

The SAFE Regulatory Radar in February

Amendments in ESG regulations, new rules for central clearing, and act to improve access to capital markets for SMEs



At the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at the national and EU level.

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ESG: New rules for ESG rating agencies

Rating providers need to be more transparent about the data and methodologies applied to their ESG rating activities to increase the reliability and comparability of ESG ratings. On 6 February 2024, the European Parliament and the European Council reached a provisional agreement on a proposal for a regulation on the transparency and integrity of environmental, social and governance (ESG) rating activities.

ESG ratings assess a company's resilience to ESG risks as well as its impact on society and the environment. The proposal aims to strengthen this double materiality approach by adding provisions that aim to encourage ESG rating providers to explicitly address the material impact of the rated entity on ESG factors – more than is currently the case.

The proposal further amends the Sustainable Finance Disclosure Regulation (SFDR) and requires financial market participants and advisors to include information about their ESG rating methodologies in their marketing communications.

Under the new rules, ESMA will authorize ESG rating providers established in the EU and supervise the providers' compliance with transparency requirements. To help start-up ESG rating agencies and boost competition between rating providers, those categorized as small undertakings or small groups will be subject to fewer provisions for the first three years of their existence.

The parties also prefer separate E, S, and G ratings but allow for a single ESG metric as long as the weighting of the E, S, and G factors is explicit. As shown in a publication by SAFE authors, heterogeneity across rating criteria and weightings of the three ESG pillars can lead rating agencies to highly disagree on the ESG performance of the same company. Consequently, the effect of ESG investors' preferences on asset prices is dispersed.

In addition, the European Parliament and the Council provisionally agreed on a draft directive amending the Corporate Sustainability Reporting Directive on time limits for the adoption of the European Sustainability Reporting Standards (ESRS). In particular, companies will have more time to prepare for the sectoral standards and for specific standards for third-country undertakings. The directive postpones the adoption of the new standards by two years to June 2026.

These two provisional agreements now need to be endorsed and formally adopted by both institutions.

EMIR: Amendments for more effective EU central counterparties

New rules aim to increase the safety and efficiency of EU central counterparties (CCPs). On 7 February 2024, the European Parliament and the Council provisionally agreed on a review of the European Market Infrastructure Regulation (EMIR) and Directive, which provides rules for over-the-counter (OTC) derivatives, CCPs, and trade repositories.

The agreement contains an active account requirement. Counterparties subject to the clearing obligation should have an account at with and regularly clear trades through an EU [CCP](#) in the most relevant sub-categories of derivatives of substantial systemic importance, defined by [ESMA](#).

Concerning the supervisory framework, the parties agreed on improved cooperation, coordination, and information sharing between national competent authorities (NCAs) and [ESMA](#). In emergencies, [ESMA](#) will coordinate and in supervisory colleges, [ESMA](#) will take the role of co-chair, while [NCAs](#) will have ultimate decision-making powers in both cases. A central database will be set up to ensure smooth and direct information flows from [NCAs](#) to [ESMA](#).

The agreement also stipulates that clients of EU [CCPs](#) and non-EU [CCPs](#) must be informed about the possibility of clearing through an EU [CCP](#) accompanied by a disclosure of costs, risks associated with the service provided, and volumes of cleared transactions. A recent [paper](#) by SAFE researcher Lorian Pelizzon discusses whether the introduction of mandatory central clearing has been successful in reducing counterparty risks in derivative markets and whether the benefits have been evenly distributed across market participants.

Listing act: Improvements for small and medium-sized enterprises

A new act aims to improve companies' access to EU public capital markets allowing them to better diversify and complement available sources of funding. On 1 February 2024, the Council and the Parliament reached a [provisional agreement](#) on the listing act package. It consists of

- a regulation amending the Prospectus Regulation, Market Abuse Regulation, and the Markets in Financial Instruments Regulation;
- a directive amending the Markets in Financial Instruments Directive and repealing the Listing Directive;
- a directive on multiple-vote shares.

The proposed package aims to simplify and optimize the process of listing on EU stock exchanges for EU companies, with a particular focus on small and medium-sized enterprises (SMEs). For example, it introduces a limit to the size of the prospectus and more streamlined procedures for their approval while ensuring a high degree of transparency and investor protection.

The Council and the Parliament agreed to specify and reduce disclosure requirements. In addition, the agreement provides alleviating investment research rules to increase the level of research on [SMEs](#), as well as rules for investment firms to ensure that the issuer-sponsored research they distribute complies with the EU code of conduct.

The provisional agreement must now be approved by the Council and the European Parliament before it can enter into force.

Public consultations

- European Banking Authority (EBA): [public consultation](#) on amendments to the operational risk Pillar 3 and supervisory reporting requirements to implement the Basel III reforms in the EU. The deadline is 30 April 2024.
- EBA: [public consultation](#) on the new framework for the business indicator for operational risk as part of the implementation of the EU Banking Package. The deadline is 21 May 2024.
- EBA: [public consultation](#) on draft technical standards on residual risk add-on hedges under the Fundamental Review of the Trading Book. The deadline is 3 May 2024.
- European Commission (EC): [public consultation](#) on the prolongation of the provisional equivalence decision under Solvency II with regards to the US. The deadline is 5 March 2024.
- International Organization of Securities Commissions (IOSCO): [public consultation](#) on Post Trade Risk Reduction Services. The deadline is 1 April 2024.
- European Financial Reporting Advisory Group (EFRAG): [public consultation](#) on two exposure drafts on sustainability reporting standards for small and medium-sized enterprises. The deadline is 21 May 2024.

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