

Simplifying EU banking regulation

The aim of the session was to identify possible ways to simplify banking regulation while maintaining financial stability. The discussion took place in two rounds. The first focused on concrete areas for simplification within the existing European regulatory and supervisory framework, and the second addressed the process of prioritisation and holistic impact assessment.

1. Concrete areas for simplification in the European regulatory framework

1.1 Stakes and challenges

1.1.1 The need to simplify EU banking regulation without deregulation

The Chair outlined that the significant efforts made by the EU in the aftermath of the 2007/08 global crisis have increased the resilience of the European financial system. The end of the regulatory cycle provides an opportune moment for review and recalibration. There is a growing momentum for simplification in Europe. The Draghi and Letta reports specifically identified regulatory simplification as a key driver of European competitiveness. There is the decision on the Single Supervisory Mechanism (SSM) to streamline and simplify supervisory practices with the Threat of Tomorrow initiative. A holistic and thorough assessment of the standards applicable to EU banks should be guided by the overarching principle that simplification should not mean deregulation. Finally, the European Commission's commitment to a simpler and faster Europe is a key focus of its mandate for 2024-2029.

1.1.2 The overly prescriptive and fragmented nature of EU regulation

An industry representative noted that although European regulation is undoubtedly sophisticated, it is also significantly more prescriptive than that of many other jurisdictions, creating significant implementation challenges for financial institutions and potentially impacting competitiveness. The complexity is further exacerbated by the growing tendency of EU legislators to delegate rulemaking powers to regulatory agencies when political issues remain unsolved at level 1.

This then impacts on enforcement and audit, creating additional challenges. The approach often incentivises a line-by-line implementation methodology, which can be particularly burdensome for institutions with unique operational characteristics or business models. The total regulatory volume of the Digital Operational Resilience Act (DORA), including primary legislation, regulatory technical standards (RTSs) and implementing technical standards (ITSs) in between exceeded 1,200 pages. A more principles-based approach to regulation could

have achieved the same objectives with less complexity.

Despite the existence of the single rulebook, there is fragmentation across Europe, which undermines the goal of creating a level playing field and creates difficulties for institutions operating in multiple jurisdictions. There should be greater harmonisation, not only of the legislation itself, but also of its interpretation and enforcement.

1.1.3 Simplification to reduce uncertainty and better address fast-evolving challenges

An industry representative noted that the European regulatory process is lengthy, typically taking four to five years from initial proposal to application. That is further extended for directives, as they require national transposition, and for Level 2 and Level 3 regulations, in addition to supervisory guidance. Dynamic areas such as the digital domain can change massively in such a timeframe, affecting the relevance of the regulation.

The Commission often prioritises early regulation to prevent individual national authorities from acting first, inadvertently encouraging a sense of urgency and potentially premature regulatory action. A possible solution could be to clarify the respective competences of European and national authorities, to reduce the pressure for early regulation. There could be a critical review of pending files to assess their utility, including, for example, the Retail Investment Strategy and Financial Data Access (FIDA).

The existing regulatory architecture is complex, populated by numerous new agencies with narrow mandates and, crucially, limited accountability. This proliferation of agencies often leads to overlapping responsibilities, so comprehensive overhaul of this architecture is needed.

1.1.4 Cross-sectoral and rapidly evolving risks

An industry representative highlighted that a distinction can be drawn between well-established risks like credit risk, for which developing a solvency ratio took approximately 50 years, and newer, more rapidly evolving challenges like those related to environmental, social, and governance (ESG) factors. European regulation struggles with cross-sectoral risks like digital fraud, irrespective of the number of authorities involved or their coordination efforts. The inherent structure of the regulatory framework is not well suited to addressing threats that transcend sectoral boundaries.

There are traditional risks that are difficult to encapsulate with prescriptive rules. A typical example is retail investment strategies. Even seemingly simple concepts like 'value for money' can quickly become complex when translated into quantifiable indicators, potentially leading to an explosion of data points given the number of products and banks in Europe, for example. Efforts should not focus on adding further layers of regulation at levels 2 and 3 to address the regulatory machine's

limitations at level 1.

1.2 Priorities

1.2.1 Increasing accountability with better governance

An industry representative said that the simplification process needs to take place at all levels of regulation and in all areas (prudential, sustainability and digital regulation). It is crucial that simplification at one level does not mean more regulation at another level or at member state level.

The UK regulatory model can be commended for its efforts to balance agency independence with robust accountability mechanisms. The adoption of explicit competitiveness objectives, similar to those introduced in the UK, would be beneficial in the European context. Greater accountability, particularly for the SSM, would also be helpful. Dialogue between banks and the SSM should be improved, and the governance of the SSM's Administrative Board of Review should be refined to increase transparency. The governance structure of the EBA could be improved by increasing the representation of independent members and reducing the reliance on national supervisors.

Two particular areas ripe for simplification are the Minimum Requirements for Own Funds and Eligible Liabilities (MREL) framework and the overlapping nature of existing regulatory buffer structures, which are often determined by different authorities without adequate consideration of potential redundancies.

1.2.2 The call for regulatory stability

A policy-maker indicated that the Commission's recent Competitiveness Compass explicitly identifies simplification as a key factor for European competitiveness. However, different interpretations of simplification could pose challenges. There has been a significant amount of regulation in recent years, including the comprehensive banking package and digital security rules. It is important to have a period of regulatory stability to allow industries sufficient time to implement existing rules effectively. The fact that the industry is asking for the legislation to not be reopened is in itself an element of regulatory stability.

There is a need to reduce the inherent gold-plating that we face in Europe because we apply prudential requirements at all levels – consolidated and solo level. This layered approach s, remains an area in need of simplification. Prudential requirements applied at multiple levels often unnecessarily locks up capital and liquidity that could otherwise support the real economy.

1.2.3 Clarifying European Supervisory Authority (ESA) mandates and preventing regulatory overreach

A public representative expressed concern that simplification efforts often start with Commission proposals that rely heavily on Level 2 measures, effectively postponing problem-solving rather than addressing issues directly in primary legislation, as this can simply involve moving problems to another level. Political problems should be resolved at the legislative level by the European Parliament, Council and Commission, and RTS can be reserved for technical

adjustments. Cases where issues are transferred to Level 2 measures simply because consensus could not be reached in tripartite negotiations are problematic.

There should be stricter adherence to established ESA mandates. Supervisors operate from a limited perspective, and the process by which they independently develop their own Level 2 and Level 3 measures would benefit from rethinking.

In addition, there are challenges in having to review an increasing volume of delegated acts due to capacity constraints. ESA governance structures could be re-evaluated to encourage a broader approach to problem-solving, and the Commission could consider legislative changes to facilitate this.

1.2.4 Strengthening EU regulatory hierarchy and streamlining Level 2 and supervisory processes

A regulator highlighted that the levels should be taken seriously. Level 1 is primary legislation, level 2 is delegated acts subject to approval by the Commission and scrutiny by the co-legislators, and level 3 includes 'comply or explain' guidance for competent authorities. Level 1 legislation has a higher authority than level 2. Level 3 guidelines grant implementation discretion to national competent authorities, and permit convergence of supervisory practices. These issues should not be treated as being at the same level. An EBA report, while valuable in identifying best practices and providing guidance, does not have the force of a regulatory requirement.

For the example of DORA, although 1,400 pages is lengthy, that number should properly be divided by the number of member states, yielding approximately 50 pages per country. It is questionable that individual nations would independently produce regulations of comparable brevity and consistency without a unified framework, and such an approach would likely exacerbate fragmentation.

Three key areas for improvement are being considered. One is the refinement of the Level 2 process, including the level of detail and prioritisation, whether the co-legislators can be involved and how this can be done earlier to address whether the mandates make sense or are just being transferred to a lower level.

The second area concerns reporting, including how effective reporting requirements are, whether they are proportionate and whether they are actually used. It would not be helpful to remove reporting requirements that are supplemented by national competent authorities or other European competent authorities. Information sharing and integrated reporting should also be part of the process. The third area is how the ESAs function internally to ensure efficiency.

1.3 Simplification cannot solve structural weaknesses

1.3.1 More effective and targeted regulation to create a true single market

A regulator noted that the issue of simplification represents a broader European challenge. Focusing on simplification may misdirect efforts, as simplification is inherently related to efficiency. The primary question

should be whether the current systems are effective in achieving their intended objectives. Within the financial sector, and banking regulation in particular, the approach has been very effective. There are demonstrable improvements in resilience, robustness and financial stability. The measures taken with regard to the provision of credit to the economy have also been effective so far. Questions arise about the potential for future constraints on the provision of adequate credit to the economy, given the evolving financing needs, and this can be monitored and proactively prepared for.

A key shortcoming is the creation of an effective single market within the banking union or the wider financial sector in the EU, but this will not be solved by simplification or increased efficiency. Real progress will require more robust rules specifically designed to address the challenges of the single market

1.3.2 Simplification in the context of a declining global role for European banks.

An official warned that framing the discussion solely in terms of how successful Europe has been, that the banking sector is safe, and that things will improve with simplification might obscure a more fundamental issue: the declining share of European banks in global banking assets. This share has fallen from 40% in 2007 to around 20%, mainly due to a contraction in investment banking. It is doubtful that simplification alone can remedy this situation, as it represents a broader trend towards reducing risk appetite in the banking sector. Risk reduction has repeatedly taken precedence over maintaining the capacity to deal with potential challenges, resulting in an overly conservative approach.

The banking union is a positive achievement, but there is no mechanism comparable to the US Federal Deposit Insurance Corporation (FDIC), which plays a crucial role in reducing systemic risk. This absence may contribute to the prevailing low risk appetite in the European banking sector.

2. The need for holistic analyses

A policy-maker underlined the Commission's responsibility to assess the functioning of existing regulatory frameworks and their continued suitability for the purpose, noting that established mechanisms already exist to facilitate this assessment. The forthcoming Commission report was highlighted not only as an opportunity to analyse the international competitiveness of EU banks, but also to consider how our banking system can actively contribute to Europe's wider economic competitiveness. This does not mean having no new regulation, but it is a valuable opportunity for a comprehensive assessment.

2.1 Systematic ex-ante and ex-post impact assessments and a holistic, accountable regulatory review

An industry representative advocated a holistic impact assessment, alongside improvements to existing assessments. The burden of proof should be on the need

for regulation. The last 10 years in Europe were a period of intense regulatory activism, and we need now more regulatory stability. The Commission and the ESAs should lead the review, probably using external resources and building on the Commission's work plan.

Impact assessments should be carried out both ex-ante and ex-post to ensure that regulations achieve their objectives within a reasonable timeframe. Impact assessments should systematically assess the impact on competitiveness. Low intermediation margins, higher remuneration for savings and low borrowing costs are key objectives.

An industry representative emphasised that any assessment should be guided by clear objectives. The importance of competitiveness should be taken into account, as a profitable and efficient banking industry contributes to security. Legal clarity should not be left to technical standards, which in turn should not be used to address unresolved political issues nor to introduce measures with significant economic effects without explicit political arbitration.

In addition to those who own and produce regulation, those who are subject to it should be involved in the review.

A public representative explained that the Commission has a monopoly on initiative to ensure internal consistency and coherence. The Commission's first obligation is to ensure that each proposal is interlinked and properly connected to all the others. The first omnibus, the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD), require similar but not identical data, creating duplication of effort for companies. That being addressed is a genuine simplification without deregulation.

2.2 Reducing overlapping authorities and limiting over-reliance on soft law to preserve flexibility and clarity

An industry representative highlighted the reinforcing effect of simplification. Simplifying rules reduces the complexity of supervisory processes. Authorities are needed to monitor and enforce at all levels. However, multiple authorities can be involved at national level, justified by the double effect of regulation and supervision. Regulatory simplicity creates a corresponding simplicity in supervision.

An official stated that a major challenge is balancing comprehensive assessments with the need for timely decision making. Not every situation requires a fully holistic analysis, and sometimes no formal analysis is required at all.

For example, there is ongoing cooperation between the Ministry of Finance in Poland and the Polish supervisory authority on a recent addition to the Capital Requirements Regulation (CRR) regarding the use of the favourable prudential treatment for investments under legislative programmes. This has the potential to modernise the banking sector and generate positive spill-over effects in the capital markets. In the Commission's communication on the Savings and Investment Union (SIU), there was

language implying incoming 'guidance' by the Commission in this area, which could be interpreted as a threat due to reducing flexibility. Soft law provisions are often ineffective because they do not encourage the desired behaviour and instead potentially reduce flexibility.

2.3 Holistic, well-targeted assessments with integrated impact reviews, coordinated capital rules, and streamlined reporting

A regulator affirmed the value of holistic assessments but cautioned against overly broad approaches that could impede progress. There are three key priorities in banking and financial regulation. First, impact assessments should be carried out in a more integrated manner, going beyond individual rule-by-rule assessments and considering both ex-ante and ex-post

analyses. Ex-ante assessments can prove difficult, making ex-post evaluation crucial.

Secondly, interactions between different components of capital requirements, including prudential rules, Pillar 1 and Pillar 2, national implementations, macroprudential oversight and recovery and resolution frameworks, should provide comprehensive guidance to banks in their capital planning processes.

Thirdly, ongoing efforts to integrate banks' prudential and statistical reporting to the European Central Bank (ECB) represent a promising area for expansion. The aim is to create a system in which supervised entities submit information only once to a single authority, allowing seamless internal sharing without redundant requests.