



BANKING AND FINANCE

Call for evidence: EU regulatory framework for financial services

Fields marked with * are mandatory.

Introduction

The Commission is looking for empirical evidence and concrete feedback on:

- A. Rules affecting the ability of the economy to finance itself and growth;
- B. Unnecessary regulatory burdens;
- C. Interactions, inconsistencies and gaps;
- D. Rules giving rise to unintended consequences.

It is expected that the outcome of this consultation will provide a clearer understanding of the interaction of the individual rules and cumulative impact of the legislation as a whole including potential overlaps, inconsistencies and gaps. It will also help inform the individual reviews and provide a basis for concrete and coherent action where required.

Evidence is sought on the impacts of the EU financial legislation but also on the impacts of national implementation (e.g. gold-plating) and enforcement.

Feedback provided should be supported by relevant and verifiable empirical evidence and concrete examples. Any underlying assumptions should be clearly set out.

Feedback should be provided only on rules adopted by co-legislators to date.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report

summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-financial-regulatory-framework-review@ec.europa.eu.

More information:

- [on this consultation](#)
- [on the protection of personal data regime for this consultation](#) 

1. Information about you

* Are you replying as:

- ☐ a private individual
- ☒ an organisation or a company
- ☐ a public authority or an international organisation

* Name of your organisation:

Dutch Banking Association (NVB)

Contact email address:

The information you provide here is for administrative purposes only and will not be published

bruggen@nvb.nl

* Is your organisation included in the Transparency Register?

(If your organisation is not registered, [we invite you to register here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#))

- ☐ Yes
- ☒ No

* Type of organisation:

- | | |
|---|---|
| <input type="radio"/> Academic institution | <input type="radio"/> Company, SME, micro-enterprise, sole trader |
| <input type="radio"/> Consultancy, law firm | <input type="radio"/> Consumer organisation |
| <input checked="" type="radio"/> Industry association | <input type="radio"/> Media |
| <input type="radio"/> Non-governmental organisation | <input type="radio"/> Think tank |
| <input type="radio"/> Trade union | <input type="radio"/> Other |

* Where are you based and/or where do you carry out your activity?

The Netherlands



* Field of activity or sector (*if applicable*):


at least 1 choice(s)

- ☐ Accounting
- ☐ Auditing

- ☒ Banking
- ☐ Consumer protection
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Social entrepreneurship
- ☐ Other
- ☐ Not applicable



Important notice on the publication of responses

- ★ Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?
(see [specific privacy statement](#) )
- ☒ Yes, I agree to my response being published under the name I indicate (*name of your organisation/company/public authority or your name if your reply as an individual*)
 - ☐ No, I do not want my response to be published

2. Your feedback

In this section you will have the opportunity to provide evidence on the 15 issues set out in the consultation paper. You can provide up to 5 examples for each issue.

If you would like to submit a cover letter or executive summary of the main points you will provide below, please upload it here:

Please choose at least one issue from at least one of the following four thematic areas on which you would like to provide evidence:

A. Rules affecting the ability of the economy to finance itself and grow

You can select one or more issues, or leave all issues unselected

- ☒ Issue 1 - Unnecessary regulatory constraints on financing
- ☒ Issue 2 - Market liquidity
- ☒ Issue 3 - Investor and consumer protection

Issue 1 – Unnecessary regulatory constraints on financing

The Commission launched a consultation in July on the impact of the Capital Requirements Regulation on bank financing of the economy. In addition to the feedback provided to that consultation, please identify undue obstacles to the ability of the wider financial sector to finance the economy, with a particular focus on SME financing, long-term innovation and infrastructure projects and climate finance. Where possible, please provide quantitative estimates to support your assessment.

How many examples do you want to provide for this issue?

☐ 1 example ☐ 2 examples ☒ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 1 (Unnecessary regulatory constraints on financing)

★ To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |

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| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input checked="" type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

The repo markets should remain a viable instrument for all parties to transform collateral and to ensure liquidity (flows) in the market. A repo provides a source of short-term capital, facilitating liquidity and, therefore, efficient and stable financial markets. For example, a pension fund should be able to deposit financial instruments to comply with (initial and variation) margin requirements. Through a repo the financial instruments can be transformed into cash if and when necessary. In that case the pension funds do not have to sell financial instruments in their portfolio to obtain cash. By having such possibilities, the negative consequences on the return on their portfolio can be minimised as much as possible. However, the repo market faces more and more difficulties due to CRD IV requirements and other (future) laws and regulations (among others future requirements under the Securities Financing Transparency Regulation). If – for instance – the use of collateral in the repo transactions is regulated, by possibly including a mandatory minimum haircut, the Dutch Banking Association is concerned this may restrict market participants' ability to make appropriate risk-based decision regarding collateral. Higher mandatory haircuts may seem appropriate from a systemic risk perspective, but at the same time the likely reduction in market liquidity could outweigh any possible benefits.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

The European Repo Council (ERC) of the International Capital Market Association (ICMA) launched a study: 'Perspectives from the eye of the storm: the current state and future evolution of the European repo market', which looks at how the repo market in Europe is changing in response to regulatory pressures.

The study records growing concern that the cumulative impact of various prudential and market regulations, along with extraordinary monetary policy, could be affecting the ability of the European repo market to function efficiently and effectively. This could, in turn, have wider repercussions for the broader capital markets and so for the real economy. The Dutch Banking Association shares that concern.

<http://www.icmagroup.org/Regulatory-Policy-and-Market-Practice/short-term-markets/Repo-Markets/icma-european-repo-market-reports-and-white-papers/The-current-state-and-future-evolution-of-the-European-repo-market/>

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

A possible solution would be less reporting requirements under SFTR to minimize costs for market participants.

Example 2 for Issue 1 (Unnecessary regulatory constraints on financing)

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

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☐ Accounting Directive

☐ BRRD (Bank recovery and resolution Directive)

☒ CRR III/CRD IV (Capital Requirements Regulation/Directive)

☐ AIFMD (Alternative Investment Funds Directive)

☐ CRAs (credit rating agencies)- Directive and Regulation

☐ CSDR (Central Securities Depositories Regulation)

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|--|---|
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Access to clearing and indirect clearing:

Small and medium-sized Financial Counterparties (FC) face constraints to enter into a clearing relationship, due to both cost and availability issues. Indirect or client clearing offerings have not proven to be successful due to

legal and practical challenges. This is largely the result of the fact that where General Clearing Members (GCM) guarantee their clients' exposures to Central Counterparties (CCPs) they are disproportionately affected by a vast increase in capital requirements based on the leverage ratio and own funds requirements under the Capital Requirements Regulation (CRR).

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

Smaller FCs actively use the derivative market for hedging and treasury purposes for which they require access to CCPs. Given the current constraints on access to clearing, smaller FCs will be hindered in ensuring an efficient risk management activity (particularly for the interest rate risk) by means of trading (OTC) derivatives to hedge their positions. Hedging is a vital part of risk-management that enables such FCs to effectively finance individuals and corporates. A further reduction in access to the capital market of such client segments would be inconsistent with the EC 's Capital Market Union agenda aiming to remove barriers to the free flow of capital in Europe and other initiatives to stimulate economic growth in Europe.

At the same time, It should be noted that General Clearing Members (`GCMs`) are not utilities. From a risk-management, commercial and legal perspective GCMs should always have the ability to set clear limits for clients and should be able to refuse certain clients or structures (such as indirect clearing) that are not in line with its operational, commercial, legal and risk-management structure. Most notably, current insolvency regimes lead to a wide degree of uncertainty and implications in case of default in an indirect clearing structure which hampers GCMs to offer such structures. More clarity is also needed on whether EU-law takes primacy over national insolvency regimes.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Access to clearing:

- Extend the scope EMIR Article 10 to Financial Counterparties in order to provide for a threshold for the clearing obligation and the total exemption in the calculation of this threshold for OTC derivative contracts solely used for hedging or treasury purposes (i.e. which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity). This would enable smaller FCs (such as pension funds, small banks, insurance companies) to continue such activities upon the condition that such contracts are fully collateralized pursuant to the margin requirements for non-centrally cleared OTC contracts.
- Capital requirements under CRDIV/CRR should not prevent the offering of client clearing arrangements. This would be at odds with the G20 commitments on central clearing that aim to address systemic and counterparty risk in derivative transactions. A situation where prudential requirements

make clearing too costly may jeopardise these commitments and is deemed highly unfavourable for all participants in the derivative markets. This particularly relates to 1.) RWA requirements based on exposures to clients and CCPs, 2.) Leverage Ratio constraints on the netting of client exposures, 3.) The inclusion of segregated client margin held at the CCP in the Leverage Ratio.

• Before indirect clearing can be widely offered, it is of paramount importance that the outstanding legal and operational barriers are removed or addressed. Potential solutions should at least include: 1.) clarity on the legal & operational barriers, particularly on limiting the chain of participants and clients, 2.) the ability for a GCM to determine whether indirect clearing would be offered and for which client types, and 3.) clarity on insolvency arrangement and harmonization of insolvency regimes within the European Union.

Example 3 for Issue 1 (Unnecessary regulatory constraints on financing)

★ To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

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- ☐ Accounting Directive
- ☐ BRRD (Bank recovery and resolution Directive)
- ☒ CRR III/CRD IV (Capital Requirements Regulation/Directive)
- ☐ DGS (Deposit Guarantee Schemes Directive)
- ☐ ELTIF (Long-term Investment Fund Regulation)
- ☐ E-Money Directive
- ☐ ESRB (European Systemic Risk Board Regulation)
- ☐ EuVECA (European venture capital funds Regulation)
- ☐ FICOD (Financial Conglomerates Directive)
- ☐ IMD (Insurance Mediation Directive)
- ☐ Life Insurance Directive
- ☐ MCD (Mortgage Credit Directive)
- ☐ MiFID II/R (Markets in Financial

- ☐ AIFMD (Alternative Investment Funds Directive)
- ☐ CRAs (credit rating agencies)- Directive and Regulation
- ☐ CSDR (Central Securities Depositories Regulation)
- ☐ Directive on non-financial reporting
- ☐ EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories)
- ☐ ESAs regulations (European Supervisory Authorities)
- ☐ EuSEF (European Social Entrepreneurship Funds Regulation)
- ☐ FCD (Financial Collateral Directive)
- ☐ IGS (Investor compensation Schemes Directive)
- ☐ IORP (Directive on Institutions of Occupational Retirement Pensions)
- ☐ MAD/R (Market Abuse Regulation & Criminal Sanctions Directive)
- ☐ MIF (Multilateral Interchange Fees Regulation)

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| <input type="checkbox"/> Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
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| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input checked="" type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No 648/2012 ("CRR") and the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and the Council on the taking-up and pursuit of the business of Insurance and Reinsurance ("Solvency II").

The currently applicable regulations for risk weighted assets, both for banks (CRR) and insurance companies (Solvency II), require risk weights for securitisation positions that are multiples of the risk weights applicable to the underlying assets or positions in covered bonds. The result is that securitisation, though being earmarked by politicians and regulators as a very useful product to effectively distribute risk in the financial system, is in the process of being eliminated as a financial instrument. The result is a reduction in financing alternatives and an undesired arbitrage: investors are incentivised by the capital regulations to buy whole loan portfolios (with all the risks included) rather than buying the securitisation tranches they prefer risk-wise.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

We can refer to the excellent work of the European Banking Authority in their July 7 Report on Qualifying Securitisation (see Chapter 4.3 An illustrative quantitative impact study on the CRR capital requirements based on external ratings) and the reflection thereof in the Impact Assessment of 30-9-2015 SWD(2015)185 final of the European Commission accompanying proposals for a securitisation regulation and amendments to the CRR (Chapter 3.1.2. Insufficient risk-sensitivity of the regulatory framework).

To give a few quotes from the EC impact assessment : “The EBA has calculated that holding the representative Spanish and Portuguese RMBS requires more than 5 times the capital required to hold the underlying portfolios directly” and “in a comparative study of the current Basel 2.5 and Solvency II frameworks for banks and insurance prudential capital regulations, the authors conclude that there exists "considerable differences in required capital for the same type and amount of asset risk, burdening insurers with almost twice as high capital requirements than banks”.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

In the 30-9-2015 proposal COM(2015)473 final of the European Commission for amending CRR, the December 2014 securitisation framework of the BCBS is incorporated in the CRR. This leads to further increases in risk weights for securitisation. Although a more accommodating regime is proposed for so-called STS (Simple, Transparent and Standardised) securitisations, even for the STS securitisations risk weights increase relative to the existing CRR.

This new framework is built around formulas incorporating the so-called p-parameter, which controls the degree of “non-neutrality” (i.e. the additional capital requirements imposed on the securitisation deal as compared to the underlying assets):

A p-parameter of 1 effectively doubles the capital requirement.

By sufficiently changing the p-parameter, the non-neutrality can be reduced to a reasonable level (although one could argue whether for STS transactions, where model and other risks are effectively eliminated by the STS criteria, full neutrality might be justified).

And finally, similar re-calibrations for the Solvency II formulas, should bring the regime for insurance companies in line with the regulation for banks.

If you have further quantitative or qualitative evidence related to issue 1 that you would like to submit, please upload it here:

Please specify whether, and to what extent, the regulatory framework has had any major positive or negative impacts on market liquidity. Please elaborate on the relative significance of such impact in comparison with the impact caused by macroeconomic or other underlying factors.

How many examples do you want to provide for this issue?

☒ 1 example ☐ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 2 (Market liquidity)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

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| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
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| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
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| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |

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| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Article 4 (1) (20) MiFID II, ESMA's Technical Advice to the Commission on MiFID II and MiFIR on the definition of Systematic Internaliser- Table 9 MiFID II- Definition of Systematic Internaliser- Thresholds

The question as to whether the new MiFIR rules will lead to more transparency depends in particular on the appropriate classification of financial instruments and in particular bonds into liquid and not-liquid titles. If non-liquid bonds were erroneously classified as "liquid" bonds, they would represent unbearable risks for systematic internalisers, which could not be hedged. As a result, the willingness to provide prices for such bonds would significantly decline: this would be the direct opposite of what should be achieved by higher price transparency.

The transparency- and quoting obligations apply to so-called liquid instruments, but the liquidity calibrations are too far-reaching and not in line with the political agreement on level 1 regulation (MiFIR). A substantial number of illiquid instruments will incorrectly be deemed liquid ("false positive"). The most obvious example concerns the thresholds proposed by ESMA for the definition of systematic internalisers in bonds which leads to the classification of virtually all credit institutions as systematic internalisers, due to the very low thresholds. This will compromise the functioning of the secondary markets which will not only be negative for investors who face difficulties to manage their portfolios if liquidity decreases and spreads widens, but also to the detriment for issuers on the primary market, i.e. corporates, governments due to the increasing cost of capital.

Too extensive transparency- and quoting obligations will hamper the secondary markets and thereby they frustrate the idea of increased use of capital

markets as funding in the primary market.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

Banks have experienced that market liquidity has reduced over the last years. As a result of this it has become – for instance– more difficult to execute large trades without moving the price or to execute or hedge trades in less liquid instruments.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

EU legislation/ the Commission should ensure that only truly liquid instruments are deemed liquid by introducing proper liquidity test as stated in the Level I text .

The impact of MiFID II/MiFIR on the provision of services to investors and the ability for SMEs to enter capital markets should be considered. Some of the key areas that should be looked into and recalibrated are the impact of fixed income transparency requirements on the provision of liquidity and, secondly, the impact of provisions of services to investors and for SMEs on their access to capital markets.

If you have further quantitative or qualitative evidence related to issue 2 that you would like to submit, please upload it here:

Issue 3 – Investor and consumer protection

Please specify whether, and to what extent, the regulatory framework has had any major positive or negative impacts on investor and consumer protection and confidence.

How many examples do you want to provide for this issue?

☒ 1 example ☐ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 3 (Investor and consumer protection)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
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| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
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| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |

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| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Article 25(3) and (4) MiFID II, point 2.18. Appropriateness of ESMA technical advice.

ESMA's Technical Advice to the Commission on MiFID 2 and MiFIR, product governance section.

The Dutch Banking Association fears that the Product Oversight Governance (POG) requirements will significantly limit the products offered.

The Dutch Banking Association very much appreciates the efforts of European regulators to increase retail investor protection. Dutch banks are committed to ensure further improvement of investor protection and to restore investor confidence in the financial markets. However, setting such detailed rules should – in the opinion of the Dutch Banking Association – not be detrimental to the accessibility of retail investors to (i) the financial markets, (ii) investment services and (iii) a wide variety of investment products offered or distributed by investment firms. Especially, as for example governments currently are withdrawing from collective pension schemes and people therefore have to take care of their own pension. Building up private capital in anticipation of these developments will become increasingly important.

Rules related to investor protection should therefore always strike the right balance between the interest of protecting retail investors and the investment firms being able to offer investment services. Increasing detailed obligations or burden on investment firms in the interest of investor protection may lead to decisions of investment firms or banks not offering its investment services anymore to the mass retail. Or it might drastically decrease its investment products offering, since such a business model may not be viable anymore. Or, lastly, it may increase the costs of investment services, which ultimately will be paid by the retail investor. As a result of this the aforementioned accessibility of retail investors will come under pressure.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

In certain cases the legal requirements and/ or their interpretation by the courts de facto seem to lead to a limitation of the service and/ or products offered, including through “execution only” service (many litigation problems/risk). There is no “regulatory safe harbor” for firms which will

always need to perform appropriateness/ suitability assessment and provide extensive information irrespective of whether the product is complex or not. And even these obligations are subjectively interpreted by Courts creating significant litigation risk. On-line execution-only systems are particularly affected, but also branch- level reception of orders.

A significant investor protection issue from ESMA's Technical Advice to the Commission is product governance. It is feared that the Product Oversight Governance (POG) requirements will significantly limit the products offered. The ESMA proposal as reflected in its Technical Advice to the Commission on the implementing measures for MiFID II extends the product governance obligations not only when a product is launched and actively distributed and when investment firms offer advice, but also to all secondary market activities, including execution-only business. An extension of the product governance responsibilities to the distribution in the secondary market would lead to higher costs and higher legal risks in the distribution of financial instruments and would grossly inflate the cost of doing business. The Dutch Banking Association understands that in most cases there are not direct distribution relationships and links between the plurality of manufacturers and distributors in secondary capital markets. The construction of such a communication network is virtually impossible, given the enormous variety of products and distributors. Regular reporting by every single distributing bank to potentially all manufacturers in the market during the entire life of an instrument would require the establishment of a new infrastructure with countless bilateral channels of communication between manufacturers and distributors.

To limit the effects of such a product governance obligation, the distributor would have to limit its product range significantly. The consequence would be that investors would no longer obtain via their investment firm a broad selection of financial instruments and the objective of open architecture would be undermined. Thus, there is a danger that a requirement of this kind would make it more difficult to invest in financial instruments, either because of increasing costs or because fewer products will be offered. Indeed, this additional bureaucratic burden, whose effectiveness in increasing protection for clients is totally unclear, would run counter the efforts to stimulate cross-border capital flows which form the centerpiece of the Commission's capital markets union project.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

In order to avoid the above mentioned adverse consequences The Dutch Banking Association suggests the following:

1. In any event the scope of product governance should be clearly defined, and should not include all financial instruments which an investment firm distributes either in the primary or secondary market. In practice this is tantamount to e.g. complex structured products, but not to plain vanilla bonds or (listed) shares (and any listed plain vanilla derivatives linked to these shares). An unlimited scope of financial instruments which is subject to the new product governance process may lead to a decrease of financial

instruments in the markets or a “paper exercise” for e.g. plain vanilla shares and bonds for which product governance rules will not have any added value.

2. Although the Dutch Banking Association understands the need of ensuring that products are being distributed to the identified target market, such obligation will also impose limitations to accessibility of certain investment services and investment products for retail investors. For example, where ensuring that investment products are being distributed to the identified target market will most likely for portfolio management be less complex to achieve, but for execution-only services this will be highly complex and challenging from an operational point of view. For the category non-complex plain vanilla financial instruments, an execution-only firm should be able to classify these products as appropriate for retail clients in a standardised and easy manner.

If you have further quantitative or qualitative evidence related to issue 3 that you would like to submit, please upload it here:

Issue 4 – Proportionality / preserving diversity in the EU financial sector

Are EU rules adequately suited to the diversity of financial institutions in the EU? Are these rules adapted to the emergence of new business models and the participation of non-financial actors in the market place? Is further adaptation needed and justified from a risk perspective? If so, which, and how?

How many examples do you want to provide for this issue?

☒ 1 example ☐ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 4 (Proportionality / preserving diversity in the EU financial sector)

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> Directive) |
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| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
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| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
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| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

1. The confirmation of the status of non-financial counterparties (NFC- or NFC+) has proved to be and will remain a very difficult exercise. In addition there is no 100% certainty that the parties will provide the information and/or will provide correct information.
2. The exemption of private individuals from the scope of EMIR but the inclusion of individuals acting for commercial purposes has created complexity and difficulties in collecting the correcting information.
3. Banks have Alternative Investment Fund Manager (AIFM) clients. Compliance with the EMIR requirements as financial counterparties (FC) are too heavy for smaller AIFMs. For example the requirements of central clearing, mandatory exchange of collateral and to mark-to-market the value of their outstanding contracts on a daily basis is not well suited for these smaller AIFMs. These burdensome EMIR requirements hinder smaller funding initiatives in the market. The EMIR requirements for NFC below the clearing threshold are better suited for these smaller AIFs. An easy solution to address this problem would be to delete registered AIFMs in the definition of FC in article 2 paragraph 8 of EMIR.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

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*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

1. A public database/register collecting all such information and accessible to all parties would create transparency, consistency and legal certainty for all parties. The results from notification regarding NFC+ status should be published in order for all parties not to have to collect the information and be able to conclude that the rest of parties are NFC-. In addition exempted entities and pension funds should have the obligation to notify their status to the relevant regulators and such information should be published for all parties to be able to access the information in order create legal certainty and consistency.
2. The Dutch Banking Association would propose that Private individuals irrespective of whether they act for private or commercial purposes should be excluded from the scope of EMIR. However as already considered above for NFC-, unilateral and uniform obligations for FC and NFC+ when trading with such counterparties should be created.
3. Registered AIFMS should be exempted from clearing and margin requirements under EMIR.

If you have further quantitative or qualitative evidence related to issue 4 that you would like to submit, please upload it here:

B. Unnecessary regulatory burdens

You can select one or more issues, or leave all issues unselected

- ☒ Issue 5 - Excessive compliance costs and complexity
 - ☒ Issue 6 - Reporting and disclosure obligations
 - ☐ Issue 7 - Contractual documentation
 - ☒ Issue 8 - Rules outdated due to technological change
 - ☐ Issue 9 - Barriers to entry
-

Issue 5 – Excessive compliance costs and complexity

In response to some of the practices seen in the run-up to the crisis, EU rules have necessarily become more prescriptive. This will help to ensure that firms are held to account, but it can also increase costs and complexity, and weaken a sense of individual responsibility. Please identify and justify such burdens that, in your view, do not meet the objectives set out above efficiently and effectively. Please provide quantitative estimates to support your assessment and distinguish between direct and indirect impacts, and between one-off and recurring costs. Please identify areas where they could be simplified, to achieve more efficiently the intended regulatory objective.

How many examples do you want to provide for this issue?

- ☐ 1 example ☐ 2 examples ☐ 3 examples ☒ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 5 (Excessive compliance costs and complexity)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

☐ Accounting Directive

☐ AIFMD (Alternative Investment Funds Directive)

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| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
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| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
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| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
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| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Article 39, paragraph 5 of EMIR obliges clearing members to offer individual segregation to all clients as meant in EMIR. There is also no limitation to derivatives but it extends to all financial instruments and all parties subject to EMIR irrespective of their size and trading volume. The obligation for clearing members to offer individually segregated accounts (ISA) to clients is not suited to the retail market. Segregation requirements (omnibus segregation or individual segregation) are applicable on the basis of MIFID and with regard to the settlement (T+2) delivery versus payment is used. The costs of building and maintaining individual segregation are high and the extra costs of the CCP must be added. The costs are far beyond what is acceptable for retail clients and therefore they will not opt for an ISA and choose for omnibus segregation. Moreover, the cost of an ineffective and non-used ISA system will have to be borne by all (retail) clients. Therefore individual segregation will only be suited for bigger financial and non-financial counterparties. There is no need for the obligatory offering of an ISA for other financial instruments.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

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*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association believes that banks should not be forced to offer costly ISA's in the retail market knowing they are not suitable and too expensive for retail clients. The Dutch Banking Association could therefore propose to limit the application of article 39 paragraph 5 to financial counterparties and non-financials above the clearing threshold. It would also propose to limit the ISA requirement to derivatives.

Example 2 for Issue 5 (Excessive compliance costs and complexity)

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

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| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*

Please provide us with an executive/succinct summary of your example:

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

- Directive 2014/59/EU (Bank Recovery & Resolution Directive, “BRRD”)
 - Commission delegated regulation (EU) 2015/63 supplementing Directive 2014/59/EU with regard to ex ante contributions to resolution financing arrangements
- BRRD Art. 103 determines that contributions should be raised from institutions to fund resolution funds. Contributions should be calculated based on total liabilities less certain deductions and should be adjusted in proportion to the risk profile of the institution. The methodology to calculate contributions, in particular the risk adjustment, is very complex and not transparent for individual institutions. It also requires data to be provided per individual entity at a non-standard consolidation scope and reporting level. The Dutch Banking Association acknowledge the need for a risk-based contribution calculation methodology but the burden of reporting requirements and calculation complexity does not seem proportionate to the goal. Besides, different risk-based contribution calculation methodologies are used in parallel (DGS contributions, ECB supervisory fees).

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

- Base calculation per institution = (total liabilities -/- own funds -/- covered deposits +/- derivatives adjustment -/- intragroup liabilities -/- institution specific deductions) * risk factor adjustment
- To calculate contribution in EUR, base calculation has to be divided by base calculation of total sector times target level. Risk factor adjustment is also calculated relative to all other institutions. This means that only the authority that has all relevant data of the total sector, i.e. the relevant resolution authority, can calculate the exact contribution amount per individual institution.
- Risk factor adjustment is based on 4 risk pillars, each with own relative weight. Pillars are subdivided into 10 risk indicators in total, each with own relative weight.
- Actual calculation requires following 6 steps
 1. Calculation of raw indicators
 2. Discretization of the indicators
 3. Rescaling of the indicators
 4. Inclusion of the assigned sign
 5. Calculation of the composite indicator
 6. Calculation of the annual contribution

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Simplify the calculation method and data reporting requirements and/or harmonize with other risk-based contribution calculation methodologies.

Example 3 for Issue 5 (Excessive compliance costs and complexity)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

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| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products) | <input type="checkbox"/> PSD (Payment Services Directive) |

Regulation)

- | | |
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| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

CRR Regulation (EU) No 575/2013 Article 292 (2)

The calibration of Dutch banks is based on a “through the cycle” approach and based on a long history of typically 8 years, therefore adding 3 months of new data (1/32 of the data set) has negligible impact on calibrated parameters. The CRR requires a recalibration frequency of at least on a quarterly basis. This is an excessive requirement for Dutch banks as it is approximately four times the amount of work compared to an annual recalibration. Hence the benefit of quarterly calibration does not compensate the effort involved.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

It is clear that quarterly recalibration requires approximately four times the amount of work as the same processes (data collection, cleaning, calibration, expert involvement, testing, AUT, approval documentation, validation) needs to be followed four times a year.

While when one assumes the volatility of a certain parameter has increased by 50% in the past quarter, which is severe, then the resulting recalibrated volatility increases only by 1.5% relatively, which has overall a very small impact on the calculated exposures.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Recalibration frequency should be in line to the used calibration window, i.e. the data period used for calibration. In the case when using 8 years of data a yearly recalibration is sufficient to capture changes in the parameters. The

Dutch Banking Association acknowledges that a shorter calibration window would warrant a more frequent recalibration.

Example 4 for Issue 5 (Excessive compliance costs and complexity)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| | <input type="checkbox"/> SEPA Regulation (Single Euro Payments |

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| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

CRR Regulation (EU) No 575/2013 Article 294

In this article there are a two items that result in complexity and additional computational cost.

In paragraph (a) of the regulation it is stated that the back test should performed up to a 1 year horizon. Back testing on this horizon is generally a rather meaningless exercise since there are too few observations to obtain any significant conclusion.

In paragraph (k) of Article 294 states that “an institution shall validate its CCR exposure models and all risk measures out to time horizons commensurate with the maturity of trades which exposure is calculated using IMM”.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

If a back test is performed up to 1 year with a calibration horizon of 8 years it will only result in 7 observations. This is too limited to obtain significant conclusions.

Article 294 paragraph (k) introduces problems for very long dated trades e.g. trades with a maturity of 30 years or more (e.g. perpetual trades).

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association recommends to use the maximum Margin Period of Risk as back test horizon instead of a horizon up to 1 year.

If you have further quantitative or qualitative evidence related to issue 5 that you would like to submit, please upload it here:

Issue 6 – Reporting and disclosure obligations

The EU has put in place a range of rules designed to increase transparency and provide more information to regulators, investors and the public in general. The information contained in these requirements is necessary to improve oversight and confidence and will ultimately improve the functioning of markets. In some areas, however, the same or similar information may be required to be reported more than once, or requirements may result in information reported in a way which is not useful to provide effective oversight or added value for investors.

Please identify the reporting provisions, either publicly or to supervisory authorities, which in your view either do not meet sufficiently the objectives above or where streamlining/clarifying the obligations would improve quality, effectiveness and coherence. If applicable, please provide specific proposals.

Specifically for investors and competent authorities, please provide an assessment whether the current reporting and disclosure obligations are fit for the purpose of public oversight and ensuring transparency. If applicable, please provide specific examples of missing reporting or disclosure obligations or existing obligations without clear added value.

How many examples do you want to provide for this issue?

☐ 1 example ☐ 2 examples ☐ 3 examples ☒ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 6 (Reporting and disclosure obligations)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

☐ Accounting Directive

☐ BRRD (Bank recovery and resolution Directive)

☒ CRR III/CRD IV (Capital Requirements Regulation/Directive)

☐ AIFMD (Alternative Investment Funds Directive)

☐ CRAs (credit rating agencies)- Directive and Regulation

☐ CSDR (Central Securities Depositories Regulation)

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| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input checked="" type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Regulation (EC) No 1606/2002 (=IFRS)
 Regulation (EU) No 575/2013 (=CRR), part eight: Pillar III disclosures
 - As there is an interrelationship between the accounting public disclosures (IFRS 7) and the regulatory public disclosures (Pillar III), there is a lack

of an overall conceptual framework in terms of materiality, preparer view versus user view, and basic definitions.

- Relating to IFRS 9 the Dutch Banking Association is concerned that the EBA Consultation Paper "Guidelines on the application of the definition of default under Article 178 of Regulation (EU) 575/2013" is in several instances in contradiction with the IFRS 9 requirements.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

-Despite the fact it is clear that there is a different basis of these disclosures (accounting versus regulatory disclosures), there is an interrelationship between IFRS 7 and Pillar III disclosures with a view to enabling users to gain a better understanding of the overall profile of the bank as provided by both accounting and prudential information. The concept of materiality is well understood where accounting disclosures are concerned. Under the IFRS Conceptual Framework, information is material whenever its omission or misstatement could influence the economic decisions that users make.

Under the Pillar III framework, in contrast, regulators do not consider information overload as a major issue, which can probably be explained by the fact that Pillar III disclosures heavily rely on standardised templates. So, the IASB adopts a users' approach: disclosures need to be proportionate taking into account the needs of the users of those financial reports. The Basel committee, in contrast, seems to adopt primarily a preparers' view instead.

Pillar III disclosures are often integrated by banks in the Annual Financial Statements as a result of 'Integrated Reporting', but not all disclosures have added value to the user.

- The main concern of the Dutch Banking Association is that the EBA Consultation Paper "Guidelines on the application of the definition of default under Article 178 of Regulation (EU) 575/2013" is in several instances in contradiction with the IFRS 9 requirements. Therefore, it is heavily depending on the stance of our external auditors. If the external auditors would apply strict IFRS 9 regulations. Then this will imply serious extra operational burden for the banks. We recommend EBA to align its guidance with the requirements of IFRS 9.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association proposes an harmonised disclosure regime for accounting and regulatory disclosures where there is a common conceptual framework in terms of materiality and added value from a user's and preparer's view.

Therefore we would like to propose a better collaboration between regulatory standard setters like the Basel committee and accounting standard setters, like the IASB.

Example 2 for Issue 6 (Reporting and disclosure obligations)

★ To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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|--|---|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |

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| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

The disclosure of clearing costs to EMIR clients as mentioned in article 38, paragraph 1 of EMIR has more to do with investor protection instead of market infrastructure. Next to that, this article is not limited to derivatives but to all financial instruments and also to retail clients. The Dutch Banking Association assumes that this is something that will be included in the cost disclosure under MIFID II and should no longer be included in EMIR. This also prevents a fragmented approach and duplication.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

–

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

In order to avoid duplication, fragmentation cost disclosure should only be regulated under MiFID II and not be included in EMIR.

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| SSM Regulation (Single Supervisory | |

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| <input type="checkbox"/> Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Various reporting obligations enacted as part of the G20 commitments have had the most significant organizational and IT impact. Although the Dutch Banking Association is a strong proponent of increasing market transparency and predictability, it believes a range of these obligations can have benefit from:

- 1.) more alignment with existing market practice,
- 2.) more/ better analyses on applicability and workings and
- 3.) rational implementation timelines taking into account organizational complexities and available solutions.

Furthermore, the Dutch Banking Association notes a significant overlap between various reporting requirements, most notably for exchange-traded derivatives. In this case, much of the same information that is already reported under MiFID will have to be reported again under EMIR. In the case of gas and electricity derivatives, the same product is again reported under REMIT. Given the complexities of IT landscapes and the differences between systems and requirements, timelines have been challenging for the majority of the banking industry. In the case of EMIR in particular, the short implementation timeline leads to serious data quality and matching issues between counterparties and trade repositories. The Dutch Banking Association therefore seriously questions whether the current data is fit for purpose. In addition, institutions were also confronted with significant investments.

Regarding clients, The Dutch Banking Association notes that a large number of market participants have delegated their reporting obligation under EMIR to third parties, most notably banks, brokers and/or General clearing members (GCMs). Market participants that have not delegated reporting obligations to a third party are obviously required to report their respective trade-leg themselves. However, Dutch banks are concerned that market participants do not always report their part of the transactions. Banks have limited control over this process. Furthermore, given the issues surrounding inter-TR matching, it is not always clear whether the client has reported the transaction and whether a transaction can be matched. Essential parts of the transaction may therefore not be visible to the regulator.

In addition, The Dutch Banking Association notes that client identifiers have faced challenges to a wide uptake and maintenance by market participants. This specifically concerns smaller entities. Many market participants still do not have a LEI while others do not renew or maintain it. A common concern cited are high costs and administrative issues. Since the LEI is key for correct reporting of transactions, the Dutch Banking Association is concerned about how this development affects its ability to report data correctly as result of dependency on clients.

★ **Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

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★ **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association believes in the benefits of having transparent market data available and sees a number of different solutions; some of them are already being addressed and under discussion. We welcome the EMIR review where a number of market participants call for ending ETD reporting for EMIR (as this was not envisaged as part of the G20 commitments) and move to single-sided reporting. This would already decrease the reporting burden and is likely to lead to better data quality. A more comprehensive and future-proof solution would be a centralized data collection regulation in an EEA-wide data-warehouse. In this way, market participants will be required to report all relevant data to a centralized depository where regulators, NCAs and other stakeholders will have access to all market data in one place. It would reduce the burden on the market in having to deal with the number of recipients and different data requirements. For the LEI, possible solutions include a scenario where the waiver for LEI requirement for NFCs and/or local identifiers can be used. Another solution is to waive maintenance fees for the LEI process to include the possibility for banks to obtain multiple LEIs. This can be allocated to its clients at a reduced cost from Local Operating Units.

Example 4 for Issue 6 (Reporting and disclosure obligations)

★ **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

☐ Accounting Directive

☐ BRRD (Bank recovery and resolution Directive)

☒ CRR III/CRD IV (Capital Requirements Regulation/Directive)

☐ AIFMD (Alternative Investment Funds Directive)

☐ CRAs (credit rating agencies)- Directive and Regulation

☐ CSDR (Central Securities Depositories Regulation)

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| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input checked="" type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

CRR/ ECB reporting requirements

ECB has drafted own regulation on reporting, more detailed than EBA/EC reporting requirements. The ECB considers Articles 6(5) (d) and 10 of the SSM Regulation and Article 141(1) of the SSM Framework Regulation to be the legal

basis for extending the reporting obligations set in the CRR. Those provisions confer the power to the ECB to require supervised entities to report any information that is necessary for the ECB to carry out its tasks, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes. It is our understanding that this provision is meant for ad-hoc issues and for revolving reporting requirements, which should have a basis in the CRR/CRDIV.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

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*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The power of the supervisor in this matter (ECB or national competent authority) should be clarified in CRR/CRDIV, in order to avoid duplicative efforts as described above.

If you have further quantitative or qualitative evidence related to issue 6 that you would like to submit, please upload it here:

Issue 8 – Rules outdated due to technological change

Please specify where the effectiveness of rules could be enhanced to respond to increasingly online-based services and the development of financial technology solutions for the financial services sector.

How many examples do you want to provide for this issue?

☒ 1 example ☐ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 8 (Rules outdated due to technological change)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input checked="" type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input checked="" type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input checked="" type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| | SEPA Regulation (Single Euro Payments |

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| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Mortgage Credit Directive (MCD) : the ESIS statement
PRIIPS: Article 6 paragraph 4 of the key investor document
Payments Account Directive, Article 4 (fee information document and glossary) paragraph 1 and 2 1. Without prejudice to Article 42, paragraph 3 of Directive 2007/64 / EC and Chapter II of Directive 2008/48 / EC
MiFID II, Annex 2, II.2
The EU legislator in many cases automatically assumes all communication with banking clients goes via paper and/or a physical channels. Documents, agreements and (client) approvals are supposed to be recorded in a physical document. But current experiences show that much of the communication with banking clients goes online or via non-physical channels (telephone). The legislator should therefore be more focused on allowing client documentation and consent via digital channels. Especially when digital IDs will become available in the near future.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

- MCD: the ESIS statement: The ESIS statement describes client communication in a way that it ought to be provided in hardcopy. The ESIS statement says that information should be communicated in a single document, fonts should be clearly legible, and important data should be in Bold, Shading or at a larger font. All relevant risk warnings need to be highlighted / specifically marked.
- PRIIPS: the key information document is set up as a short document, concise and up to three printed pages of A4 size, making the comparability increases.
- Payments Account Directive,
Without prejudice to Article 42(3) of Directive 2007/64/EC and Chapter II of Directive 2008/48/EC, Member States shall ensure that, in good time before entering into a contract for a payment account with a consumer, payment service providers provide the consumer with a fee information document on paper or another durable medium containing the standardised terms in the final list of the most representative services linked to a payment account referred to in Article 3(5) of this Directive and, where such services are offered by a

payment service provider, the corresponding fees for each service.
The fee information document shall: (a) be a short and stand-alone document;...
- MiFIDII Procedure
Clients may waive the benefit of the detailed rules of conduct only where the following procedure is followed:
- they must state in writing to the investment firm that they wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,
- the investment firm must give them a clear written warning of the protections and investor compensation rights they may lose,
- they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

It is expected that a digital ID will become available in the coming years. This will make a physical process redundant in many cases. In line with the preference of the client, the legislator should cater for the possibility that
- in line with the agreement between the bank and the individual client- the bank can choose for a digital contractual administration that meets the same purpose of physical documentation.

If you have further quantitative or qualitative evidence related to issue 8 that you would like to submit, please upload it here:

C. Interactions of individual rules, inconsistencies and gaps

You can select one or more issues, or leave all issues unselected

- ☒ Issue 10 - Links between individual rules and overall cumulative impact
- ☒ Issue 11 - Definitions
- ☒ Issue 12 - Overlaps, duplications and inconsistencies
- ☐ Issue 13 - Gaps

Issue 10 – Links between individual rules and overall cumulative impact

Given the interconnections within the financial sector, it is important to understand whether the rules on banking, insurance, asset management and other areas are interacting as intended. Please identify and explain why interactions may give rise to unintended consequences that should be taken into account in the review process. Please provide an assessment of their cumulative impact. Please

consider whether changes in the sectoral rules have affected the relevancy or effectiveness of the cross-sectoral rules (for example with regard to financial conglomerates). Please explain in what way and provide concrete examples.

How many examples do you want to provide for this issue?

☐ 1 example ☐ 2 examples ☒ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 10 (Links between individual rules and overall cumulative impact)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |

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| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

First of all, the EMIR and CRR rules on CCP exposures and default funds insufficiently take the different characteristics and risks of ETD and OTC instruments into account.

More alignment is required between the central obligation under EMIR and measures to prevent systemic risk under CRDIV/CRR. Whereas EMIR aims to promote and mandate central clearing, the CRR requirements on exposures to CCPs result in relatively high RWAs for clearers with exposure to CCPs. This is mainly the result of the "one-size-fits-all" approach for exchange traded (ETD) and OTC derivative products taken under EMIR by ESMA and the European Commission. In particular, the EMIR and CRR rules on CCP exposures and default funds insufficiently take the different characteristics and risks of ETD and OTC instruments into account. This disproportionately affects the futures market as most of the rules under EMIR are aimed at OTC products with a higher risk profile compared to ETDs. This is despite the futures market having a very strong track record with limited occasions of CCP default fund use. The futures market also remained largely unaffected by the crisis in 2008 and served as the blueprint for the current rules for mandatory OTC clearing.

Secondly, the most notable discrepancy between EMIR and CRR relates to the Leverage Ratio (LR). Under the current interpretations and guidance, the concept of netting ETD exposures is not adequately recognised under the applicable calculation methodology (Current Exposure Method - CEM), as the treatment of ETD contracts as OTC derivative contracts triggers multiple ways of interpreting the netting rules (i.e. definition of an individual derivative contract). Consequently, only a relatively small number of GCMs are able to offer to access to clearing which results in a lack of choice for end-users and decrease available (global) balance sheet capacity for clearing of all

derivatives transactions that are anticipated to become subject to mandatory clearing. More worryingly, a further reduction in the number of available GCMs heightens the risk that clients of a defaulted clearing member will be unsuccessful in porting their positions to a "back-up" GCM. Based on the current Leverage Ratio and RWA interpretations under CRR, no other GCMs may be able or willing to take up such positions given the impact it will have on its overall exposures.

This may lead to constraints on broad access to clearing services. This is both contrary to the G20 commitments on central clearing and may also hamper the Capital Markets Union agenda.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

-

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

On the first issue, The Dutch Banking Association strongly believes a more vertical model at CCPs – with different default funds for different products – would be beneficial from both a RWA perspective and for the eventual recovery or resolution of a CCP.

On the leverage ratio, the Basel Committee on Banking Supervision rightly recognized this and has adopted SA-CCR as a replacement for CEM and the Standardized Method in the context of the RWA ratio. The Dutch Banking Association believes that adopting SA-CCR as a replacement for CEM provides better differentiation between margined and unmargined trades and provides more meaningful recognition of netting benefits. The SA-CCR leads to more transparency and a level playing field; it is for reasons such as these that it was adopted in the context of the RWA ratios.

Example 2 for Issue 10 (Links between individual rules and overall cumulative impact)

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc.). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- ☐ Accounting Directive
- ☐ BRRD (Bank recovery and resolution Directive)
- ☒ CRR III/CRD IV (Capital Requirements Regulation/Directive)
- ☐ DGS (Deposit Guarantee Schemes Directive)
- ☐ ELTIF (Long-term Investment Fund Regulation)
- ☐ E-Money Directive
- ☐ ESRB (European Systemic Risk Board Regulation)
- ☐ EuVECA (European venture capital funds Regulation)
- ☐ FICOD (Financial Conglomerates Directive)
- ☐ IMD (Insurance Mediation Directive)
- ☐ Life Insurance Directive
- ☐ MCD (Mortgage Credit Directive)
- ☐ MiFID II/R (Markets in Financial Instruments Directive & Regulation)
- ☐ Omnibus I (new EU supervisory framework)
- ☐ PAD (Payments Account Directive)
- ☐ PRIIPS (Packaged retail and insurance-based investment products Regulation)
- ☐ Qualifying holdings Directive
- ☐ Reinsurance Directive
- ☐ SFD (Settlement Finality Directive)
- ☐ Solvency II Directive
- ☐ SSM Regulation (Single Supervisory Mechanism)
- ☐ Statutory Audit - Directive and Regulation
- ☐ UCITS (Undertakings for collective investment in transferable securities)
- ☐ AIFMD (Alternative Investment Funds Directive)
- ☐ CRAs (credit rating agencies)- Directive and Regulation
- ☐ CSDR (Central Securities Depositories Regulation)
- ☐ Directive on non-financial reporting
- ☐ EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories)
- ☐ ESAs regulations (European Supervisory Authorities)
- ☐ EuSEF (European Social Entrepreneurship Funds Regulation)
- ☐ FCD (Financial Collateral Directive)
- ☐ IGS (Investor compensation Schemes Directive)
- ☐ IORP (Directive on Institutions of Occupational Retirement Pensions)
- ☐ MAD/R (Market Abuse Regulation & Criminal Sanctions Directive)
- ☐ MIF (Multilateral Interchange Fees Regulation)
- ☐ Motor Insurance Directive
- ☐ Omnibus II: new European supervisory framework for insurers
- ☐ PD (Prospectus Directive)
- ☐ PSD (Payment Services Directive)
- ☐ Regulations on IFRS (International Financial Reporting Standards)
- ☐ SEPA Regulation (Single Euro Payments Area)
- ☐ SFTR (Securities Financing Transactions Regulation)
- ☐ SRM (Single Resolution Mechanism Regulation)
- ☐ SSR (Short Selling Regulation)
- ☐ Transparency Directive
- ☐ Other Directive(s) and/or Regulation(s)

Please provide us with an executive/succinct summary of your example:

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Regulation (EU) No 575/2013 Article 285 (c): Exposure value for netting sets subject to margin agreement

Effective EE is defined as the maximum expected exposure that occurs at that date or any prior date. The original regulation describes that the effective EE should capture roll-over of trades, i.e. assuming that trades that mature are replaced by identical trades. However the way Effective EE is defined it is also hugely affected by very short lived spikes in exposure that might occur as the consequence of collateral exchanges, see below more background to the spikes. The Dutch Banking Association proposes to allow to not capture collateral spikes in the Effective EE, as they can have immense large and unrealistic impact on the calculated exposures, and were not intended to be captured by effectiveness in the first place as that should only capture rolling-over of trades (not spikes).

If physical collateral exchange is modelled in the exposure calculations a peak can occur. Reason is that initial margin is approximately equal to the MTM, however when an out of the money trade matures a collateral spike will occur as it is assumed that the cash flows of the trade are directly settled while the collateral settlement is assumed to take place after a period equal to MPOR, then a large but very short exposure spike occurs.

In this case it is better to have only a netting agreement while the regulator already acknowledges that CSA's are risk reducing, especially taking into account the upcoming IM/VM rules for non-centrally cleared trades.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

If a trade for a bank has a negative MTM of 100 and it has pledged 100 variation margin, the overall exposure is close to zero. At the moment the trade matures as stated the cash flow related to the trade is directly settled however the call for collateral is only received after the MPOR. In this situation a sudden increase in exposure arise of 100.

Since the roll-over assumption of the trades in the portfolio (non-decreasing profile) theoretically exclude collateral spikes, introducing an MPOR can result in over conservatism of the calculated exposure profile.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Since collateral spikes are a result of model choices in the regulation, the Dutch Banking Association believes it should be explicitly made clear that any collateral spikes introduced can be ignored for the effective EE exposure calculations.

Example 3 for Issue 10 (Links between individual rules and overall cumulative impact)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> | <input type="checkbox"/> SFTR (Securities Financing Transactions) |
| <input type="checkbox"/> | <input type="checkbox"/> |

SFD (Settlement Finality Directive)

Regulation)

☐ Solvency II Directive

☐ SRM (Single Resolution Mechanism Regulation)

☐ SSM Regulation (Single Supervisory Mechanism)

☐ SSR (Short Selling Regulation)

☐ Statutory Audit - Directive and Regulation

☐ Transparency Directive

☐ UCITS (Undertakings for collective investment in transferable securities)

☐ Other Directive(s) and/or Regulation(s)

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

In CRR/Regulation (EU) No 575/2013 Article 284 3 (a) and 3 (b) it is stated that the maximum of the Effective EPE should be taken based on the current market data and Effective EPE based on stressed market data. This article makes the counterparty credit risk framework pro-cyclical, overly complex, requires additional calculation time and also results in double counting.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

In the CCR RWA already conservative choices are made. In CCR RWA EEPE is based on a non-decreasing profile and multiplied with the alpha factor and for some counterparties the Asset Valuation Correlation is increased. Since the alpha factor already includes an element of wrong way risk in it taking the maximum of stressed EAD and normal EAD makes the framework overly conservative and pro-cyclical.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association believes that instead of taking the maximum of the two effective EPE calculations which creates pro-cyclicality the alpha factor can also be increased.

If you have further quantitative or qualitative evidence related to issue 10 that you would like to submit, please upload it here:

Issue 11 – Definitions

Different pieces of financial services legislation contain similar definitions, but the definitions sometimes vary (for example, the definition of SMEs). Please indicate specific areas of financial services legislation where further clarification and/or consistency of definitions would be beneficial.

How many examples do you want to provide for this issue?

☐ 1 example ☒ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 11 (Definitions)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| | <input type="checkbox"/> MIF (Multilateral Interchange Fees) |

- ☐ MCD (Mortgage Credit Directive)
- ☒ MiFID II/R (Markets in Financial Instruments Directive & Regulation)
- ☐ Omnibus I (new EU supervisory framework)
- ☐ PAD (Payments Account Directive)
- ☐ PRIIPS (Packaged retail and insurance-based investment products Regulation)
- ☐ Qualifying holdings Directive
- ☐ Reinsurance Directive
- ☐ SFD (Settlement Finality Directive)
- ☐ Solvency II Directive
- ☐ SSM Regulation (Single Supervisory Mechanism)
- ☐ Statutory Audit - Directive and Regulation
- ☐ UCITS (Undertakings for collective investment in transferable securities)

- ☐ Regulation)
- ☐ Motor Insurance Directive
- ☐ Omnibus II: new European supervisory framework for insurers
- ☐ PD (Prospectus Directive)
- ☐ PSD (Payment Services Directive)
- ☐ Regulations on IFRS (International Financial Reporting Standards)
- ☐ SEPA Regulation (Single Euro Payments Area)
- ☐ SFTR (Securities Financing Transactions Regulation)
- ☐ SRM (Single Resolution Mechanism Regulation)
- ☐ SSR (Short Selling Regulation)
- ☐ Transparency Directive
- ☐ Other Directive(s) and/or Regulation(s)

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

1. The definition of OTC derivatives with a link to MiFID has led to undesirable consequences as regards, for example FX spot transactions.
2. It should be clarified that structured trades and derivatives embedded in other products do not fall under the scope of EMIR (among others for reporting obligations) since the derivatives aspect of such instruments is only a minor point when qualifying the whole instrument and assessing how it should be treated (which should be done on the basis of the main focus of such instrument, e.g. loan, insurance product, etc.).

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

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- ★ **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association asks that alignment is sought between the definitions in MiFID and EMIR. This means that - next to derivatives traded on a regulated market - derivatives traded on a MTF or OTF should also not be considered OTC derivatives under MiFID 2.

Example 2 for Issue 11 (Definitions)

- ★ **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- | | |
|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |

- | | |
|--|--|
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input checked="" type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Short Selling Regulation (SSR) article 2.1 k;

MiFID article 4.1.7;

(proposed) Bank Structural Reform Regulation

The use of several definitions of market making in EU legislation.

SSR: 'market making activities' means the activities of an investment firm, a credit institution, a third-country entity, or a firm as referred to in point (1) of Article 2(1) of Directive 2004/39/EC, which is a member of a trading venue or of a market in a third country, the legal and supervisory framework of which has been declared equivalent by the Commission pursuant to Article 17(2) where it deals as principal in a financial instrument, whether traded on or outside a trading venue, in any of the following capacities:

1. by posting firm, simultaneous two-way quotes of comparable size and at competitive prices, with the result of providing liquidity on a regular and ongoing basis to the market;
2. as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade;
3. by hedging positions arising from the fulfilment of tasks under (i) and (ii)

MiFID 2: 'market maker' means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against that person's proprietary capital at prices defined by that person.

BSR: 'market making' is the purchase and sale of financial instruments (government bonds, corporate bonds, equities, derivatives, etc.) for own account at prices defined by the market maker, on the basis of a commitment to provide market liquidity on a regular and on-going basis.

- * **Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

The definition of what market making entails is not fully aligned between different pieces of legislation, making it hard for institutions to anticipate on requirements or possible impact thereof on business propositions.

- * **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association asks the Commission to further align the definition of 'market making' in EU legislation.

If you have further quantitative or qualitative evidence related to issue 11 that you would like to submit, please upload it here:

Issue 12 – Overlaps, duplications and inconsistencies

Please indicate specific areas of financial services legislation where there are overlapping, duplicative or inconsistent requirements.

How many examples do you want to provide for this issue?

☐ 1 example ☐ 2 examples ☐ 3 examples ☒ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 12 (Overlaps, duplications and inconsistencies)

- * **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- | | |
|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input checked="" type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input checked="" type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input checked="" type="checkbox"/> Transparency Directive |

☐ UCITS (Undertakings for collective investment in transferable securities)

☐ Other Directive(s) and/or Regulation(s)

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Transparency requirements currently in place at European level are not adequately coordinated. As a result, they impose an excessive burden on issuers while offering investors little added value. This is evidenced in the various disclosure requirements under the First Company Law Directive (68/151/EEC, now 2009/101/EU), the Prospectus Directive (2003/71/EU), the Transparency Directive (2001/34/EU), the Market Abuse Regulation (96/2014) and the PRIIPs Regulation (1286/2014). Harmonisation across these directives and regulations is long overdue so that duplication and overlaps can be eliminated and an appropriate level of investor protection can be established.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

There is no consistency between PRIIPs, MiFID II and other EU law in particular with regard to cost transparency. The most important aspects are already addressed in ESMA's discussion paper Key Information Documents for Priips of 17 November 2014 Annex 1 of under Interaction between the PRIIPs Regulation and MiFID II. The definition of the cost categories to be provided in the Key Information Document (KID) should be aligned and exhaustive regulated also for the particular product categories with respect to other EU regulations. Different or complementary cost information in addition to the product information requirements under PRIIPS should be avoided under other EU legislation (in particular on the basis of MiFID II).

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

In particular, the Dutch Banking Association believes the identification of the costs must follow the principle of the "ownership of the information" which appears to not always have been applied in ESMA's discussion paper Key Information Documents for Priips of 17 November 2014.

On the one side are cost information of the product for which the original manufacturer of the product is responsible, and on the other side are the information about the costs associated with distribution services for which the intermediaries are responsible. For transparency in the market, it is essential that the product cost information contained in the KID and the KIID are both exhaustive and that all market participants, including intermediaries, can rely on them.

Otherwise, if no consistency of existing and future regulations is achieved in this respect, private investors would be faced with several information of

various kinds with regards to cost, created by different market participants (for example using a product information sheet of the product manufacturer and an additional cost of information of the intermediary). This would undermine the objective of maximum transparency and ultimately hinder investors to compare the products. Moreover, the additional costs both for the product manufacturers and distributors could ultimately be borne by investors.

Example 2 for Issue 12 (Overlaps, duplications and inconsistencies)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- | | |
|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products) | <input type="checkbox"/> PSD (Payment Services Directive) |

Regulation)

- | | |
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| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

- COMMISSION DELEGATED REGULATION (EU) No 2015/61 to supplement Regulation (EU) 575/2013 (CRR) with regard to liquidity coverage requirement for Credit Institution (=Delegated Act LCR)
- National Dutch regulation: Staatscourant 2015 34618 - Regeling infasering en rapportagekader liquiditeitsdekkingsvereiste (LCR) banken
- Regulation on liquidity under the Wft 2011 (8028 liquidity reports) (national regulation)

Banks in Netherlands are confronted with dual reporting, as part of implementing CRR/CRDIV liquidity requirements, next to existing liquidity reporting requirements to the national regulator.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

Banks in Europe began reporting Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) last year, as part of CRD IV. Banks have been required to implement LCR and NSFR while still complying with the national disclosure requirements (In Netherlands: 8028 liquidity report). This dual reporting has created a significant overhead for banks, which would rather focus their resources on complying with a single reporting regime.

As from 1 October 2015 the LCR Delegated Act came into force. However due to the fact that the new LCR reporting templates of the LCR Delegated Act have not yet been approved by the European Commission, the Dutch Banks are required to report the existing LCR EBA templates (template 51 - 54) next to the new LCR-DA templates (templates 72-76) as from 31/12/2015 until the new templates are approved. Next to the national 8028 report also a temporary national LCR report will be in place (NLCCR). Many banks in Europe are also involved in the

LCR BIS monitoring, for which the calculation differs from the LCR DA. The Dutch Banking Association concludes that there is a lot of liquidity reporting overlap now and in 2016.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association proposes a single reporting regime per reporting item (e.g. Liquidity Coverage Ratio) and asks for a close collaboration between National and European supervisors in this field.

Example 3 for Issue 12 (Overlaps, duplications and inconsistencies)

*** To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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|--|--|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input checked="" type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |

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| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investments firms and amending Regulation (EU) No 648/2012 ("CRR").

Article 384 Standardised method for Credit Valuation Adjustment (CVA) requirements

Article 274 Mark-to-market Method

An institution using the standardised method, and calculating the Exposure at Default (EAD) parameter in the formula according to the Mark-to-market Method, is required to hold capital against Credit Valuation Adjustment (CVA) for all OTC derivative contracts, even if these contracts are subject to a two-way Credit Support Annex (CSA) with daily margining and a zero threshold. This is due to the fact that the calculation of the exposure value according to Article 274 for contracts with a residual maturity over one year will result in a non-zero exposure, i.e. the potential future exposure.

The Dutch Banking Association deems it appropriate to allocate capital to potential future exposure under the default capital rules (counterparty credit risk). However, we think allocating capital to potential future exposure from a CVA risk perspective should only be considered when the OTC derivative contracts are not or only partially subject to collateral requirements. This will also ensure more alignment with the fair value measurement of CVA employed by an institution, as even a simple CVA accounting method will take into consideration the collateral requirements defined in the CSA (Credit Support Annex).

- ★ **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

Example: an institution trades with a single-A rated counterparty a 7-year cross currency interest rate swap with a notional of 100 million EUR. At inception of the trade, when the market value is (close to) zero, the EAD according to the Mark-to-market method will be 7.5 million EUR (see table 1 Article 274 CRR). The RWA for default risk will be 3.75 million EUR, and the RWA equivalent for the CVA capital charge on a stand-alone basis (i.e. no other trades and other counterparties taken into account) will be 10.3 million EUR. The presence of a CSA will not affect this result, though a CSA is widely considered as a mitigating factor for counterparty credit risk and CVA risk. From a risk perspective, it is clearly preferred to enter into a swap subject to a CSA, however this is not reflected in the capital requirements.

- ★ **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association deems it appropriate to allocate capital to potential future exposure under the default capital rules (counterparty credit risk). However, we think allocating capital to potential future exposure from a CVA risk perspective should only be considered when the OTC derivative contracts are not or only partially subject to collateral requirements. This will also ensure more alignment with the fair value measurement of CVA employed by an institution, as even a simple CVA accounting method will take into consideration the collateral requirements defined in the CSA (Credit Support Annex).

Example 4 for Issue 12 (Overlaps, duplications and inconsistencies)

- ★ **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |

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|--|---|
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
| <input type="checkbox"/> PAD (Payments Account Directive) | <input type="checkbox"/> PD (Prospectus Directive) |
| <input type="checkbox"/> PRIIPS (Packaged retail and insurance-based investment products Regulation) | <input type="checkbox"/> PSD (Payment Services Directive) |
| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
| <input type="checkbox"/> SFD (Settlement Finality Directive) | <input type="checkbox"/> SFTR (Securities Financing Transactions Regulation) |
| <input type="checkbox"/> Solvency II Directive | <input type="checkbox"/> SRM (Single Resolution Mechanism Regulation) |
| <input type="checkbox"/> SSM Regulation (Single Supervisory Mechanism) | <input type="checkbox"/> SSR (Short Selling Regulation) |
| <input type="checkbox"/> Statutory Audit - Directive and Regulation | <input type="checkbox"/> Transparency Directive |
| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

The reporting obligation has been difficult to implement due to the lack of regulatory guidance and in the technical readiness at the trade repositories. The data provided is still lacking in quality regardless of the costly efforts made by the industry. Against this background and the reporting cost of a single transaction it would be more proportionate to introduce a threshold to the reporting obligation.

- ★ **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

The reporting requirements of non-financial counterparties under the clearing threshold are costly and very burdensome for these smaller companies. Because of their lacking expertise and necessary IT infrastructure they outsource these obligations to banks with often costs attached and involving legal documentation (reporting agreements). Non-financial counterparties have to ask for a LEI and to pay application costs and an annual fee. Not all non-financial counterparties have a LEI code (especially the smaller ones), and financial counterparties cannot force them to obtain one.

- ★ **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The Dutch Banking Association considers that the use of LEI code should not become mandatory in transaction reporting of the smaller NFC under the clearing threshold. Different alternative solutions could be applied for these counterparties which would preserve and facilitate the transparency requirements (e.g. no LEI requirement; internal codes or BIC codes should suffice). We are in favour of a less burdensome solution for non-financial counterparties under the clearing threshold like the one followed in the Dodd Frank Act (DFA) Title VII (i.e. single-sided reporting obligation): Under DFA Title VII, registered swap dealers are doing the reporting and transposing the same principles under EMIR would be an improvement, no burdensome for non-financial counterparties under the threshold and would ensure for a global level playing field. Banks instead of their non-financial counterparties could be the reporting party to the trade repositories. This would also make it easier to align the EMIR reporting to the MIFID reporting, because the MIFID reporting is limited to investment firms. Article 9 of EMIR could be focused on financial counterparties and CCPs. Non-financial counterparties (at least under the threshold) could be left out.

If you have further quantitative or qualitative evidence related to issue 12 that you would like to submit, please upload it here:

D. Rules giving rise to possible other unintended consequences

You can select one or more issues, or leave all issues unselected

- ☒ Issue 14 - Risk
☐ Issue 15 - Procyclicality

Issue 14 – Risk

EU rules have been put in place to reduce risk in the financial system and to discourage excessive risk-taking, without unduly dampening sustainable growth. However, this may have led to risk being shifted elsewhere within the financial system to avoid regulation or indeed the rules unintentionally may have led to less resilient financial institutions. Please indicate whether, how and why in your view such unintended consequences have emerged.

How many examples do you want to provide for this issue?

☒ 1 example ☐ 2 examples ☐ 3 examples ☐ 4 examples ☐ 5 examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 14 (Risk)

* To which Directive(s) and/or Regulation(s) do you refer in your example?

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- | | |
|---|---|
| <input type="checkbox"/> Accounting Directive | <input type="checkbox"/> AIFMD (Alternative Investment Funds Directive) |
| <input type="checkbox"/> BRRD (Bank recovery and resolution Directive) | <input type="checkbox"/> CRAs (credit rating agencies)- Directive and Regulation |
| <input type="checkbox"/> CRR III/CRD IV (Capital Requirements Regulation/Directive) | <input type="checkbox"/> CSDR (Central Securities Depositories Regulation) |
| <input type="checkbox"/> DGS (Deposit Guarantee Schemes Directive) | <input type="checkbox"/> Directive on non-financial reporting |
| <input type="checkbox"/> ELTIF (Long-term Investment Fund Regulation) | <input checked="" type="checkbox"/> EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories) |
| <input type="checkbox"/> E-Money Directive | <input type="checkbox"/> ESAs regulations (European Supervisory Authorities) |
| <input type="checkbox"/> ESRB (European Systemic Risk Board Regulation) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship Funds Regulation) |
| <input type="checkbox"/> EuVECA (European venture capital funds Regulation) | <input type="checkbox"/> FCD (Financial Collateral Directive) |
| <input type="checkbox"/> FICOD (Financial Conglomerates Directive) | <input type="checkbox"/> IGS (Investor compensation Schemes Directive) |
| <input type="checkbox"/> IMD (Insurance Mediation Directive) | <input type="checkbox"/> IORP (Directive on Institutions of Occupational Retirement Pensions) |
| <input type="checkbox"/> Life Insurance Directive | <input type="checkbox"/> MAD/R (Market Abuse Regulation & Criminal Sanctions Directive) |

- | | |
|--|--|
| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> MIF (Multilateral Interchange Fees Regulation) |
| <input type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |
| <input type="checkbox"/> Omnibus I (new EU supervisory framework) | <input type="checkbox"/> Omnibus II: new European supervisory framework for insurers |
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| <input type="checkbox"/> Qualifying holdings Directive | <input type="checkbox"/> Regulations on IFRS (International Financial Reporting Standards) |
| <input type="checkbox"/> Reinsurance Directive | <input type="checkbox"/> SEPA Regulation (Single Euro Payments Area) |
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| <input type="checkbox"/> UCITS (Undertakings for collective investment in transferable securities) | <input type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please provide us with an executive/succinct summary of your example:**

(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

Articles 4 and 11 of Regulation 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR)

Both the clearing obligation as well as the bilateral margining rules for OTC Derivatives are leading to higher (funding) costs for the buy-side of the market to enter into OTC Derivatives (including FX Forwards / swaps). An unintended consequence of this may be that market risks (especially interest rate risks and FX risks) in the real economy remain unhedged.

The clearing obligation under EMIR will lead to CCPs that are too-big-to-fail. For the Dutch Banking Association this policy choice of the Commission also comes with the responsibility to implement sound recovery and resolution mechanisms around CCPs (in progress) and to have a back-up available once CCPs do fail,

Where (capital / liquidity) costs in less regulated markets are lower, financial services that traditionally were offered by banks are now being offered by less regulated institutions / shadow banks. Whereas risks in the regulated sector will almost instantaneously be on the radar screen of the regulator, risks in the shadow bank may (temporarily) be fully off the radar screen. The continued tightening of banks' prudential regulations means that financing of the economy will be increasingly taken up directly by other financial intermediaries who may not necessarily be subject to similar

prudential requirements. This could lead to financial stability concerns and competitiveness of different parts of the system and should be recognised.

*** Please provide us with supporting relevant and verifiable empirical evidence for your example:**

(please give references to concrete examples, reports, literature references, data, etc.)

–

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Key suggestion for a safer system is to have the ECB act as a last lender of resort while charging premium fees to the market.

If you have further quantitative or qualitative evidence related to issue 14 that you would like to submit, please upload it here:

Useful links

Consultation details

(http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/index_en.htm)

Consultation document

(<http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document>)

Specific privacy statement

(http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/privacy-statement_en)

More on the Transparency register (<http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en>)

Contact

✉ financial-regulatory-framework-review@ec.europa.eu
