



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:

PensionsEurope

Contact email address:

The information you provide here is for administrative purposes only and will not be published

ursula.bordas@pensionseurope.eu

* 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

* If so, please indicate your Register ID number:

5199259747-21

* Type of organisation:

- Academic institution
- Consultancy, law firm
- Industry association
- Non-governmental organisation
- Trade union
- Company, SME, micro-enterprise, sole trader
- Consumer organisation
- Media
- Think tank
- Other

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

Belgium

* 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 4 - Proportionality / preserving diversity in the EU financial sector

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 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)
 - 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) PRIPS (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)
- 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)

A constraint in financing results from the divergence between EU and Member State legislation concerning EuVECA. The EU has already in 2013 created a new type investment vehicle to foster investment into young and emerging companies. Unfortunately, the chosen set of restrictions denies most of pension funds to invest in single-funds given the fact that diversification is not broad enough for the typical economic or regulatory requirements of pension fund.

*** 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 are simply not enough EUVECAs available at the moment, and the existing ones show a local or regional or industry focus not fulfilling the basic diversification requirements of a pension fund. To our best knowledge, the EuVECA has not been adequately introduced locally through legislation or regulation, again preventing pension funds from using it.

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

Correct the local implementation and promotion of EuVECA.

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.

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 checked="" 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) |

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| <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)

A constraint in financing results from the divergence between EU and Member State legislation concerning ELTIFs. The recently introduced ELTIF has not been fully transposed into local legislation and/or regulation for pension funds.

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

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

For example in German local pension fund regulation an ELTIF will be looked at as an equity vehicle. Even if an ELTIF would carry only debt investments (i.e. in infrastructure project bonds) it would be classified an equity investment under current regulation.

*

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

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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.

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"/> 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) |
| <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 checked="" type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments

*** 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)

Lack of a pipeline of future infrastructure investment opportunities

*** 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 continuing lack of a clear pipeline of future infrastructure investment opportunities remains a barrier to long-term investment by pension funds, which need time to carry out due diligence on potential investments and to ensure the necessary funds are available when needed.

Political and regulatory risks can be major barriers to investing in infrastructure over the long term. Guaranteeing and safeguarding legal certainty is important for those seeking investment opportunities in the capital markets. Investments in infrastructure are often made in the context of public infrastructure, with a long-term investment horizon and in some instances incorporating state subsidies. Those investments require a long-term stable public and legal environment. Variability in those areas may significantly reduce investor confidence and willingness to invest. Reducing subsidies during the life-time of a project could significantly curtail the advantages of these types of investments. Due to the illiquid character of infrastructure investments and the long lasting and binding commitment of investors to these investments such changes pose serious problems.

Three examples of political and regulatory risks:

- The many shifts in the tariffs available for solar energy projects across the EU provide good examples. The UK Government is currently considering a significant round of reductions in feed-in tariffs - from 12.47 p/kWh to 1.63 p/kWh for small installations.
- Compensation for Renewable Energy in Spain: Spain has limited in 2012 and 2013 ex post the maximum quantity of renewable electricity for which a guarantee price was paid above normal market price (compensation for electricity fed into the grid). In the beginning a fix price was guaranteed for 25 years, since 2013 the price was set to 3% above Spanish 10-year-government bonds. These measures directly reduced returns on investments in renewable energy.
- Transmission fees for gas pipeline in Norway: Norway plans for 2016 to drastically reduce fees for the transmission of gas through privately run gas pipelines in the North Sea. This would imply an enormous decline in value of the infrastructure investment until the end of the pipeline concession in 2028. Norwegian Courts have confirmed in 09/2015 that the cut in fees is legal.

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

Policy-makers at national and EU level should look to ensure a stable regulatory and fiscal framework.

Some of the solutions lie in the industry's own hands. In the UK, the Pensions and Lifetime Savings Association has established with other stakeholders the Pensions Infrastructure Platform, which pools investment from a number of pension funds, thereby generating the scale and in-house expertise needed to assess and support potential investments. The PiP has now invested £1 billion in infrastructure projects since its establishment in 2014. Its investments

include government buildings (eg schools and hospitals), social housing and, in future, the Thames Tideway Tunnel or new 'super-sewer').

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

Issue 2 – Market liquidity

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?

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

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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) | <input type="checkbox"/> EuSEF (European Social Entrepreneurship) |

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| Regulation) | 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)

Capital requirements for banks, imposed by Basel III and CRDIV rules, have had a negative impact on market liquidity, especially in the repo market. In fact, CRDIV and CRR restrict the liquidity on the repo market.

As highlighted by the "Baseline report on solutions for the posting of non-cash collateral to central counterparties by pension scheme arrangements" a report for the European Commission prepared by Europe Economics and Bourse Consult, it is uncertain if these markets are still open and liquid in times of stress when liquidity is needed the most.

*** 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 would like to refer to the “Global financial markets liquidity study” published by PricewaterhouseCoopers in August 2015. PwC’ study “highlights the importance of the role played by market makers in providing liquidity, which has diminished since the global financial crisis as the balance sheet capacity of market makers has fallen. This has led to reduced market depth. The implementation of further reforms are also likely to have significant implications for future market liquidity” (see page 12). PwC identifies several ways in which regulatory reforms have impacted or will impact financial markets activity but banking regulation is placed on top, especially (see page 9):

- Bank deleveraging, refocusing and exits (leading to a reduction in served markets and streamlining of operations due to the new regulatory environment) and
- Reduction in market-making activity (especially in capital and funding intensive areas such as market making in fixed income, credit, derivatives and commodities leading to a reduction in liquidity in those dealer-led markets where market making provides a key source of liquidity).

Other problems with liquidity are:

- difficulties in executing trades (time taken and effort required to execute both with dealers and across multiple platforms has increased)
- reduction in market depth (falling transaction sizes; smaller trading volumes are now moving market pricing by larger amounts)
- increase in volatility (volatility in bond markets in 2015 was around 40% higher than in 2014 and volatility is arguably above historical levels during benign economic conditions)
- bifurcation in liquidity (liquidity is increasingly concentrating in the more liquid instruments and falling in less liquid assets; even traditionally liquid sovereign debt markets have experienced liquidity shortages)

Read the study here:

<http://www.pwc.com/gx/en/financial-services/publications/assets/global-financial-market-liquidity-study.pdf>

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

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If you have further quantitative or qualitative evidence related to issue 2 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 checked="" 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) |
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| <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 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)

In their investment policies, pension funds need to balance return, risk, complexity and costs. Increasingly, asset management costs are an important driver within investment policies. The regulators' focus is on the transparency of costs and the inclusion of costs in pension funds' decision making, not a reduction of costs. Minimisation of costs is not the objective: return, risk, and complexity play an important role. Taking those factors into account, costs should be justifiable and clear.

When drafting rules the European authorities should always bear in mind the resulting costs to pension schemes and ultimately pensioners. The global competitiveness of the European ecosystem should be a key objective of the future European action.

We would like to point out the importance of assessing the combined costs of various pieces of European regulation affecting pensions funds directly (via increase in workload or labor cost) or indirectly (via increasing cost of services of other market participants or the functioning of markets). The essence of is that the sum of regulation has increased cost of running a pension fund and that there are serious (side) impacts on investors. In the end the regulatory cost within the financial system as a whole increased enormously even if accurate cost measures are hard to estimate.

Regulations with direct effects are EMIR (European Market Infrastructure Regulation including margin requirements for OTC derivatives), AIFMD (Alternative Investment Fund Manager Directive), CRA III (new rules for Credit Rating Agencies including own credit risk assessment of investors), as well as envisaged initiatives such as the FTT (Financial Transaction Tax).

As mentioned above pension funds (and other institutional investors) are also faced with substantial indirect effects/costs of reform which are passed on by banks and other financial intermediaries: i.e. new requirements due to MiFID or the AIFMD predominantly affect funds managers, who pass the costs to the clients, pension funds.

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

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

Typical examples for increase in workload / labor cost and service fees for pension funds in the course of the last 5 to 10 years:

Example 1: large German pension fund (more than 10 billion / bn EUR in AuM)

- Workload for reporting topics: at least one job position more
- Workload for compliance with regulatory topics: at least one more job position (including over-all monitoring as well as certain projects)
- Service fees and workload for rating requirements due to CRA III:
 - 1) Fees for additional rating information of rating agencies: 100.000 EUR every year
 - 2) Extra workload for additional internal credit analysis: 1st year: $\frac{3}{4}$

job position (=15% of working time of each of 5 team members of the fixed-income team); from 2nd year: ½ job position (= 10% of working time for each team member)

- under EMIR:
 - 1) fees for additional collateral management: 250.000 to 500.000 EUR or 2 basis points less net return (service fee for fund management including broker for hedging via derivatives for fund investment, especially fx-hedging;
 - 2) lower returns due to posting collateral as cash (= zero return) instead of average return of pension fund's investments: between 0.5% and 1.0% of total assets are forced to be held in cash instead of being normally invested and earning the average return of invested capital

Example 2: large German pension fund (more than 10 billion / bn EUR in AuM)

- the following is only focuses on increase in reporting requirements and internal risk assessment
- software expenses (new products, higher servicing costs, costs for necessary interfaces for data import): 100.000 -120.000 EUR (implementation cost) and 25.000 to 35.000 EUR (every year)
- internal cost for new job positions (for project implementation and for new on going processes): 30 person days (implementation) and 1 new job position (on going)

Example 3: German middle-sized pension fund (between 1 and 10 bn EUR)

- Workload for in-house reporting and compliance: a new job position is being established
- Cost / fees for external services / advice:
 - EMIR-collateral management: 120.000 EUR per year for investment fund and custodian
 - Cost for risk-overlay (as part of risk management required by prudential regulation for IORPs): 500.000 EUR per year
 - External Advice relating to CRA III-requirements for directly (not via investment fund) invested fixed-income investments: 40.000 EUR per year
- Less market liquidity makes adjustments of strategic asset allocation necessary
 - reduction of corporate bonds, increase in government bonds (because of decreased market liquidity (loss of market makers in the bank sector due to restrictive treatment of trading activities under CRD IV): less credit spreads leads to reductions in yield = ca. 250.000 EUR per year

Example 4: German smaller pension fund (less than 1 bn EUR)

- currently team consists of four persons for inhouse asset management and controlling
- workload for reporting and compliance: extra cost of 120.000 EUR every year (85% for staff, 15% external advice)
- from 2016 / 2017 additional extra cost of 60.000 to 80.000 EUR per year are expected

Last but not least it is very important to consider whether the intended regulatory objectives are met, e.g. regarding the regulation on derivatives (EMIR) or the requirement to conduct internal credit ratings as stipulated by the CRA III Regulation mentioned above.

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

-

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.

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) |

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| <input type="checkbox"/> MCD (Mortgage Credit Directive) | <input type="checkbox"/> 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)

Pension funds will face problems with posting Variation Margin.

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

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

Art. 4 and Art. 89 of EMIR Regulation (Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories). Art 4 establishes the obligation to clear OTC derivatives in a central counterparty (CCP) and art. 89 establishes a temporary exemption for this obligation for entities operating pension schemes arrangements.

The reason for establishing the temporary exemption for entities operating pension scheme arrangements from the obligation to clear OTC derivatives in a CCP is that said entities typically mini-mize their allocation to cash in

order to maximize the efficiency and the return for their policy holders. Hence, requiring such entities to clear OTC derivative contracts centrally would lead to divesting a significant proportion of their assets for cash in order for them to meet the ongoing margin re-quirements of CCPs. To avoid a likely negative impact of such a requirement on the retirement income of future pensioners, a temporary exemption has been introduced in the EMIR Regulation until a technical solution for the transfer of non-cash collateral as variation margins is developed by CCPs to address this problem.

However the problem not only lies in the technical transfer of non-cash collateral. The collaterals accepted by the clearing members are more restrictive than those accepted by the CCPs leading to exclude funds that do not have eligible assets. Furthermore, there is an over-collateralization practice from the clearing members that affects negatively the liquidity and the management of funds.

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

Either a permanent exemption from the obligation to clear OTC derivatives in a CCP should be established for entities operating pension scheme arrangements or, otherwise, the requirement that CCPs must accept fund units or, in general, that CCPs must accept the same securities than those accepted by the ECB should be established.

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.

- | | |
|--|--|
| <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 checked="" type="checkbox"/> MiFID II/R (Markets in Financial Instruments Directive & Regulation) | <input type="checkbox"/> Motor Insurance Directive |

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|---|--|
| <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) |
| <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)

We would like to stress that post-trade transparency requirements should be aligned with the Trade Repository System in order to prevent administrative burden for institutional investors and asset managers. In addition, real-time reporting is impossible for investment firms who carry out trades via brokers. Therefore, the reporting obligation should naturally remain with the financial broker. Finally, we are concerned about the availability of the Average Daily Turnover (ADT) of individual 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.)

Information about the actual ADT of a specific financial instrument is difficult to obtain as this information is not always available. We therefore suggest to set up a central register (repository) where ADT information on specific financial instruments based on earlier trades can be stored and is accessible to market parties.

Like CRD IV under the Markets in Financial Instruments Directive II (MiFID II) rules a lot of Technical Standards and Guidelines will be issued and published in the near future. At this moment there is not one central website/database where all the officially published regulatory rules relating to a certain Directive or Regulation are published. This website/database should be a

reliable and up to date source for market parties to consult. CRD IV has an interactive Single Rulebook which had some difficulties in the past but is, if up to date and reliable, very helpful.

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

-

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

Issue 9 – Barriers to entry

Please document barriers to market entry arising from regulation that the EU should help address. Have the new rules given rise to any new barriers to entry for new market players to challenge incumbents or address hitherto unmet customer needs?

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 9 (Barriers to entry)

*** 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)

- | | |
|---|--|
| <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 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) |
| <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 checked="" type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

*** 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)

Lack of harmonization on tax issues.

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

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

Withholding taxes act as a barrier to entry for non-resident players. The time and costs of recovery of withholding taxes in many cases act as deterrent for investment funds and pension funds to invest in states other than that of their residence where they are normally taxed at a low rate or exempt from taxes in the corporate income tax.

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

Given that both Directive 2014/107/UE and Common Reporting Standards of the OECD provide for an exchange of tax information between countries, building on the experience on exchange of information of these initiatives, the implementation of the TRACE (Treaty Relief and Compliance Enhancement) initiative in EU countries should be fostered in order to ease the problem of recovery of withholding taxes and reduce tax barriers on cross-border investments.

If you have further quantitative or qualitative evidence related to issue 9 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) |

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|--|---|
| <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)

PensionsEurope's Members are concerned about the unintended consequences of CRDIV bank capital rules interacting with EMIR. EMIR policymakers recognised that pension schemes cannot post cash and therefore should not be mandated to clear until more appropriate clearing solutions are created allowing pension schemes to post securities collateral for variation margin. The non-cleared markets must therefore remain workable for pension schemes. However, certain elements of the CRDIV bank capital rules have strong opposing incentives for banks to only receive variation margin in cash to support non-cleared OTC derivatives positions. This directly contradicts the EMIR policymakers' objective and would force pension schemes to have to post variation margin in cash for non-cleared trades as well. This would introduce disproportionate cost and risk to EU pensioners. Furthermore, all elements of bank capital

rules must be considered in relation to its impact to pension schemes as they transact with banks for OTC derivatives. As part of this the EU policymakers' should ensure the CVA exemption provided to banks in relation to trades with pension schemes must also remain, to ensure the non-cleared markets remain workable for pension schemes.

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

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

This is particularly relevant with respect to the bank capital regulations CRD IV/CRR. These are expected to incentivise cash Variation Margin for non-cleared OTC derivatives transactions (through the leverage ratio and net stable funding ratio rules that are due to be implemented). This would extend the cash VM issue into the non-cleared markets as well. The new banking regulations are also expected to lead to a shrinking repo market. This would reduce the market capacity for transforming securities into cash, while at the same time increasing demand. As the Basel discussions look to overhaul the current credit valuation adjustment (CVA) methodology, we note that the current CVA exemption for transactions by pension funds not subject to mandatory clearing needs to be maintained in order for such an exemption to be effective.

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

The impact of all applicable regulations to banks and Central Counterparties needs to be assessed in combination and not in isolation.

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.

- | | |
|---|--|
| <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 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 checked="" type="checkbox"/> Other Directive(s) and/or Regulation(s) |

- * Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Taxation

- * 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)

Withholding tax: There is often a lack of standardised definitions with regard to which tax treatment applies to different types of investors and the investment vehicles they use.

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

To obtain such clarity, the investor often has to approach the local tax authority about the tax treatment of an investment vehicle. The particular ruling of tax authorities has an impact on, inter alia, tax reclaim procedures. If an investor is unable to obtain a withholding tax exemption upfront, it will have to engage in a reclaim procedure. There have been cases in which it has taken up to 10 years to retrieve the unduly levied amount.

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

A solution might be to extend existing tax exemptions for local pension funds to similar foreign EU pension funds.

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.

- | | |
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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 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"/> 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 checked="" type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Infrastructure

*** 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)

Infrastructure investments should be defined more clearly to help to support industry-wide best practices or standards for contractual documentation for long-term project financing.

*** 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 standardised definition of infrastructure.

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

PensionsEurope strongly support processes of defining infrastructure investments more clearly by helping to support industry-wide best practices or standards for contractual documentation for long-term project financing. This would reduce the cost of structuring investment projects and would make expansive legal opinions which are currently nearly obligatory for each single project superfluous.

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.

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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) |

- | | |
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| <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 checked="" type="checkbox"/> Other Directive(s) and/or Regulation(s) |

*** Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
 (Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Insolvency law

*** 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 particular, the emergence of a pan-European capital market would require more transparency and clarity as to which jurisdictions apply in cases of insolvency. This would allow institutional investors to assess the risks to their portfolios, and thus enhance their investment decision-making.

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

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

This need for clarity stems from the practical issues that arise from insolvency in reality. Pension funds' assets are often kept by custodians and sub-custodians that are based in different jurisdictions. In many cases, the custodian is part of a US entity. In case of insolvency, both the insolvency law from the relevant EU Member State and the US would apply. A common situation is that a Dutch investor's assets are kept by a French sub-custodian to a UK custodian, which is part of a US bank. For investors, it is hard to determine which jurisdiction applies and how the different jurisdictions interact with each other.

With different jurisdictions involved, it becomes unclear to the investor whether it will have access to its assets in case of insolvency. At the moment, situations may arise in which the investor has both a credit and debit position, and will need to pay its debit position without knowing whether it will receive its (partial) credit position at the end of the insolvency procedure. In such cases, the investor bears the complete credit position risk, even if its net exposure is lower. In combination with the fact that insolvency procedures may take several years to complete, this poses a risk for the investor.

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

Thus, harmonisation of insolvency laws could make it easier for investors to assess the risks and potential consequences of cross-border investing

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.

- 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)
- PRIPS (Packaged retail and insurance-based investment products Regulation)
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- 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 specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

Taxation

- * **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 order to increase economies of scale, share investment risks, but also to pool expert knowledge, pension funds typically make use of third party funds or other vehicles. Therefore, it is of utmost importance to ensure the tax-neutral treatment of pension funds, as their investment income is tax-exempt in those states with an EET-taxation model. Double taxation would arise when both the pay-out phase to beneficiaries and the investment phase were taxed.

Another taxation barrier is the broad diversity between Member States regarding withholding taxes and possibilities and procedures to mitigate those taxes (based on existing double tax treaties). The reclaim procedures for withholding tax are often demanding and resource-intensive for investors.

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

Under Dutch tax law, the tax provisions are designed in such a way that the tax burden is the same for the situation of a direct investment by an investor, an investment through a tax transparent fund, or an investment through an opaque fund. If the tax burden is much higher when using a pooled investment vehicle, the use of such funds will not be interesting for investors. Therefore, we believe a EU-wide uniform tax transparency treatment of asset pooling vehicles deserves recommendation.

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

We would therefore welcome that the EU plays a role in harmonising these procedures.

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.

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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) |

- E-Money Directive
- ESRB (European Systemic Risk Board Regulation)
- EuVECA (European venture capital funds Regulation)
- FICOD (Financial Conglomerates Directive)
- IMD (Insurance Mediation Directive)
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- Solvency II Directive
- SSM Regulation (Single Supervisory Mechanism)
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- 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
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- 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)

The total cash collateral demand following from EMIR and the margin policies of CCPs is very significant. Pension funds aim to be fully invested and minimise their allocations to cash to reflect the long-term nature of their pension fund obligations and therefore to generate long-term returns. In addition, cash nowadays has mostly negative interest rates and is therefore a drain on the pension scheme instead of an addition. Holding large cash reserves reduces the available budget for investing and as a consequence significantly lowers pension scheme's investment returns in the long term.

This jeopardizes pension incomes to meet pension obligations. Moreover, the need to hold large cash buffers also reduces the budget for long term investment linked to the recent CMU initiative of the European Commission. The CMU initiative seeks to mobilize investments by institutional investors in SMEs and infrastructure in order stimulate economic growth and employment in Europe.

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

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

Mandatory clearing for pension funds would therefore introduce significant new liquidity and transformation risk as they would be forced to meet VM calls by either liquidating existing investments at very short notice (1 day) or attempting to repo their assets. This is a new risk for pension funds as they have previously been able to post VM in the form of high quality government bond securities.

Pension funds would not have the ability to manage this liquidity risk in stressed market conditions. This is exactly when central clearing is meant to provide stability to the financial system. Only central banks can provide the ability to mitigate liquidity risk in these circumstances.

Unlike banks, and to some extent CCPs with the recent developments, pension funds do not have access to central bank liquidity as the liquidity provider of last resort.

This new liquidity risk will potentially have wider market implications. It applies additional stress on a repo market that is already shrinking as a result of bank capital regulations. It potentially exacerbates downward pressure on falling asset prices in stressed market conditions as pension funds sell out of their physical assets (such as bonds and equities) in order to meet the cash VM calls. All this, we believe, conflicts with EMIR policymakers' objective of reducing risk and avoiding pro-cyclicality.

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

-

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
