitoring the financial health and profitability of European banks is part of the ECB's mandate.
- **Prudential requirements and economic growth:** Claudia BUCH considers that the resilience of banks is key to enabling them to finance the economy without taking excessive risks. In her view, the transitional costs of implementing Basel III are outweighed by the long-term benefits of a more resilient banking system. She even goes so far as to assert that the Basel III reforms enhance the attractiveness of banks to investors by ensuring confidence in the system.

23 October 2024 - EBA publishes first draft of technical measures for revised reporting framework

On October 23, 2024, the European Banking Authority (EBA) [published](#) the first technical measures relating to the implementation of the new 4.0 reporting system.

This package of measures aims to provide an overview of the reporting obligations that will apply from the first half of 2025. The final measures are expected to be published in December 2024, and should ease the transition to the new Data Point Model (DPM) semantic glossary and DPM 2.0 model capabilities.

This draft technical measures package provides specifications for validation rules, DPM and XBRL taxonomies to support the following reporting obligations:

- Information reporting by issuers of asset referenced tokens (ART) and electronic money tokens (EMT).
- The new technical implementation standards (ITS) modifying the prudential reporting framework (COREP models) adopted as part of the revision of the CRR/CRD banking package.
- Minor modifications to the reporting obligations of class 2 investment firms (COREP models), in line with the CRR3/CRDVI changes.
- This draft technical package includes a version of the content of the data dictionary in both formats, DPM 1.0 and the new DPM 2.0 format.

4 October 2024 - EBA assesses the impact of full implementation of the banking prudential package on banks' own funds

On 4 October 2024, the European Banking Authority (EBA) [published](#) its 3rd report assessing the impact of applying the Basel III prudential framework to the date of its full implementation.

Under the revised Capital Requirements Regulation and Directive (CRR/CRD), EBA is required to publish a report assessing the capital impact on banks. For the first time, following the adoption of the revised banking package implementing the Basel III Accords in 2024, the EBA report presents an assessment of the impact of prudential regulation for European banks once the package comes into force.

According to the EBA report, the implementation of new prudential requirements such as the output floor should oblige banks to increase their Tier 1 capital by 800 million. According to EBA, minimum Tier 1 capital requirements should increase by an average of 7.8% for banks. Larger banks, however, are likely to be harder hit (8.6%).

In conclusion, EBA believes that the data tend to prove that the impact of Basel III on banks' financing capacity will remain minimal, given the small amounts that banking institutions will need to raise by the end of the application period.

4 October 2024 - EBA publishes its report on credit insurance as a credit risk mitigation technique

On 4 October 2024, the European Banking Authority has [published](#) a report on credit insurance as a credit risk mitigation (CRM) technique in relation to the fact that its use is limited by the low-default portfolio modeling restrictions imposed by the final Basel III framework. This report responds to the European Commission's mandate to the EBA under the CRR3 regulation, which requires a report on the eligibility and use of the credit insurance policy as a CRM technique.

1. The report recalls the relevant features of the regulatory framework regarding the recognition of Unfunded Credit Protection (“UFCP”) and the main changes introduced by CRR3 that impact the treatment of credit insurance.

- CRR3 has three main impacts on credit insurance:
 - The risk weighting floor for recognition of PDUs: CRR3 imposes restrictions on these methods, notably by removing the possibility for credit insurers to use internal estimates of LGD (loss given default) parameters.
 - Removal of the possibility of modeling LGD (“Loss Given Default”) risk parameters for direct exposures to credit insurers.
 - Calibration of the LGD risk parameter as part of the F-IRB (Foundation Internal Ratings-Based) approach.
 - Only the 45% calibration under the F-IRB approach is now authorized, which increases the risk weights for banks compared with the possibility offered under Basel II.

2. The report also discusses the “risk weight floor” imposed on UFCP recognition, which prevents the risk weight of a collateralized exposure from being lower than a comparable direct exposure to the collateral provider.

- Concerning a possible derogation from the application of the risk weighting floor, EBA maintains that derogating from this principle is not justified, as it would create inequality if it were partially lifted for certain guarantors, or eliminate a key component of the CRM (Credit Risk Mitigation) framework if it were removed altogether, with the associated risks of undercapitalization and weakening of the prudential framework's resilience.
- On the removal of the ability to model LGD risk parameters for direct exposures to credit insurers, industry data reveals a lack of empirical evidence to model risks, with no observed credit insurer defaults. Thus, LGD estimates will require a great deal of subjectivity, leading to a high risk of variation.

3. Finally, the report addresses the issue of removing the possibility of modeling the LGD risk parameter for direct credit insurance exposures, and discusses the regulatory calibration of LGD under the F-IRB approach.

- The dual recourse feature of credit insurance contracts means that an institution can turn to both the borrower and the credit insurer in the event of default. This feature is not unique to credit insurers, but generally applies to CRM-eligible collateral, including covered bonds. EBA explains that covered bonds benefit from preferential treatment due to their dual recourse and other factors, such as the quality of the associated physical collateral, which are not characteristic of credit insurance contracts.

In its report, EBA concludes that the empirical data available are not sufficient to justify a derogation from international conventions, i.e. Basel III, for credit insurers.

2 October 2024 - EBA publishes its work program for 2025

On 2 October 2024, the European Banking Authority (EBA) [published](#) its work program for the year 2025.

In this document, EBA presents its strategic priorities for the period 2025-2027:

- Finalize and implement an efficient and proportionate single ledger.
- Foster financial stability in an economy in transition to sustainability.
- Implement an integrated reporting system to improve valuation and transparency.
- Implement supervision of the Digital Operational Resilience of the Financial Sector (DORA) regulation and the Crypto-Asset Markets (MiCAR) regulation.
- Focus on innovation for the benefit of consumers and ensure a smooth transition to the new anti-money laundering and combating the financing of terrorism framework.

The EBA plans to launch a “follow-up peer review” in 2026 for the Definition of default.

These key priorities will guide the authority's work and timetable for 2025:

- Implementation of the EU banking package and strengthening of the Single Rulebook
 - EBA says it will be working to implement Basel III, with over 140 mandates assigned to it. Many will be published in 2025, with an implementation plan set out in the EBA roadmap.
 - EBA will examine the prudential treatment of ESG (Environment, Social, Governance) criteria within the framework of mandates given by the European Commission.
 - It will also respond to two requests for advice from the Commission concerning the role of non-EU institutions and insolvency benchmarking.
 - EBA will continue to develop the crisis management and deposit insurance (CMDI) framework, enabling the orderly resolution of troubled banks. It plans to issue standards on provisions and report to the Commission on the harmonized implementation of the framework.
- Strengthening risk-based, forward-looking financial stability for a sustainable economy : financial and ESG risk monitoring will be guided by the 2023 stress test, and complemented by a climate analysis for 2024. A regular climate stress test and guidelines for institutions will also be developed.
- Improve data infrastructure and launch data portal
 - As part of the EU Supervisory Data Strategy, EBA will implement its own data strategy to improve the acquisition, compilation and dissemination of regulatory data, while strengthening its analytical capabilities. EBA will continue to use its EUCLID platform to facilitate data flows and provide stakeholders with access to high-quality data. The aim is to facilitate the management and dissemination of critical data, as well as to establish the Pillar 3 data hub required by legislation.
 - EBA will finalize the implementation and transition to the enhanced data point model and methodology (the DPM 2.0 standard) to ensure that EBA's data dictionary is fit for future reporting and digital processing challenges.
- Start of control and monitoring activities for DORA and MiCAR
 - In 2025, the supervisory authorities (ESAs) will define the scope of third-party ICT service providers (TTPs) to be monitored under DORA, designating critical TTPs. EBA will prepare to begin its supervisory activities as lead supervisor of these critical TTPs.

ESA supervision

9 October 2024 - The ESA Joint Committee publishes its work program for 2025

On 9 October 2024, the Joint Committee of the European Supervisory Authorities - ESA (EIOPA, EBA, ESMA) - [shared](#) its work program for the year 2025.

In this program, the committee highlights the monitoring of emerging cross-sectoral risks and vulnerabilities to financial stability, as well as growing geopolitical tensions.

The committee will also focus on consumer and investor protection, retail financial services and investment products, as well as microprudential analysis of cross-sectoral developments. It will look at digital operational resilience, financial conglomerates, and accounting and auditing standards.

The ESAs say they will continue to contribute in 2025 to the implementation of the Sustainable Finance Strategy, developing technical standards on the Sustainability Reporting Regulation (SFDR) and ESG ratings.

The committee will also step up its efforts on the European Commission's digital finance package, setting up the framework for monitoring critical third-party suppliers for information and communication technologies (ICT), and will launch new monitoring activities under the Digital Operational Resilience Regulation (DORA), developing the necessary infrastructure and coordinating cyber incident management.

- DORA : with a view to the DORA regulation coming into force in mid-January 2025, the committee will continue to focus on the implementation of the DORA regulation, in particular with the new supervisory framework.
- Sustainable finance
 - In 2025, the ESAs will publish their fourth annual report on the publication of information on the main negative impacts (PAI) under the Sustainability Disclosure Regulation (SFDR). The ESAs will also monitor the practical application of the SFDR and its delegated regulation, which will identify whether additional guidance, such as Q&A, is needed.
 - The ESAs may be asked by the European Commission to contribute to the revision of the SFDR regulation. They will also have to develop guidelines by 2026, in conjunction with CRD6 and Solvency II, to harmonize ESG risk stress tests in the European financial sector.
- Financial education : the ESAs will continue their efforts to coordinate financial education with national authorities and financial institutions, in particular by organizing workshops. They will focus on key topics such as artificial intelligence, cybersecurity and sustainable finance.
- Securitization
 - The Joint Committee on Securitization (JCSC) will publish its second report on the functioning of the regulatory framework for securitization. Consequently, in 2025, the JCSC will launch follow-up work on this report.
 - The JCSC will be ready to contribute to any legislative proposals on the revision of the regulatory framework in this area.
- Financial conglomerates :the ESAs will ensure consistency in their work and the adoption of common positions for the supervision of financial conglomerates under the Financial Conglomerates Directive. They will participate in the European Commission's review of this directive, and will update the list of identified conglomerates on an annual basis. In addition, they will set up reporting models for intra-group transactions and risk concentration.
- Credit Rating Agencies
 - ESAs will monitor the correspondence between credit assessments issued by credit bureaus and the credit quality steps defined in the Capital Requirements Regulation (CRR).

Legal issues

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LPR

October 2024 - LPR : the Parliament appoints new rapporteurs

According to some sources in the Parliament, the rapporteur and shadow rapporteurs have been appointed :

- Renew Rapporteur Ivar IJABS (Renew, Latvia)
- EPP shadow rapporteur Regina DOHERTY (EPP, Ireland)
- Tsvetelina PENKOVA (S&D, Bulgaria) should be the shadow rapporteur for S&D.

The former Renew rapporteur (Roza THUN) as well as the EPP shadow rapporteur (Antonius MANDERS) and Green shadow rapporteur (Claude GRUFFAT) do not seat in the Parliament anymore, as such the groups had to appoint new rapporteurs.

Sources in the Parliament also confirmed that internally, despite having voted in favor of the text, the EPP is not very supportive of the Parliament's position. In addition, some national delegations of the EPP such as the German one, remain strongly (and vocally) opposed to the text.

Accounting

24 October 2024 - ESMA statement on audit and supervision work on annual financial reports for 2024.

The European Securities and Markets Authority, ESMA, [shared](#) a statement on 24 October 2024, regarding common European enforcement priorities for 2024 in the area of corporate reporting.

1. Concerning IFRS financial statements

▪ Liquidity considerations

- ESMA stresses the importance of issuers monitoring their liquidity-related disclosure requirements, in particular the new disclosure requirements for supplier financing arrangements (SFAs) on the amounts of financial liabilities related to SFAs, with a distinction for those already settled by suppliers, as well as the maturity dates of financial liabilities affected by SFAs and comparable trade liabilities that are not.
- Covenants, for which IAS1 requires companies to disclose the risk of prepayment of non-current liabilities linked to covenants, as well as to reclassify these liabilities as current in the event of non-compliance with the conditions.
- ESMA calls for transparency concerning issuers' accounting policies and assessments of the classification of cash flows and components of cash equivalents. The European Securities and Markets Authority reiterates that cash flows should be presented on a gross basis, and that non-cash transactions should not be included in the cash flow statement, but elsewhere in the financial statements.

▪ **Significant accounting policies, judgments and estimates**

- ESMA stresses that information on accounting methods and judgments should be specific to each entity and consistent with the financial statements, avoiding overly generic repetition of IFRS requirements. Issuers must specify the judgments that have a significant impact and the sources of estimation uncertainty likely to modify the value of assets and liabilities, taking into account significant economic or technological developments.

2. Concerning sustainability statements

▪ **ESRS standards**

- ESMA stresses the importance of dual materiality assessments in sustainability statements and recommends following EFRAG's implementation guidance on materiality assessment.
- Emphasis is placed on transparency in the description of the assessment process, including relevant stakeholders and geographical areas, in line with ESRS standards and in connection with the rules of the Corporate Sustainability Duty of Care Directive.
- All ESRS 2 disclosure elements are mandatory, even if certain topics are deemed “non-material”. Companies must also provide a detailed explanation if they deem climate change to be non-material, and create a content index to facilitate navigation through their sustainability statements.

▪ **Scope and structure of the sustainability statement**

- ESMA stresses that the sustainability statement must be drawn up for the same reporting entity as the financial statements, in accordance with ESRS 1, as well as respecting the structure of the statement defined in ESRS 1. The sustainability statement must also include information on the impacts, risks and opportunities associated with the company's value chain.
- For the first three years, ESRS 1 provides for transitional measures to obtain this information, requiring explanations if certain information is not immediately available.
- Finally, the declaration must facilitate access to and understanding of the information, including through references to the financial statements when data is present in both documents.

Digital issues

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17 October 2024 - NIS 2: The European Commission adopts an implementing act enabling the introduction of new rules on cybersecurity

On 17 October 2024, the European Commission [adopted](#) an implementing act enabling the introduction of new rules for the cybersecurity of critical entities and networks, within the framework of the revised Network and Information Security Directive (NIS2).

As a reminder, the [revised](#) Network and Information Security Directive (NIS2) aims to strengthen cybersecurity within the European Union. It was adopted on 14 December 2022 and aims to improve resilience and response capabilities to cybersecurity incidents in the EU, harmonize requirements between member states and increase information sharing on cyber threats.

The new rules adopted by the implementing act specify cybersecurity risk management measures and define the criteria for an incident to be considered significant, thus requiring reporting to national authorities by digital service companies. These rules will apply to specific categories of companies providing digital services, such as cloud computing service providers, data center service providers, online marketplaces, online search engines and social networking platforms.

For each category of service provider, the implementing act specifies when an incident is considered significant, to whom it must be reported and within what timeframe. For example, an incident is considered significant if it causes direct financial losses in excess of €500,000, or if it results in the exfiltration of trade secrets.

These rules will come into force at the same time as the deadline for transposing the NIS2 directive into national law, which is set for 18 October 2024.

15 October 2024 - DORA: the ESAs alert the Commission to the feasibility of its requests for ITS information directories

On 15 October 2024, the Joint Committee of the European Supervisory Authorities (ESA) [published](#) an opinion on the European Commission's [rejection](#) of the draft implementing technical standards (ITS) on information repositories provided for in the Digital Operational Resilience Act (DORA) [regulation](#) for the financial sector that they had submitted.

The draft ITS was rejected by the Commission on the grounds that it is necessary to allow financial entities to choose to identify their EU-registered third-party ICT service providers using either the Legal Entity Identifier (LEI) or the European Unique Identifier (EUID).

The ESAs believe that adding an additional identifier (the EUID) would introduce unnecessary complexity and could have a negative impact on the implementation of DORA: its introduction would require unforeseen efforts and thus limit access and verification of information by financial entities and competent authorities. The cohabitation of two identifiers could increase administrative burdens and compromise data quality, delaying the designation of critical third-party ICT service providers (CTPPs) by ESAs.

Should the Commission decide to introduce the EUID despite these concerns, the ESAs request further adjustments to enable correct identification of third-party ICT service providers. They also suggest further modifications to the ITS, based on practical feedback from financial entities that have participated in a pilot reporting exercise.

Next steps

The ESAs call on the European Commission to take a definitive decision on the use of identifiers, and to rapidly adopt the ITS.

They also encourage financial entities to step up their implementation efforts to submit their information registers to the competent authorities in the first half of 2025, with a view to the designation of CTPPs scheduled for 2025.

Sustainable Finance

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30 October 2024 - ESA Committee publishes its report on negative impacts under SFDR

On 30 October 2024, the European Supervisory Authorities (the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority - ESAs) [published](#) their third annual report on the publication of information on the principal adverse impacts under the Sustainable Finance Disclosures Regulation (SFDR).

The report analyzes the information provided on the principal adverse impacts (PAIs) of financial investments under SFDR, at both financial institution and product level. These disclosures aim to highlight the negative environmental and social impacts of investments and the actions taken to reduce them by various financial players, such as asset managers, insurers, investment firms, banks etc. The publication of information relating to IAPs is mandatory for entities with more than 500 employees, while smaller entities may choose to disclose them or justify not doing so.

For this report, ESA collected data from National Competent Authorities (NCAs) on the current state of voluntary disclosure of negative impacts, within the framework of the SFDR. As in previous years, the 2024 survey assesses financial institutions' disclosures, including those explaining why they do not take into account the negative impacts of their investments on sustainability factors, as well as those concerning PAIs for financial products.

The ESAs conclude that there has been a marked improvement in the quality of responses from NCAs, with a wider sample and better coverage of financial institutions, indicating overall progress in the publication of PAIs data. Significant progress has been made, particularly in terms of the accessibility of information for retail investors and the quality of the information published. However, although PAI disclosures for products have progressed, the proportion of institutions providing such information is still limited.

The report lists the good and bad practices of financial institutions identified by the NCAs, and draws two main observations from them:

- Financial institutions that are part of a group achieve better results because they receive methodological guidance and general direction from their parent company.
- Declarations of non-compliance are problematic, as the explanation is always linked to lack of resources and data problems on the part of financial institutions, and there is no clear information or target date indicating when they intend to start taking PAI indicators into account.

In the final part of the report, the national authorities make recommendations to the European Commission and the competent national authorities:

- The ESAs invite the European Commission to recognize the value of information on the main negative impacts.
- The ESAs suggest that the frequency of these reports be reduced to once every two or three years, to allow time for the authorities to concentrate more on carrying out a more meaningful analysis of the information provided by the PAIs.
- The ESAs recommend that the Commission explore other methods of introducing proportionality for financial market participants, as the 500-employee threshold may not be relevant for assessing negative

sustainability impacts. The ESAs suggest setting a threshold based on the size of financial institutions' investments to better measure their impact.

- To the relevant national authorities:
 - Use technological tools (SupTech) for future market surveys;
 - Regularly communicate their compliance expectations to financial institutions, especially before key deadlines;
 - Maintain external dialogue with other stakeholders;
 - Increase internal resources and skills in sustainable finance;
 - Integrate the assessment of PAI disclosures into supervisory approaches, with risk prioritization;
 - Verify the consistency of PAI disclosures with actual investments, and challenge financial institutions in the event of discrepancies.

Other topics

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24 October 2024 - Political follow-up to the Draghi and Letta reports: the Council works on its position

On 24 October 2024, the Council of the European Union, chaired by Hungary, proposed a first draft declaration in response to the Draghi and Letta reports on the competitiveness of the European economy. This draft declaration will then have to be adopted and presented by the European Council, made up of the Union's Heads of State or Government.

In particular, this first draft calls on the European Commission to present, by June 2025, a proposal for a strategy to deepen the single market, particularly in energy, financial services and telecommunications.

In order to create a true single market, the declaration calls for:

- Eliminate remaining barriers, while ensuring a level playing field;
- Improve current rules and guarantee their implementation;
- Establish a stronger, more effective Single Market governance framework.

The declaration submitted to member states proposes to adopt a “Savings and Investment Union” agenda before 2026, and to prioritize the following initiatives:

- Harmonize insolvency rules;
- Relaunch the securitization market;
- Strengthen European capital market supervision and converge financial services rules;
- Simplify administrative burdens and reporting obligations for companies.

The first draft also contained a reference to a European equity fund to support the real economy, but this was deleted from the version discussed on 29 October 2024, due to opposition from certain Member States.

On 8 October 2024, MEPs had called on the Council to take up the reports presented by Letta and Draghi and to present priorities for action as soon as possible in order to strengthen European competitiveness.

Next steps:

Once the final version of the declaration has been drawn up by the Council of the European Union, it should be formally adopted and presented by the European Council at the Budapest Summit on 8 November 2024.

October 2024 - Commissioners answer MEPs' written questions in advance of hearings

In preparation for their hearings before the European Parliament, scheduled for November 4-12, 2024, the candidates for the posts of European Commissioners have submitted their first written answers to questions from the various parliamentary committees. Here is a summary:

1. Maria Luís ALBUQUERQUE Commissioner-designate for Financial Services and the Savings and Investment Union - hearing November 6, 9am-12pm.

Questioned by Parliament's Committee on Economic and Monetary Affairs (ECON), Mrs. ALBUQUERQUE [explained](#) her priorities.

- **Savings and Investment Union :**
 - She supports the implementation of UMC and Banking Union in a coherent way, in order to reach a “tipping point” where growth, competitiveness and wealth creation accelerate on their own.
 - ⇒ In terms of roadmap, she has announced that she will present an action plan within the first few months of her term of office
- **Fragmentation of capital markets:** the Commissioner stresses the need to finalize the work on company law and insolvency currently being examined by the co-legislators.
- **Securitization:** she envisages a review in the light of the results of the European Commission's consultation on the revision of the regulatory framework for securitization.
- **Banking Union**
 - The Commissioner considers full and consistent implementation of Basel III a priority. However, she believes that a regulatory pause in banking reforms is needed.
 - She advocates further integration of the banking market and a stronger role for banks in the Savings and Investment Union, in order to strengthen markets. The Commissioner sees consolidation of the banking sector at European level as a solution for growth and efficiency.
 - She is keen to work on a compromise on the crisis management and deposit insurance (CMDI) framework.
 - Structural reforms, such as crisis management and deposit insurance, as well as the creation of a European Deposit Insurance Scheme (EDIS), would strengthen banking integration and financial stability.
- **Non-banking financial institutions (NBFIs):** She intends to monitor developments and assess emerging risks related to NBFIs, to ensure a coordinated and well-designed response to NBFI vulnerabilities.
- **Sustainable finance**
 - She calls for simplification and adjustment of the existing regulatory framework to reduce administrative burdens and improve usability.
 - Provide guidance on the implementation of European Sustainability Reporting Standards (ESRS), Taxonomy and European Green Bonds.

Finally, she was questioned by the Committee on Civil Liberties, Justice and Home Affairs (LIBE):

- **AML package:** She wants to ensure the proper transposition and implementation of the new Anti-Money Laundering Directive (AMLD).
- **Artificial intelligence:** She emphasizes that her work will also focus on AI in the financial sector.

2. **Stéphane SEJOURNE Executive Vice-President for Prosperity and Industrial Strategy - hearing November 12, 2:30 to 5:30 p.m.**

Questioned by the Committee on Economic and Monetary Affairs, Stéphane SÉJOURNÉ [presented](#) his proposals.

- **Savings and Investment Union (SIU):** the Executive Vice President emphasized his objective of continuing to develop the SIU and mobilize the savings of Europeans in current accounts. He denounced the low participation of retail investors, which he said was linked to factors such as *“high fees and the cost of advice, low competition in the distribution of financial products due to market fragmentation, and low levels of financial education and trust in financial intermediaries”*.
- **Market fragmentation:** in order to develop capital markets, he proposes to *“review tax and legal frameworks in order to eliminate existing obstacles and draw inspiration from national systems that have proved their worth”* in terms of financial markets. Considering that European markets offer the lowest returns and the highest costs, Stéphane SEJOURNE proposes working to remove barriers to market integration and boost the liquidity of European markets.
- **Reducing the administrative burden**
- **Prudential framework:** while the Commissioner's aim is to boost capital markets, he stresses the importance of maintaining a solid prudential framework.

Questioned by the Committee on Industry, Research and Energy (ITRE), he put forward a number of proposals:

- **28th regime for companies:** Stéphane SEJOURNE proposes to set up a new European regime to reduce administrative obligations for companies and SMEs.
- **“Small midcaps” category:** the Executive Vice President would like to develop a new category of *“small midcaps, based on the number of employees as well as financial income”* in order to adapt European regulations to their specificities.
- **Digitalization:** he proposes to increase the digitization of the economy so that information is *“digital by default”* and transmitted only once to supervisors. He also wants to *“make greater use of intelligent digital tools”* such as *“electronic invoicing”*.

3. **Michael McGRATH Commissioner-designate for Democracy, Justice and the Rule of Law - hearing November 5, 9am-12pm**

Questioned by the Committee on the Internal Market and Consumer Protection (IMCO), the Commissioner specified the subjects on which he [planned](#) to take action:

- **Consumer Agenda 2025-2030:** he proposes to promote sustainable products accessible to all and to protect consumers against discrimination and abuse when taking out cross-border financial products.
- **Alternative Dispute Resolution (ADR):** the Commissioner wishes to finalize discussions on this text.
- **Consumer law preparation program for SMEs:** the Commission should look into the possibility of setting up consumer law training for SMEs in different Member States.
- **ROME 2:** the Commissioner intends to adopt a report on the application of the Rome II regulation on non-contractual obligations at the beginning of 2025.
- **Brussels Ia:** the Commissioner wishes to initiate an analysis of the application of the rules laid down in the Brussels Ia Regulation, covering the referral of cases to the courts at European level, and proposes to adopt a report on the application of the Regulation in January 2025.

- **28th company regime:** the Commissioner undertakes to work on the creation of a 28th regime for the legal status of companies. This special status would enable companies to operate in all Member States and would cover, among other things, *“access to markets, financing, skills, insurance coverage, contractual rules, taxation and insolvency”*.
- **Insolvency:** considering that the fragmentation of insolvency regimes is one of the main obstacles to capital markets, he proposes to support the negotiations in order to rapidly adopt a position on the text.
- **Smart contracts:** in order to support companies using contracts based on artificial intelligence or smart contracts, the Commissioner wishes to examine the application at European level of certain aspects of the 2024 UN Model Law.

4. Wopke HOEKSTRA Commissioner-designate in charge of climate, carbon neutrality, clean growth and taxation - hearing on November 5 between 6:30 and 9:30 p.m.

Questioned by the ECON Committee and the Fiscal Affairs Sub-Committee (FISC), among others, Wopke HOEKSTRA [presented](#) his priorities:

- **Directive on administrative cooperation (DAC):** the Commissioner wishes to examine and revise existing texts in order to reduce administrative obligations and identify regulatory duplication.
- **Directive laying down rules on a debt-reduction tax allowance (DEBRA):** noting the impasse in negotiations, the Commissioner proposes to work on solutions to bring the text to a successful conclusion.
- **Revision of tax rules for financial services:** the Commissioner announced that he is working on “identifying innovative solutions for a coherent tax framework for the EU financial sector, with the aim of supporting the further integration of the financial sector, facilitating cross-border operations and encouraging digitization and innovation”.
- **Taxation of financial services:** considering that the financial sector is subject to a large number of diverse and non-harmonized tax rules (taxes on insurance premiums, levies on financial institutions, special payroll taxes and taxes on financial transactions), the Commissioner wishes to review and clarify all the rules in this area. He points out that the Commission “has already launched a study into the possibilities of taxing the financial sector”, and that he would particularly like to revise the VAT rules for financial services. Wopke HOEKSTRA also calls for the identification of national tax rules that block cross-border transactions and limit the Union's competitiveness.

5. Valdis DOMBROVSKIS Commissioner-designate for Economy, Productivity, Implementation and Simplification - hearing November 7, 2:30 to 5:30 p.m.

Questioned by the ECON Committee, the Legal Affairs Committee (JURI) and IMCO, among others, the Commissioner [presented](#) his priorities.

- **Reporting:** the Commissioner wishes to reduce the administrative burden and reporting obligations for companies in order to increase the Union's competitiveness. He proposes to establish a principle of transmitting information in digital format “by default”, and to “replace form-based reports with standardized data-based reports to enable greater reliance on interoperable automated tools”. The Commissioner sets a reporting reduction target of 25% for companies and 35% for SMEs.
- **E-invoicing:** the Commissioner considers the finalization of discussions on the VAT package (ViDA) and the implementation of e-invoicing rules to be key.

Next steps :

The hearings will take place between November 4 and 12, 2024.

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